

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2342

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DATE	D-PG	OFFICIAL STATUS
03/01/2023	1202	Introduction and first reading Referred to Health and Human Services

1.1 A bill for an act

1.2 relating to health occupations; modifying acupuncture and herbal medicine practice;

1.3 amending Minnesota Statutes 2022, sections 147B.01, subdivisions 3, 4, 9, 14, by

1.4 adding a subdivision; 147B.03, subdivisions 2, 3; 147B.05, subdivision 1; 147B.06,

1.5 subdivisions 1, 4, 5; repealing Minnesota Statutes 2022, section 147B.01,

1.6 subdivision 18.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 147B.01, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 2a. **Acupuncture.** "Acupuncture" means a unique treatment technique that uses

1.11 modern and traditional medical methods of diagnosis and treatment. It includes the insertion

1.12 of filiform or acupuncture needles through the skin and may include the use of other

1.13 biophysical methods of acupuncture point stimulation, including the use of heat, massage,

1.14 or manual therapy techniques, or electrical stimulation. Acupuncture includes but is not

1.15 limited to therapies termed "dry needling," "trigger point therapy," "intramuscular therapy,"

1.16 "auricular detox treatment," and similar terms referring to the insertion of needles past the

1.17 skin for pain management, disease or symptom modification, or other related treatments.

1.18 Sec. 2. Minnesota Statutes 2022, section 147B.01, subdivision 3, is amended to read:

1.19 Subd. 3. **Acupuncture and herbal medicine practice.** "Acupuncture and herbal medicine

1.20 practice" means a comprehensive system of primary health care using Oriental medical

1.21 theory and its unique methods of diagnosis and treatment. Its treatment techniques include

1.22 the insertion of acupuncture needles through the skin and the use of other biophysical

1.23 methods of acupuncture point stimulation, including the use of heat, Oriental massage

2.1 ~~techniques, electrical stimulation, herbal supplemental therapies, dietary guidelines, breathing~~
 2.2 ~~techniques, and exercise based on Oriental medical principles~~ that uses traditional and
 2.3 modern diagnosis, methodology, and treatment techniques based on acupuncture and herbal
 2.4 medicine theory, principles, and methods. Treatment techniques include but are not limited
 2.5 to acupuncture, cupping, dermal friction, therapeutic massage, herbal therapies, dietary and
 2.6 nutrition therapies, mind-body exercises, and other appropriate techniques.

2.7 Sec. 3. Minnesota Statutes 2022, section 147B.01, subdivision 4, is amended to read:

2.8 Subd. 4. **Acupuncture needle.** "Acupuncture needle" means a needle designed
 2.9 exclusively for ~~acupuncture~~ the purposes of insertion past the skin to alleviate pain, provide
 2.10 symptom relief, or to modulate disease processes. It has a solid core, with a tapered point,
 2.11 and is 0.12 mm to 0.45 mm in thickness. It is constructed of stainless steel, gold, silver, or
 2.12 other board-approved materials as long as the materials can be sterilized according to
 2.13 recommendations of the National Centers for Disease Control and Prevention.

2.14 Sec. 4. Minnesota Statutes 2022, section 147B.01, subdivision 9, is amended to read:

2.15 Subd. 9. **Breathing techniques.** "Breathing techniques" means ~~Oriental~~ breathing
 2.16 exercises taught to a patient as part of a treatment plan.

2.17 Sec. 5. Minnesota Statutes 2022, section 147B.01, subdivision 14, is amended to read:

2.18 Subd. 14. **Herbal therapies or herbal medicine.** "Herbal therapies" ~~are~~ or "herbal
 2.19 medicine" means the use of herbs and patent herbal remedies as supplements as part of the
 2.20 treatment plan of the patient.

2.21 Sec. 6. Minnesota Statutes 2022, section 147B.03, subdivision 2, is amended to read:

2.22 Subd. 2. **Board approval.** The board shall approve a continuing education program if
 2.23 the program meets the following requirements:

2.24 (1) it directly relates to the practice of acupuncture;

2.25 (2) each member of the faculty shows expertise in the subject matter by holding a degree
 2.26 or certificate from an educational institution, has verifiable experience in ~~traditional Oriental~~
 2.27 acupuncture and herbal medicine, or has special training in the subject area;

2.28 (3) the program lasts at least one contact hour;

2.29 (4) there are specific written objectives describing the goals of the program for the
 2.30 participants; and

3.1 (5) the program sponsor maintains attendance records for four years.

3.2 Sec. 7. Minnesota Statutes 2022, section 147B.03, subdivision 3, is amended to read:

3.3 Subd. 3. **Continuing education topics.** (a) Continuing education program topics may
3.4 include, but are not limited to, ~~Oriental medical~~ acupuncture and herbal medicine theory
3.5 and techniques including ~~Oriental~~ massage; ~~Oriental~~ nutrition; ~~Oriental~~ herbology and diet
3.6 therapy; ~~Oriental~~ exercise; ~~western sciences such as~~ anatomy, physiology, biochemistry,
3.7 microbiology, psychology, ~~nutrition~~, history of medicine; and medical terminology or
3.8 coding.

3.9 (b) Practice management courses are excluded under this section.

3.10 Sec. 8. Minnesota Statutes 2022, section 147B.05, subdivision 1, is amended to read:

3.11 Subdivision 1. **Creation.** The advisory council to the Board of Medical Practice for
3.12 acupuncture consists of seven members appointed by the board to three-year terms. Four
3.13 members must be ~~licensed~~ acupuncture practitioners licensed in Minnesota, one member
3.14 must be a licensed physician or osteopathic physician who also practices acupuncture, one
3.15 member must be a licensed chiropractor who is NCCAOM certified, and one member must
3.16 be a member of the public who has received acupuncture treatment as a primary therapy
3.17 from a NCCAOM certified acupuncturist.

3.18 Sec. 9. Minnesota Statutes 2022, section 147B.06, subdivision 1, is amended to read:

3.19 Subdivision 1. **Practice standards.** (a) Before treatment of a patient, an acupuncture
3.20 practitioner shall ask whether the patient has been examined by a licensed physician or other
3.21 professional, as defined by section 145.61, subdivision 2, with regard to the patient's illness
3.22 or injury, and shall review the diagnosis as reported.

3.23 (b) The practitioner shall obtain informed consent from the patient, after advising the
3.24 patient of the following information which must be supplied to the patient ~~in writing~~ before
3.25 or at the time of the initial visit:

3.26 (1) the practitioner's qualifications including:

3.27 (i) education;

3.28 (ii) license information; and

3.29 (iii) outline of the scope of practice of acupuncturists in Minnesota; and

3.30 (2) side effects which may include the following:

4.1 (i) some pain in the treatment area;

4.2 (ii) minor bruising;

4.3 (iii) infection;

4.4 (iv) needle sickness; or

4.5 (v) broken needles.

4.6 ~~(e) The practitioner shall obtain acknowledgment by the patient in writing that the patient~~
 4.7 ~~has been advised to consult with the patient's primary care physician about the acupuncture~~
 4.8 ~~treatment if the patient circumstances warrant or the patient chooses to do so.~~

4.9 ~~(d)~~ (c) The practitioner shall inquire whether the patient has a pacemaker or bleeding
 4.10 disorder.

4.11 Sec. 10. Minnesota Statutes 2022, section 147B.06, subdivision 4, is amended to read:

4.12 Subd. 4. **Scope of practice.** The scope of practice of acupuncture and herbal medicine
 4.13 includes, but is not limited to, the following:

4.14 (1) ~~using Oriental medical theory to assess and diagnose a patient;~~ evaluation,
 4.15 management, and treatment services using methods and techniques described in section
 4.16 147B.01, subdivisions 2a, 3, and 14;

4.17 (2) ~~using Oriental medical theory to develop a plan to treat a patient. The treatment~~
 4.18 ~~techniques that may be chosen include:~~ diagnostic examination, testing, and procedures
 4.19 including physical examination, diagnostic imaging, and laboratory or other diagnostic tests
 4.20 for the purposes of guiding treatment or referral, as described in section 147B.01, subdivisions
 4.21 2a, 3, and 14;

4.22 ~~(i) insertion of sterile acupuncture needles through the skin;~~

4.23 ~~(ii) acupuncture stimulation including, but not limited to, electrical stimulation or the~~
 4.24 ~~application of heat;~~

4.25 ~~(iii) cupping;~~

4.26 ~~(iv) dermal friction;~~

4.27 ~~(v) acupressure;~~

4.28 ~~(vi) herbal therapies;~~

4.29 ~~(vii) dietary counseling based on traditional Chinese medical principles;~~

4.30 ~~(viii) breathing techniques;~~

5.1 ~~(ix) exercise according to Oriental medical principles; or~~

5.2 ~~(x) Oriental massage.~~

5.3 (3) services included in the practice of acupuncture and herbal medicine, as defined in
5.4 section 147B.01, subdivision 3;

5.5 (4) stimulation of acupuncture points, areas of the body, or substances in the body using
5.6 acupuncture needles, heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration,
5.7 pressure, magnetism, electricity, electromagnetic energy, bleeding, suction, or other devices
5.8 or means;

5.9 (5) use of physical medicine modalities, procedures, and devices such as cupping, dermal
5.10 friction, acupressure, and massage, as described in section 147B.01, subdivisions 2a, 3, and
5.11 14;

5.12 (6) use of therapeutic exercises, breathing techniques, meditation, and use of biofeedback
5.13 devices and other devices that utilize heat, cold, color, light, infrared and ultraviolet, lasers,
5.14 sound, vibration, pressure, magnetism, electricity, and electromagnetic energy for therapeutic
5.15 purposes;

5.16 (7) dietary and nutritional counseling and the prescription or administration of food,
5.17 beverages, and dietary supplements for therapeutic purposes, using methods and techniques
5.18 described in section 147B.01, subdivisions 2a, 3, and 14;

5.19 (8) counseling and education regarding physical, emotional, and spiritual balance in
5.20 lifestyle, using methods and techniques described in section 147B.01, subdivision 3; and

5.21 (9) injection therapy, including the injection of sterile and prepared herbal products,
5.22 vitamins, minerals, and homeopathic or other substances that are prepared for injection via
5.23 nonintravenous hypodermic needles into acupuncture points for pain or symptom
5.24 management. Prior to initiating injection therapy services, an acupuncturist must provide
5.25 proof of training to the board, as required by the board.

5.26 Sec. 11. Minnesota Statutes 2022, section 147B.06, subdivision 5, is amended to read:

5.27 Subd. 5. **Patient records.** An acupuncturist shall maintain a patient record for each
5.28 patient treated, including:

5.29 (1) a copy of the informed consent;

5.30 (2) evidence of a patient interview concerning the patient's medical history and current
5.31 physical condition;

6.1 (3) evidence of a ~~traditional acupuncture~~ examination and diagnosis;

6.2 (4) record of the treatment including points treated; and

6.3 (5) evidence of evaluation and instructions given to the patient.

6.4 Sec. 12. **REPEALER.**

6.5 Minnesota Statutes 2022, section 147B.01, subdivision 18, is repealed.

147B.01 DEFINITIONS.

Subd. 18. **Oriental medicine.** "Oriental medicine" means a system of healing arts that perceives the circulation and balance of energy in the body as being fundamental to the well-being of the individual. It implements the theory through specialized methods of analyzing the energy status of the body and treating the body with acupuncture and other related modalities for the purpose of strengthening the body, improving energy balance, maintaining or restoring health, improving physiological function, and reducing pain.