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**HOUSE BILL 394**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Rick Miera**

**AN ACT**

**RELATING TO ORIENTAL MEDICINE; CLARIFYING THE DEFINITION OF  
PRIMARY CARE PROVIDER; INCREASING FEES.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 61-14A-3 NMSA 1978 (being Laws 1993,  
Chapter 158, Section 11, as amended) is amended to read:**

**"61-14A-3. DEFINITIONS. --As used in the Acupuncture and  
Oriental Medicine Practice Act:**

**A. "acupuncture" means the surgical use of needles  
inserted into and removed from the body and the use of other  
devices, modalities and procedures at specific locations on  
the body for the prevention, cure or correction of any  
disease, illness, injury, pain or other condition by  
controlling and regulating the flow and balance of energy and  
function to restore and maintain health;**

underscored material = new  
[bracketed material] = delete

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1           B. "board" means the board of acupuncture and  
2           oriental medicine;

3           C. "doctor of oriental medicine" means a person  
4           licensed as a physician to practice acupuncture and oriental  
5           medicine with the ability to practice independently, serve as  
6           a primary care provider and as necessary collaborate with  
7           other health care providers;

8           D. "moxibustion" means the use of heat on or above  
9           specific locations or on acupuncture needles at specific  
10          locations on the body for the prevention, cure or correction  
11          of any disease, illness, injury, pain or other condition;

12          E. "oriental medicine" means the distinct system  
13          of primary health care that uses all allied techniques of  
14          oriental medicine, both traditional and modern, to diagnose,  
15          treat and prescribe for the prevention, cure or correction of  
16          any disease, illness, injury, pain or other physical or mental  
17          condition by controlling and regulating the flow and balance  
18          of energy and function to restore and maintain health;

19          F. "primary care provider" means a health care  
20          ~~[professional]~~ practitioner acting within the scope of his  
21          license who provides the first level of basic or general  
22          health care for a person's health needs, including diagnostic  
23          and treatment services, initiates referrals to other health  
24          care practitioners and maintains the continuity of care when  
25          appropriate;

underscored material = new  
[bracketed material] = delete

1 G. "techniques of oriental medicine" means:

2 (1) the diagnostic and treatment techniques  
3 used in oriental medicine that include diagnostic procedures;  
4 acupuncture; moxibustion; manual therapy, also known as tui  
5 na; other physical medicine modalities and therapeutic  
6 procedures; breathing and exercise techniques; and dietary,  
7 nutritional and lifestyle counseling;

8 (2) the prescription or administration of any  
9 herbal medicine, homeopathic medicine, vitamins, minerals,  
10 enzymes, glandular products, natural substances,  
11 protomorphogens, live cell products, gerovital, amino acids  
12 and dietary and nutritional supplements;

13 (3) the prescription or administration of  
14 devices, restricted devices and prescription devices, as those  
15 devices are defined in the New Mexico Drug, Device and  
16 Cosmetic Act, if the board determines by rule that ~~[such]~~ the  
17 devices are necessary in the practice of oriental medicine and  
18 if the prescribing doctor of oriental medicine has fulfilled  
19 requirements for prescriptive authority in accordance with  
20 rules promulgated by the board for the devices enumerated in  
21 this paragraph;

22 (4) the prescription or administration of  
23 cosmetics, biological products, including therapeutic serum,  
24 and over-the-counter drugs, other than those enumerated in  
25 Paragraph (2) of this subsection, as those are defined in the

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1 New Mexico Drug, Device and Cosmetic Act, if the prescribing  
2 doctor of oriental medicine has fulfilled the requirements for  
3 prescriptive authority in accordance with rules promulgated by  
4 the board for the substances enumerated in this paragraph; and

5 (5) the prescription or administration of the  
6 following dangerous drugs or controlled substances as they are  
7 defined in the New Mexico Drug, Device and Cosmetic Act or the  
8 Controlled Substances Act, if the prescribing doctor of  
9 oriental medicine has fulfilled the requirements for extended  
10 or expanded prescriptive authority in accordance with rules  
11 promulgated by the board for the substances enumerated in this  
12 paragraph:

- 13 (a) sterile water;
- 14 (b) sterile saline;
- 15 (c) sarapin or its generic;
- 16 (d) caffeine;
- 17 (e) procaine;
- 18 (f) oxygen;
- 19 (g) epinephrine;
- 20 (h) vapocoolants;
- 21 (i) bioidentical hormones; and
- 22 (j) any of the drugs or substances  
23 enumerated in Paragraphs (2) and (4) of this subsection if at  
24 any time these substances or drugs are classified as dangerous  
25 drugs or controlled substances; and

underscored material = new  
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1 H. "tutor" means a doctor of oriental medicine  
2 with at least ten years of clinical experience who is a  
3 teacher of acupuncture and oriental medicine."

4 Section 2. Section 61-14A-16 NMSA 1978 (being Laws 1993,  
5 Chapter 158, Section 24) is amended to read:

6 "61-14A-16. FEES.--The board shall establish a schedule  
7 of reasonable nonrefundable fees not to exceed the following  
8 amounts:

- 9 A. application for licensing . . . . \$~~[500]~~ 800;
- 10 B. application for reciprocal licensing . . . 750;
- 11 C. application for temporary licensing [~~300~~] 500;
- 12 D. examination, not including the cost of any  
13 nationally recognized examination . . . . . [~~350~~] 700;
- 14 E. biennial license renewal . . . . . 400;
- 15 F. late license renewal . . . . . 200;
- 16 G. expired license renewal . . . . . 400;
- 17 H. temporary license renewal . . . . . 100;
- 18 I. application for approval or renewal of approval  
19 of an educational program . . . . . [~~400~~] 600;
- 20 J. late renewal of approval of an educational  
21 program . . . . . 200;
- 22 [~~K. expired renewal of approval of an educational~~  
23 ~~program . . . . . 400;~~
- 24 ~~E.]~~ K. annual continuing education provider  
25 registration . . . . . 200;

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[and]

L. application for extended or expanded prescriptive authority . . . . . 500;

M. application for externship supervisor registration . . . . . 500;

N. application for extern certification . . . 500;

and

[M-] 0. any and all fees to cover reasonable and necessary administrative expenses. "

Section 3. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001.