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SENATE BILL 461

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Carrie Hamblen

AN ACT

RELATING TO LICENSURE; EXPANDING THE ACUPUNCTURE AND ORIENTAL
MEDICINE PRACTICE ACT TO INCLUDE ACUPUNCTURIST LICENSURE.

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;

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1 B. "acupuncturist" means a person licensed to
2 practice acupuncture;

3 ~~[B.]~~ C. "board" means the board of acupuncture and
4 oriental medicine;

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

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

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

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

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1 health care practitioners and maintains the continuity of care
2 when appropriate;

3 ~~[G-]~~ H. "techniques of oriental medicine" means:

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

10 (2) the prescribing, administering, combining
11 and providing of herbal medicines, homeopathic medicines,
12 vitamins, minerals, enzymes, glandular products, natural
13 substances, natural medicines, protomorphogens, live cell
14 products, gerovital, amino acids, dietary and nutritional
15 supplements, cosmetics as they are defined in the New Mexico
16 Drug, Device and Cosmetic Act and nonprescription drugs as they
17 are defined in the Pharmacy Act; and

18 (3) the prescribing, administering and
19 providing of devices, restricted devices and prescription
20 devices, as those devices are defined in the New Mexico Drug,
21 Device and Cosmetic Act, if the board determines by rule that
22 the devices are necessary in the practice of oriental medicine
23 and if the prescribing doctor of oriental medicine has
24 fulfilled requirements for prescriptive authority in accordance
25 with rules promulgated by the board for the devices enumerated

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1 in this paragraph; and

2 [H.] I. "tutor" means an acupuncturist or a doctor
3 of oriental medicine with at least ten years of clinical
4 experience who is a teacher of acupuncture [~~and~~] or oriental
5 medicine."

6 SECTION 2. Section 61-14A-4 NMSA 1978 (being Laws 1993,
7 Chapter 158, Section 12) is amended to read:

8 "61-14A-4. LICENSE REQUIRED.--Unless licensed as an
9 acupuncturist or a doctor of oriental medicine pursuant to
10 provisions of the Acupuncture and Oriental Medicine Practice
11 Act, no person shall:

- 12 A. practice acupuncture or oriental medicine;
- 13 B. use the title of or [~~represent himself~~] make any
14 representation as being a licensed acupuncturist or a licensed
15 doctor of oriental medicine or use any other title,
16 abbreviation, letters, figures, signs or devices that indicate
17 the person is licensed to practice as an acupuncturist or a
18 doctor of oriental medicine; or

19 C. advertise, hold out to the public or represent
20 in any manner that [~~he~~] the person is authorized to practice
21 acupuncture [~~and~~] or oriental medicine."

22 SECTION 3. Section 61-14A-4.1 NMSA 1978 (being Laws 2003,
23 Chapter 193, Section 1, as amended) is amended to read:

24 "61-14A-4.1. CERTIFIED AURICULAR DETOXIFICATION
25 SPECIALISTS, SUPERVISORS AND TRAINING PROGRAMS--FEES.--

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1 A. A person who is not an acupuncturist or a doctor
2 of oriental medicine or who is not a person certified as an
3 auricular detoxification specialist pursuant to the Acupuncture
4 and Oriental Medicine Practice Act shall not:

5 (1) practice auricular acupuncture for the
6 treatment of alcoholism, substance abuse or chemical
7 dependency;

8 (2) use the title of or represent as a
9 certified auricular detoxification specialist or use any other
10 title, abbreviation, letters, figures, signs or devices that
11 indicate that the person is certified to practice as an
12 auricular detoxification specialist; or

13 (3) advertise, hold out to the public or
14 represent in any manner that the person is authorized to
15 practice auricular detoxification.

16 B. The board shall issue an auricular
17 detoxification specialist certification to a person who has
18 paid an application fee to the board and has successfully
19 completed all board requirements. The board shall adopt rules
20 that require an applicant to:

21 (1) successfully complete the national
22 acupuncture detoxification association training or equivalent
23 training approved by the board that shall include clean needle
24 technique training;

25 (2) demonstrate experience in treatment,

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1 disease prevention, harm reduction and counseling of people
2 suffering from alcoholism, substance abuse or chemical
3 dependency or become employed by a substance abuse treatment
4 program;

5 (3) complete a board-approved training program
6 that will include examinations on clean needle technique,
7 jurisprudence and other skills required by the board; and

8 (4) demonstrate a record free of convictions
9 for drug- or alcohol-related offenses for at least two
10 consecutive years before the person applied to the board for
11 certification.

12 C. A certified auricular detoxification specialist
13 is authorized to perform auricular acupuncture and the
14 application to the ear of simple board-approved devices that do
15 not penetrate the skin for the purpose of treating and
16 preventing alcoholism, substance abuse or chemical dependency.

17 The specialist shall use the five auricular point national
18 acupuncture detoxification procedure or auricular procedures
19 approved or established by rule of the board and shall only
20 treat or prevent alcoholism, substance abuse or chemical
21 dependency within a board-approved program that demonstrates
22 experience in disease prevention, harm reduction or the
23 treatment or prevention of alcoholism, substance abuse or
24 chemical dependency.

25 D. A person certified pursuant to this section

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1 shall use the title "certified auricular detoxification
2 specialist" or "C.A.D.S." for the purpose of advertising
3 auricular acupuncture services to the public.

4 E. A certified auricular detoxification specialist
5 shall apply with the board to renew the certification. The
6 board shall for one year renew the certification of an
7 applicant who pays a renewal fee and completes the requirements
8 established by rule of the board. An applicant who does not
9 apply for renewal before the last date that the certification
10 is valid may be required to pay a late fee pursuant to a rule
11 of the board. The board shall deem a certification for which a
12 renewal has not been applied within sixty days of that date as
13 expired and an applicant that seeks valid certification shall
14 apply with the board for new certification. The board shall by
15 rule require an applicant for renewal of the certification to
16 demonstrate a record free of convictions for drug- or alcohol-
17 related offenses for a minimum of one year prior to application
18 for renewal with the board.

19 F. A certified auricular detoxification specialist
20 shall practice under the supervision of a licensed
21 acupuncturist or a licensed doctor of oriental medicine
22 registered with the board as an auricular detoxification
23 specialist supervisor. A supervising acupuncturist or doctor
24 of oriental medicine shall be accessible for consultation
25 directly or by telephone to a practicing auricular

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1 detoxification specialist. The supervising acupuncturist or
2 doctor of oriental medicine shall not supervise more
3 specialists than permitted by board rule. Supervision
4 requirements shall be provided by rule of the board.

5 G. An acupuncturist or a doctor of oriental
6 medicine who supervises a certified auricular detoxification
7 specialist shall apply for registration with the board. The
8 board shall issue an auricular detoxification specialist
9 supervisor registration to an acupuncturist or a doctor of
10 oriental medicine who fulfills board requirements. The board
11 shall by rule require an applicant for registration to list the
12 certified auricular detoxification specialists that will be
13 supervised, pay an application fee for registration and
14 demonstrate clinical experience in treating or counseling
15 people suffering from alcoholism, substance abuse or chemical
16 dependency.

17 H. A training program that educates auricular
18 detoxification specialists for certification shall apply for
19 approval by the board. The board shall approve a training
20 program that fulfills the board requirements established by
21 rule and that pays an application fee. The approval shall be
22 valid until July 31 following the initial approval.

23 I. A training program that is approved by the board
24 to provide training for certification of auricular
25 detoxification specialists shall apply to renew the approval

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1 with the board. The board shall renew the approval of a
2 program that fulfills board requirements established by rule,
3 and the renewal shall be valid for one year. An applicant who
4 does not renew before the last date that the renewed approval
5 is valid shall pay a late fee. The board shall deem a program
6 approval that is not renewed within sixty days of that date as
7 expired and a program that seeks board approval shall apply
8 with the board for new approval.

9 J. The board shall impose the following fees:

10 (1) an application fee not to exceed one
11 hundred fifty dollars (\$150) for auricular detoxification
12 specialist certification;

13 (2) a fee not to exceed seventy-five dollars
14 (\$75.00) for renewal of an auricular detoxification specialist
15 certification;

16 (3) an application fee not to exceed two
17 hundred dollars (\$200) for registration of a certified
18 auricular detoxification specialist supervisor;

19 (4) an application fee not to exceed two
20 hundred dollars (\$200) for the approval of an auricular
21 detoxification specialist training program;

22 (5) a fee not to exceed one hundred fifty
23 dollars (\$150) for the renewal of the approval of an auricular
24 detoxification training specialist training program; and

25 (6) a late fee not to exceed fifty dollars

1 (\$50.00) for applications for renewal filed after the last
2 valid date of a registration, certification, approval or
3 renewal issued pursuant to this section.

4 K. In accordance with the procedures set forth in
5 the Uniform Licensing Act, the board may deny, revoke or
6 suspend any certification, registration, approval or renewal
7 that a person holds or applies for pursuant to this section
8 upon findings by the board that the person violated any rule
9 established by the board."

10 SECTION 4. Section 61-14A-5 NMSA 1978 (being Laws 1993,
11 Chapter 158, Section 13, as amended) is amended to read:

12 "61-14A-5. TITLE.--~~[Any]~~ A person licensed as an
13 acupuncturist or a doctor of oriental medicine pursuant to
14 provisions of the Acupuncture and Oriental Medicine Practice
15 Act, in advertising ~~[his]~~ services to the public, shall use the
16 title:

17 A. "acupuncturist" or "L.Ac."; or

18 B. "doctor of oriental medicine" or "D.O.M.". The
19 title "doctor of oriental medicine" or "D.O.M." shall supersede
20 the use of all other titles that include the words "medical
21 doctor" or the initials "M.D." unless the person is a medical
22 doctor licensed pursuant to provisions of the Medical Practice
23 Act."

24 SECTION 5. Section 61-14A-7 NMSA 1978 (being Laws 1993,
25 Chapter 158, Section 15, as amended) is amended to read:

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1 "61-14A-7. BOARD CREATED--APPOINTMENT--OFFICERS--
2 COMPENSATION.--

3 A. The "board of acupuncture and oriental medicine"
4 is created.

5 B. The board is administratively attached to the
6 regulation and licensing department.

7 C. The board shall consist of seven members
8 appointed by the governor for terms of three years each. Four
9 members of the board shall be acupuncturists or doctors of
10 oriental medicine who have been residents of and practiced
11 acupuncture [~~and~~] or oriental medicine in New Mexico for at
12 least five years immediately preceding the date of their
13 appointment. Three members shall be appointed to represent the
14 public and shall not have practiced acupuncture [~~and~~] or
15 oriental medicine in this or any other jurisdiction or have any
16 financial interest in the profession regulated. [~~No~~] A board
17 member shall not be the owner, principal or director of an
18 institute offering educational programs in acupuncture [~~and~~] or
19 oriental medicine. No more than one board member may be from
20 each of the following categories:

21 (1) a faculty member at an institute offering
22 educational programs in acupuncture [~~and~~] or oriental medicine;

23 (2) a tutor in acupuncture [~~and~~] or oriental
24 medicine; or

25 (3) an officer or director in a professional

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1 association of acupuncture [~~and~~] or oriental medicine.

2 D. Members of the board shall be appointed by the
3 governor for staggered terms of three years that shall be made
4 in such a manner that the terms of board members expire on July
5 1. A board member shall serve until [~~his~~] a successor has been
6 appointed and qualified. Vacancies shall be filled for the
7 remainder of the unexpired term in the same manner as the
8 original appointment.

9 E. A board member shall not serve more than two
10 consecutive full terms, and a board member who fails to attend,
11 after [~~he~~] the board member has received proper notice, three
12 consecutive meetings shall be recommended for removal as a
13 board member unless excused for reasons established by the
14 board.

15 F. The board shall elect annually from its
16 membership a [~~chairman~~] chair and other officers as necessary
17 to carry out its duties.

18 G. The board shall meet at least once each year and
19 at other times deemed necessary. Other meetings may be called
20 by the [~~chairman~~] chair, a majority of board members or the
21 governor. A simple majority of the board members serving
22 constitutes a quorum of the board.

23 H. Members of the board shall be reimbursed as
24 provided in the Per Diem and Mileage Act and shall receive no
25 other compensation, perquisite or allowance."

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1 SECTION 6. Section 61-14A-8 NMSA 1978 (being Laws 1993,
2 Chapter 158, Section 16, as amended) is amended to read:

3 "61-14A-8. BOARD--POWERS.--The board has the power to:

4 A. enforce the provisions of the Acupuncture and
5 Oriental Medicine Practice Act;

6 B. promulgate, in accordance with the State Rules
7 Act, all rules necessary for the implementation and enforcement
8 of the provisions of the Acupuncture and Oriental Medicine
9 Practice Act;

10 C. adopt a code of ethics;

11 D. adopt and use a seal;

12 E. inspect facilities of approved educational
13 programs, extern programs and the offices of licensees;

14 F. promulgate rules implementing continuing
15 education requirements for the purpose of protecting the health
16 and well-being of the [~~citizens~~] residents of this state and
17 maintaining and continuing informed professional knowledge and
18 awareness; and

19 G. in accordance with the Uniform Licensing Act:

20 (1) issue investigative subpoenas for the
21 purpose of investigating complaints against licensees prior to
22 the issuance of a notice of contemplated action;

23 (2) administer oaths and take testimony on any
24 matters within the board's jurisdiction;

25 (3) conduct hearings upon charges relating to

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1 the discipline of licensees, including the denial, suspension
2 or revocation of a license; and

3 (4) grant, deny, renew, suspend or revoke
4 licenses to practice acupuncture [~~and~~] or oriental medicine or
5 grant, deny, renew, suspend or revoke approvals of educational
6 programs and extern programs for any cause stated in the
7 Acupuncture and Oriental Medicine Practice Act or the rules of
8 the board."

9 SECTION 7. Section 61-14A-9 NMSA 1978 (being Laws 1993,
10 Chapter 158, Section 17) is amended to read:

11 "61-14A-9. BOARD--DUTIES.--The board shall:

12 A. establish fees;

13 B. provide for the examination of applicants for
14 licensing as acupuncturists or doctors of oriental medicine as
15 provided in the Acupuncture and Oriental Medicine Practice Act;

16 C. keep a record of all examinations held, together
17 with the names and addresses of all persons taking the
18 examinations, and the examination results;

19 D. notify each applicant, in writing, of the
20 results of [~~his~~] the applicant's examinations within twenty-one
21 days after the results of an examination are available to the
22 board;

23 E. keep a licensee record in which the names,
24 addresses and license numbers of all licensees shall be
25 recorded, together with a record of all license renewals,

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1 suspensions and revocations;

2 F. provide for the granting and renewal of licenses
3 and approval of educational programs; and

4 G. keep an accurate record of all its meetings,
5 receipts and disbursements."

6 SECTION 8. Section 61-14A-10 NMSA 1978 (being Laws 1993,
7 Chapter 158, Section 18, as amended) is amended to read:

8 "61-14A-10. REQUIREMENTS FOR LICENSING.--The board shall
9 grant a license to practice acupuncture [~~and~~] or oriental
10 medicine to a person who has:

11 A. submitted to the board:

12 (1) the completed application for licensing on
13 the form provided by the board;

14 (2) the required documentation as determined
15 by the board;

16 (3) the required fees;

17 (4) an affidavit stating that the applicant
18 has not been found guilty of unprofessional conduct or
19 incompetency;

20 (5) proof, as determined by the board, that
21 the applicant has completed a board-approved educational
22 program in acupuncture [~~and~~] or oriental medicine as provided
23 for in the Acupuncture and Oriental Medicine Practice Act and
24 the rules of the board; and

25 (6) proof that [~~he~~] the person has passed the

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1 examinations approved by the board; and

2 B. complied with any other requirements of the
3 board."

4 SECTION 9. Section 61-14A-11 NMSA 1978 (being Laws 1993,
5 Chapter 158, Section 19, as amended) is amended to read:

6 "61-14A-11. EXAMINATIONS.--

7 A. The board shall establish procedures to ensure
8 that examinations for licensing are offered at least once a
9 year.

10 B. The board shall establish the deadline for
11 receipt of the application for licensing examination and other
12 rules relating to the taking and retaking of licensing
13 examinations.

14 C. The board shall establish the passing grades for
15 its approved examinations.

16 D. The board may approve, and use as a basis for
17 licensure, examinations that are used for national
18 certification or other examinations.

19 E. The board shall require each qualified applicant
20 to pass a validated, objective written examination that covers
21 areas that are not included in other examinations approved by
22 the board, including, as a minimum, the following subjects:

- 23 (1) anatomy and physiology;
24 (2) pathology;
25 (3) diagnosis;

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1 (4) pharmacology; and

2 (5) principles, practices and treatment
3 techniques of acupuncture and oriental medicine.

4 F. The board may require each qualified applicant
5 to pass a validated, objective practical examination that
6 covers areas that are not included in other examinations
7 approved by the board and that demonstrates ~~[his]~~ the qualified
8 applicant's knowledge of and skill in the application of the
9 diagnostic and treatment techniques of acupuncture ~~[and]~~ or
10 oriental medicine.

11 G. The board shall require each qualified applicant
12 to pass a written or a practical examination or both in the
13 following subjects:

14 (1) hygiene, sanitation and clean-needle
15 technique; and

16 (2) needle and instrument sterilization
17 techniques.

18 H. The board may require each qualified applicant
19 to pass a written examination on the state laws and rules that
20 pertain to the practice of acupuncture ~~[and]~~ or oriental
21 medicine.

22 I. If English is not the primary language of the
23 applicant, the board may require that the applicant pass an
24 English proficiency examination prescribed by the board."

25 SECTION 10. Section 61-14A-12 NMSA 1978 (being Laws 1993,
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1 Chapter 158, Section 20, as amended) is amended to read:

2 "61-14A-12. REQUIREMENTS FOR TEMPORARY LICENSING.--

3 A. The board shall establish the criteria for
4 temporary licensing of out-of-state acupuncturists or doctors
5 of oriental medicine.

6 B. The board may grant a temporary license to a
7 person who:

8 (1) is legally recognized to practice
9 acupuncture [~~and~~] or oriental medicine in another state or a
10 foreign country or is legally recognized in another state or
11 foreign country to practice another health care profession and
12 who possesses knowledge and skills that are included in the
13 scope of practice of acupuncturists or doctors of oriental
14 medicine;

15 (2) is under the sponsorship of and in
16 association with a licensed New Mexico acupuncturist or doctor
17 of oriental medicine or New Mexico institute offering an
18 educational program approved by the board;

19 (3) submits the completed application for
20 temporary licensing on the form provided by the board;

21 (4) submits the required documentation,
22 including proof of adequate education and training, as
23 determined by the board;

24 (5) submits the required fee for application
25 for temporary licensing;

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1 (6) submits an affidavit stating that the
2 applicant has not been found guilty of unprofessional conduct
3 or incompetency; and

4 (7) submits an affidavit from the sponsoring
5 and associating New Mexico acupuncturist or doctor of oriental
6 medicine or New Mexico institute attesting to the
7 qualifications of the applicant and the activities the
8 applicant will perform.

9 C. The board may grant a temporary license to allow
10 the temporary licensee to:

11 (1) teach acupuncture [~~and~~] or oriental
12 medicine;

13 (2) consult, in association with the
14 sponsoring acupuncturist or doctor of oriental medicine,
15 regarding the acupuncturist's or sponsoring doctor's patients;

16 (3) perform specialized diagnostic or
17 treatment techniques in association with the sponsoring
18 acupuncturist or doctor of oriental medicine regarding the
19 sponsoring acupuncturist's or doctor's patients;

20 (4) assist in the conducting of research in
21 acupuncture [~~and~~] or oriental medicine; and

22 (5) assist in the implementation of new
23 techniques and technology related to acupuncture [~~and~~] or
24 oriental medicine.

25 D. Temporary licensees may engage in only those

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1 activities authorized on the temporary license.

2 E. The temporary license shall identify the
3 sponsoring and associating New Mexico acupuncturist or doctor
4 of oriental medicine or institute.

5 F. The temporary license shall be issued for a
6 period of time established by rule; provided that temporary
7 licenses may not be issued for a period of time to exceed
8 eighteen months, including renewals.

9 G. The temporary license may be renewed upon
10 submission of:

11 (1) the completed application for temporary
12 license renewal on the form provided by the board; and

13 (2) the required fee for temporary license
14 renewal.

15 H. In the interim between regular board meetings,
16 whenever a qualified applicant has filed [~~his~~] an application
17 and complied with all other requirements of this section, the
18 board's [~~chairman~~] chair or an authorized representative of the
19 board may grant an interim temporary license that will suffice
20 until the next regular licensing meeting of the board."

21 SECTION 11. Section 61-14A-13 NMSA 1978 (being Laws 1993,
22 Chapter 158, Section 21, as amended) is amended to read:

23 "61-14A-13. REQUIREMENTS FOR EXPEDITED LICENSING.--

24 A. The board shall grant a license to practice
25 acupuncture [~~and~~] or oriental medicine without examination to a

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1 person who has been licensed, certified, registered or legally
2 recognized as an acupuncturist or a doctor of oriental medicine
3 in another licensing jurisdiction in accordance with Section
4 61-1-31.1 NMSA 1978 if the applicant:

5 (1) submits the completed application for
6 expedited licensing on the form provided by the board;

7 (2) submits the required documentation as
8 determined by the board;

9 (3) submits the required fee for application
10 for expedited licensing; and

11 (4) passes a written examination on the state
12 laws and rules that pertain to the practice of acupuncture
13 ~~[and]~~ or oriental medicine, if the board requires regular
14 applicants for licensure to pass such an examination.

15 B. The board shall issue the expedited license as
16 soon as practicable but no later than thirty days after the
17 person files an application with the required fees and
18 demonstrates that the person holds a valid, unrestricted
19 license and is in good standing with the licensing board in the
20 other licensing jurisdiction and has practiced for at least two
21 years immediately prior to application in New Mexico. If the
22 board issues an expedited license to a person whose prior
23 licensing jurisdiction did not require examination, the board
24 may require the person to pass an examination before license
25 renewal.

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1 C. The board by rule shall determine the states and
2 territories of the United States and the District of Columbia
3 from which it will not accept an applicant for expedited
4 licensure and determine any foreign countries from which it
5 will accept an applicant for expedited licensure. The board
6 shall post the lists of disapproved and approved licensing
7 jurisdictions on its website. The list of disapproved
8 licensing jurisdictions shall include specific reasons for
9 disapproval. The lists shall be reviewed annually to determine
10 if amendments to the rule are warranted."

11 SECTION 12. Section 61-14A-14 NMSA 1978 (being Laws 1993,
12 Chapter 158, Section 22, as amended) is amended to read:

13 "61-14A-14. APPROVAL OF EDUCATIONAL PROGRAMS.--

14 A. The board shall establish by rule the criteria
15 for board approval of educational programs in acupuncture. For
16 an educational program to meet board approval, proof shall be
17 submitted to the board demonstrating that the educational
18 program as a minimum:

19 (1) was for a period of not less than three
20 years;

21 (2) included a minimum of six hundred sixty
22 hours of supervised clinical practice;

23 (3) was taught by qualified teachers or
24 tutors;

25 (4) required as a prerequisite to graduation

1 personal attendance in all classes and clinics and, as a
2 minimum, the completion of the following subjects:

3 (a) anatomy and physiology;

4 (b) pathology;

5 (c) diagnosis;

6 (d) pharmacology;

7 (e) oriental principles of life therapy,
8 including diet, nutrition and counseling;

9 (f) theory and techniques of oriental
10 medicine;

11 (g) precautions and contraindications
12 for acupuncture treatment;

13 (h) theory and application of meridian
14 pulse evaluation and meridian point location;

15 (i) traditional and modern methods of qi
16 or life-energy evaluation;

17 (j) hygiene, sanitation and clean-needle
18 technique;

19 (k) care and management of needling
20 devices; and

21 (l) needle and instrument sterilization
22 techniques; and

23 (5) resulted in the presentation of a
24 certificate or diploma after completion of all of the
25 educational program requirements.

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1 ~~[A.]~~ B. The board shall establish by rule the
2 criteria for board approval of educational programs in
3 ~~[acupuncture and]~~ oriental medicine. For an educational
4 program to meet board approval, proof shall be submitted to the
5 board demonstrating that the educational program as a minimum:

6 (1) was for a period of not less than four
7 academic years;

8 (2) included a minimum of nine hundred hours
9 of supervised clinical practice;

10 (3) was taught by qualified teachers or
11 tutors;

12 (4) required as a prerequisite to graduation
13 personal attendance in all classes and clinics and, as a
14 minimum, the completion of the following subjects:

15 (a) anatomy and physiology;

16 (b) pathology;

17 (c) diagnosis;

18 (d) pharmacology;

19 (e) oriental principles of life therapy,
20 including diet, nutrition and counseling;

21 (f) theory and techniques of oriental
22 medicine;

23 (g) precautions and contraindications
24 for acupuncture treatment;

25 (h) theory and application of meridian

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1 pulse evaluation and meridian point location;

2 (i) traditional and modern methods of qi
3 or life-energy evaluation;

4 (j) the prescription of herbal medicine
5 and precautions and contraindications for its use;

6 (k) hygiene, sanitation and clean-needle
7 technique;

8 (l) care and management of needling
9 devices; and

10 (m) needle and instrument sterilization
11 techniques; and

12 (5) resulted in the presentation of a
13 certificate or diploma after completion of all the educational
14 program requirements.

15 ~~[B.]~~ C. All in-state educational programs in
16 acupuncture ~~[and]~~ or oriental medicine with the intent to
17 graduate students qualified to be applicants for licensing
18 examination by the board shall be approved annually by the
19 board. The applicant shall submit the following:

20 (1) the completed application for approval of
21 an educational program;

22 (2) the required documentation as determined
23 by the board;

24 (3) proof, as determined by the board, that
25 the educational requirements provided for in Subsection A or B

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1 of this section are being met; and

2 (4) the required fee for application for
3 approval of an educational program.

4 ~~[G.]~~ D. Out-of-state educational programs in
5 acupuncture ~~[and]~~ or oriental medicine with the intent to
6 graduate students qualified to be applicants for licensing
7 examination by the board may apply for approval by the board.
8 The applicant shall submit the following:

9 (1) the completed application for approval of
10 an educational program;

11 (2) the required documentation as determined
12 by the board;

13 (3) proof, as determined by the board, that
14 the educational requirements provided for in Subsection A or B
15 of this section are being met; and

16 (4) the required fee for application for
17 approval of an educational program.

18 ~~[D.]~~ E. Each in-state approved educational program
19 shall renew its approval annually by submitting prior to the
20 date established by the board:

21 (1) the completed application for renewal of
22 approval of an educational program on the form provided by the
23 board;

24 (2) proof, as determined by the board, that
25 the educational requirements provided for in Subsection A or B

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1 of this section are being met; and

2 (3) the required fee for application for
3 renewal of approval of an educational program.

4 [~~E.~~] F. Each out-of-state approved educational
5 program may renew its approval annually by submitting prior to
6 the date established by the board:

7 (1) the completed application for renewal of
8 approval of an educational program on the form provided by the
9 board;

10 (2) proof, as determined by the board, that
11 the educational requirements provided for in Subsection A or B
12 of this section are being met; and

13 (3) the required fee for application for
14 renewal of approval of an educational program.

15 [~~F.~~] G. A sixty-day grace period shall be allowed
16 each educational program after the end of the approval period,
17 during which time the approval may be renewed by submitting:

18 (1) the completed application for renewal of
19 approval of an educational program on the form provided by the
20 board;

21 (2) proof, as determined by the board, that
22 the educational requirements provided for in Subsection A or B
23 of this section are being met;

24 (3) the required fee for application for
25 renewal of approval of an educational program; and

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1 (4) the required fee for late renewal of
2 approval.

3 [~~G-~~] H. An approval that is not renewed by the end
4 of the grace period shall be considered expired, and the
5 educational program must apply as a new applicant."

6 SECTION 13. Section 61-14A-14.1 NMSA 1978 (being Laws
7 2000, Chapter 53, Section 11) is amended to read:

8 "61-14A-14.1. STUDENTS AND EXTERNS--SUPERVISED
9 PRACTICE.--

10 A. A student enrolled in an approved educational
11 program may practice acupuncture [~~and~~] or oriental medicine
12 under the direct supervision of a teacher or tutor as part of
13 the educational program.

14 B. The board may promulgate rules to govern the
15 practice of acupuncture [~~and~~] or oriental medicine by externs.
16 The rules shall include qualifications for externs and
17 supervising acupuncturists or doctors of oriental medicine or
18 other supervising health care professionals and the allowable
19 scope of practice for externs. The board may charge a fee for
20 approval and renewal of approval of extern programs.
21 Participation as an extern is optional and not a requirement
22 for licensure."

23 SECTION 14. Section 61-14A-17 NMSA 1978 (being Laws 1993,
24 Chapter 158, Section 25, as amended) is amended to read:

25 "61-14A-17. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
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1 APPLICATION OF UNIFORM LICENSING ACT.--

2 A. In accordance with the procedures contained in
3 the Uniform Licensing Act, the board may deny, revoke or
4 suspend ~~any~~ a permanent or temporary license held or applied
5 for under the Acupuncture and Oriental Medicine Practice Act,
6 upon findings by the board that the licensee or applicant:

7 (1) is guilty of fraud or deceit in procuring
8 or attempting to procure a license;

9 (2) has been convicted of a felony. A
10 certified copy of the record of conviction shall be conclusive
11 evidence of such conviction;

12 (3) is guilty of incompetence as defined by
13 board rule;

14 (4) is habitually intemperate, is addicted to
15 the use of habit-forming drugs or is addicted to ~~any~~ a vice
16 to such a degree as to render ~~him~~ the licensee or applicant
17 unfit to practice as an acupuncturist or a doctor of oriental
18 medicine;

19 (5) is guilty of unprofessional conduct, as
20 defined by board rule;

21 (6) is guilty of ~~any~~ a violation of the
22 Controlled Substances Act;

23 (7) has violated ~~any~~ a provision of the
24 Acupuncture and Oriental Medicine Practice Act or rules
25 promulgated by the board;

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1 (8) is guilty of failing to furnish the board,
2 its investigators or representatives with information requested
3 by the board;

4 (9) is guilty of willfully or negligently
5 practicing beyond the scope of acupuncture [~~and~~] or oriental
6 medicine as defined in the Acupuncture and Oriental Medicine
7 Practice Act;

8 (10) is guilty of failing to adequately
9 supervise a sponsored temporary licensee;

10 (11) is guilty of aiding or abetting the
11 practice of acupuncture [~~and~~] or oriental medicine by a person
12 not licensed by the board;

13 (12) is guilty of practicing or attempting to
14 practice under an assumed name;

15 (13) advertises by means of knowingly false
16 statements;

17 (14) advertises or attempts to attract
18 patronage in any unethical manner prohibited by the Acupuncture
19 and Oriental Medicine Practice Act or the rules of the board;

20 (15) has been declared mentally incompetent by
21 regularly constituted authorities;

22 (16) has had a license, certificate or
23 registration to practice as an acupuncturist or a doctor of
24 oriental medicine revoked, suspended or denied in any
25 jurisdiction of the United States or a foreign country for

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1 actions of the licensee similar to acts described in this
2 subsection. A certified copy of the record of the jurisdiction
3 taking such disciplinary action will be conclusive evidence
4 thereof; or

5 (17) fails, when diagnosing or treating a
6 patient, to possess or apply the knowledge or to use the skill
7 and care ordinarily used by reasonably well-qualified
8 acupuncturists or doctors of oriental medicine practicing under
9 similar circumstances, giving due consideration to the locality
10 involved.

11 B. Disciplinary proceedings may be instituted by
12 any person, shall be by sworn complaint and shall conform with
13 the provisions of the Uniform Licensing Act. [~~Any~~] A party to
14 the hearing may obtain a copy of the hearing record upon
15 payment of the costs of the copy.

16 C. [~~Any~~] A person filing a sworn complaint shall be
17 immune from liability arising out of civil action if the
18 complaint is filed in good faith and without actual malice.

19 D. The licensee shall bear the costs of
20 disciplinary proceedings unless exonerated."