

An Act

HOUSE BILL 22-1263

BY REPRESENTATIVE(S) Kennedy, Lontine, McCormick, Lindsay, McLachlan;
also SENATOR(S) Buckner, Ginal, Gonzales, Jaquez Lewis, Lee.

CONCERNING THE CONTINUATION OF LICENSING REQUIREMENTS FOR ACUPUNCTURISTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 12-200-118 as follows:

12-200-118. Repeal of article - review of functions. This article 200 is repealed, effective ~~September 1, 2022~~ SEPTEMBER 1, 2033. Before the repeal, the licensing functions of the director are scheduled for review in accordance with section 24-34-104.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **repeal** (23)(a)(IV); and **add** (34)(a)(IV) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

declaration - repeal. (23) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2022:

~~(IV) The licensing of persons who practice acupuncture by the director of the division of professions and occupations in accordance with article 200 of title 12;~~

(34) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2033:

(IV) THE LICENSING OF PERSONS WHO PRACTICE ACUPUNCTURE BY THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH ARTICLE 200 OF TITLE 12.

SECTION 3. In Colorado Revised Statutes, 12-20-404, **repeal** (1)(c)(II)(C) as follows:

12-20-404. Disciplinary actions - regulator powers - disposition of fines - mistreatment of at-risk adult. (1) **General disciplinary authority.** If a regulator determines that an applicant, licensee, certificate holder, or registrant has committed an act or engaged in conduct that constitutes grounds for discipline or unprofessional conduct under a part or article of this title 12 governing the particular profession or occupation, the regulator may:

(c) (II) A regulator is not authorized under this subsection (1)(c) to impose a fine on a licensee, certificate holder, or registrant regulated under the following:

~~(C) Article 200 of this title 12 concerning acupuncturists;~~

SECTION 4. In Colorado Revised Statutes, 12-20-408, **amend** (2)(c) and (2)(d); and **repeal** (2)(e) as follows:

12-20-408. Judicial review. (2) A district court of competent jurisdiction has initial jurisdiction to review all final actions and orders of a regulator that are subject to judicial review and shall conduct the judicial review proceedings in accordance with section 24-4-106 (3) for the following:

(c) Article 135 of this title 12 concerning mortuaries and crematories; AND

(d) Article 140 of this title 12 concerning nontransplant tissue banks.
and

(e) ~~Article 200 of this title 12 concerning acupuncturists.~~

SECTION 5. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-200-101 as follows:

12-200-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) IN ORDER TO SAFEGUARD THE LIFE, HEALTH, PROPERTY, AND PUBLIC WELFARE OF THE PEOPLE OF THIS STATE, AND IN ORDER TO PROTECT THE PEOPLE OF THIS STATE FROM UNAUTHORIZED, UNQUALIFIED, AND IMPROPER APPLICATION OF SERVICES BY INDIVIDUALS IN THE PRACTICE OF ACUPUNCTURE, IT IS NECESSARY THAT A PROPER REGULATORY AUTHORITY BE ESTABLISHED AND ADEQUATELY FUNDED;

(b) THE SCOPE OF THE PRACTICE OF ACUPUNCTURE WILL CONTINUE TO EVOLVE IN RESPONSE TO INNOVATION, RESEARCH, COLLABORATION, AND CHANGES IN TECHNOLOGY AND SOCIETAL NEEDS;

(c) UNLESS OTHERWISE AUTHORIZED BY LAW, A PERSON SHOULD NOT USE, IN CONNECTION WITH THE PERSON'S NAME OR BUSINESS, OR OTHERWISE ASSUME OR ADVERTISE ANY TITLE OR DESCRIPTION THAT WILL OR THAT REASONABLY MIGHT BE EXPECTED TO MISLEAD THE PUBLIC INTO BELIEVING THAT THE PERSON IS AN ACUPUNCTURIST UNLESS THE PERSON IS DULY LICENSED UNDER THIS ARTICLE 200; AND

(d) A PERSON WHO HOLDS HIMSELF OR HERSELF OUT TO THE PUBLIC AS AN ACUPUNCTURIST WITHOUT QUALIFYING FOR PROPER LICENSING UNDER THIS ARTICLE 200 ENDANGERS THE PUBLIC LIFE, HEALTH, PROPERTY, AND WELFARE.

SECTION 6. In Colorado Revised Statutes, 12-200-103, **amend** (1), (2), (4), and (5); and **add** (1.5) as follows:

12-200-103. Definitions - rules. As used in this article 200, unless the context otherwise requires:

(1) "Acupuncture" means a system of health care based upon traditional and ~~modern-oriental~~ CONTEMPORARY medical concepts that employs ~~oriental methods~~ of ACUPUNCTURE diagnosis, treatment, and adjunctive therapies for the promotion, maintenance, and restoration of health and the prevention of disease.

(1.5) "ACUPUNCTURE AIDE" MEANS AN UNLICENSED INDIVIDUAL PERFORMING TASKS DELEGATED TO THE INDIVIDUAL BY, AND UNDER THE SUPERVISION OF, AN ACUPUNCTURIST IN ACCORDANCE WITH RULES PROMULGATED BY THE DIRECTOR PURSUANT TO SECTION 12-200-114.

(2) "Acupuncturist" means ~~any person who provides for compensation, or holds himself or herself out to the public as providing, acupuncture services~~ A PERSON WHO IS LICENSED PURSUANT TO THIS ARTICLE 200 TO PERFORM ACUPUNCTURE.

(4) "Injection therapy" means the injection of sterile herbs, vitamins, minerals, homeopathic substances, or other similar substances specifically manufactured for nonintravenous injection into acupuncture points by means of hypodermic needles used primarily for the treatment of musculoskeletal pain. Permissible substances include saline, glucose, lidocaine, procaine, ~~oriental~~ STERILE herbs, vitamin B-12, traumeel, sarapin, and homeopathic substances. "Injection therapy" includes the use of epinephrine and oxygen as necessary for patient care and safety, including for the purpose of addressing any risk of allergic reactions when using injection substances.

(5)(a)(I) "Practice of acupuncture" means the insertion and removal of acupuncture needles, DRY NEEDLING, injection therapy, the application of heat therapies to specific areas of the human body, and adjunctive therapies. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment; the recommendation of therapeutic exercises; and, subject to federal law, the recommendation of herbs and dietary guidelines. The "practice of acupuncture" is based upon traditional and ~~modern-oriental~~ CONTEMPORARY medical concepts and ~~does not include the utilization of western medical diagnostic tests and procedures, such as magnetic resonance imaging,~~

~~radiographs (X rays), computerized tomography scans, and ultrasound~~
UTILIZES WESTERN MEDICINE DIAGNOSTIC CODES.

(II) "PRACTICE OF ACUPUNCTURE" INCLUDES:

(A) THE DELEGATION OF SPECIFIED TASKS TO AND THE SUPERVISION OF ACUPUNCTURE AIDES IN THE PERFORMANCE OF TASKS AS SPECIFIED IN RULES PROMULGATED BY THE DIRECTOR PURSUANT TO SECTION 12-200-114; AND

(B) THE PROVISION OF ACUPUNCTURE SERVICES THROUGH TELEHEALTH.

(b) Nothing in this article 200 authorizes an acupuncturist to perform the practice of medicine; surgery; OR spinal adjustment, manipulation, or mobilization. ~~or any other form of healing except as authorized by this article 200.~~

SECTION 7. In Colorado Revised Statutes, 12-200-105, **amend** (1)(h) as follows:

12-200-105. Mandatory disclosure of information to patients - retention of records of disclosure. (1) Every acupuncturist shall provide the following information in writing to each patient during the initial patient contact:

(h) A statement indicating the acupuncturist's training and experience in the recommendation and application of adjunctive therapies and herbs as defined by ~~traditional oriental medical~~ ACUPUNCTURE concepts.

SECTION 8. In Colorado Revised Statutes, **add** 12-200-105.5 as follows:

12-200-105.5. Protection of patient records - acupuncturist's obligations - verification of compliance - rules. (1) EACH ACUPUNCTURIST SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

(a) THE STORAGE AND PROPER DISPOSAL OF PATIENT RECORDS;

(b) THE DISPOSITION OF PATIENT RECORDS IN THE EVENT THE ACUPUNCTURIST DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR PROVIDE ACUPUNCTURE SERVICES TO PATIENTS; AND

(c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN THEIR RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION OCCURS.

(2) UPON INITIAL LICENSURE UNDER THIS ARTICLE 200, THE ACUPUNCTURIST SHALL ATTEST TO THE DIRECTOR THAT THE ACUPUNCTURIST HAS DEVELOPED A PLAN IN COMPLIANCE WITH THIS SECTION.

(3) AN ACUPUNCTURIST SHALL INFORM EACH PATIENT, IN WRITING, OF THE METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN THE PATIENT'S RECORDS IF AN EVENT DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION OCCURS.

(4) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 9. In Colorado Revised Statutes, 12-200-106, **amend** (3) as follows:

12-200-106. Requirement for licensure with the division - annual fee - required disclosures. (3) In order to qualify for licensure, an acupuncturist shall have:

(a) (I) Successfully completed an education program for acupuncturists that conforms to standards approved by the director, which standards may be established by utilizing the assistance of any professional organization whose membership includes not less than one-third of the persons licensed pursuant to this article 200; or

~~(b)~~ (II) Qualifications based on education, experience, or training that are substantially similar to those provided by THIS subsection (3)(a), ~~of this section~~, which are documented in the form required by the director and accepted by the director in lieu of the education program; AND

(b) PASSED AN EXAMINATION APPROVED BY THE DIRECTOR.

SECTION 10. In Colorado Revised Statutes, 12-200-108, **amend** (2) and (4)(d) as follows:

12-200-108. Unlawful acts - exceptions - definition - title protection. (2) (a) It is unlawful for any person to practice acupuncture without a valid and current license on file with the division, unless the ~~acupuncturist~~ PERSON is practicing pursuant to section 12-240-107 (3)(1) OR (3)(o) or has met the requirements of subsection (3) of this section.

(b) It is unlawful for any person to:

(I) Engage in the practice of acupuncture without being licensed; ~~or~~

(II) Use the title "ACUPUNCTURIST" OR "licensed acupuncturist", "~~registered acupuncturist~~", or "~~diplomate of acupuncture~~", or use the designation "L.Ac.", "~~R.Ac.~~", or "~~Dipl. Ac.~~", OR USE ANY OTHER TITLE OR DESIGNATION THAT SUGGESTS THE PERSON IS AN ACUPUNCTURIST unless the person is practicing pursuant to section 12-240-107(3) LICENSED PURSUANT TO THIS ARTICLE 200; OR

(III) USE THE TITLE "MEDICAL ACUPUNCTURIST" OR ANY OTHER TITLE OR DESIGNATION THAT SUGGESTS THE PERSON IS A MEDICAL ACUPUNCTURIST UNLESS THE PERSON IS PRACTICING PURSUANT TO SECTION 12-240-107 (1)(a) OR (3)(o).

(4) (d) In order to perform auricular acudetox pursuant to this subsection (4), a professional must successfully complete a training program in auricular acudetox for the treatment of substance use disorders that meets or exceeds standards of training established by ~~the National Acupuncture Detoxification Association or another~~ A NATIONAL organization approved by the director.

SECTION 11. In Colorado Revised Statutes, 12-200-109, **amend** (1)(m), (1)(n), and (1)(o); and **add** (1)(p) as follows:

12-200-109. Grounds for disciplinary action. (1) The director may deny licensure to or take disciplinary action against an acupuncturist pursuant to sections 12-20-403, 12-20-404, and 24-4-105 if the director finds that the acupuncturist has committed any of the following acts:

(m) ~~Continued in the practice of acupuncture while abusing or habitually or excessively using~~ HABITUAL OR EXCESSIVE USE OR ABUSE OF alcohol, a habit-forming drug, or controlled substance as defined in section 18-18-102 (5);

(n) Committed and been convicted of a felony or entered a plea of guilty or nolo contendere to a felony; ~~and~~

(o) Published or circulated, directly or indirectly, any fraudulent, false, deceitful, or misleading claims or statements relating to acupuncture or to the acupuncturist's practice, capabilities, services, methods, or qualifications; AND

(p) FAILED TO RESPOND TO A COMPLAINT FILED AGAINST THE ACUPUNCTURIST IN AN HONEST, MATERIALLY RESPONSIVE, AND TIMELY MANNER.

SECTION 12. In Colorado Revised Statutes, 12-200-110, **amend** (2)(b) and (2)(c); and **add** (2)(d) as follows:

12-200-110. Disciplinary authority and proceedings. (2) Disciplinary actions may consist of the following:

(b) Placement of the licensee on probation and setting the terms of that probation; ~~and~~

(c) Issuing and sending a letter of admonition by first-class mail to the licensee under the circumstances specified in and in accordance with section 12-20-404 (4); AND

(d) IMPOSING ADMINISTRATIVE FINES.

SECTION 13. In Colorado Revised Statutes, 12-200-114, **amend** (1) introductory portion; and **add** (1)(k) and (1)(l) as follows:

12-200-114. Director - powers and duties - rules. (1) In addition to any other powers and duties conferred by this article 200, the director ~~shall have~~ HAS the following powers and duties:

(k) TO ADOPT RULES REGARDING THE ABILITY OF AN ACUPUNCTURE

AIDE TO PERFORM SPECIFIED TASKS UNDER THE SUPERVISION OF AN ACUPUNCTURIST, INCLUDING:

(I) THE SPECIFIC TASKS AN ACUPUNCTURE AIDE MAY PERFORM AND THE SPECIFIC TASKS AN ACUPUNCTURE AIDE IS PROHIBITED FROM PERFORMING;

(II) THE REQUIREMENTS FOR THE TRAINING AND SUPERVISION OF ACUPUNCTURE AIDES; AND

(III) THE NUMBER OF ACUPUNCTURE AIDES AN ACUPUNCTURIST MAY SUPERVISE; AND

(I) TO ADOPT RULES ESTABLISHING THE APPROPRIATE USE OF TELEHEALTH TO PROVIDE ACUPUNCTURE SERVICES.

SECTION 14. Act subject to petition - effective date. This act takes effect September 1, 2022; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

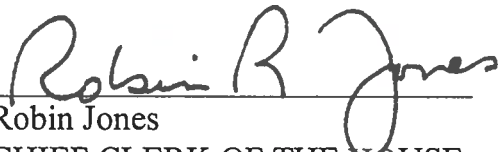
held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

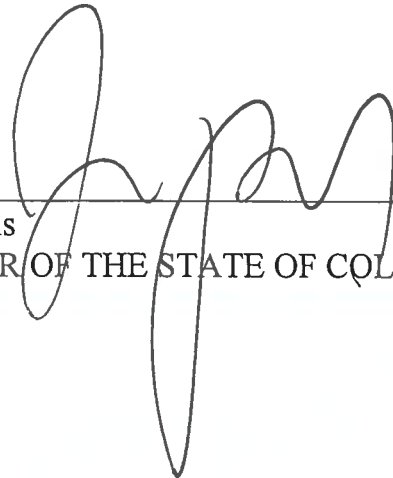


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED May 26, 2022 at 6:12 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO