

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

MEMORANDUM ¹

TO: Statutory Revision Committee

FROM: Kristen Forrestal, Office of Legislative Legal Services

DATE: February 19, 2021

SUBJECT: Practice of Auricular Acudetox by Trained Professionals

Summary

In H.B. 20-1206, the General Assembly repealed a portion of law in article 245 of title 12, C.R.S., the mental health practice act, that required a professional to be registered, certified, or licensed as a mental health professional in order to practice auricular acudetox. The bill failed to include a conforming amendment to clarify that it is not an unlawful act for a professional to perform auricular acudetox without holding a registration, certification, or license. This error was brought to the attention of the Office of Legislative Legal Services by a proponent of the changes made to the mental health practice act in H.B. 20-1206.

Analysis

Prior to the passage of H.B.20-1206, in order for a person to be authorized to perform auricular acudetox, the statutes required that the person be a mental health professional with auricular acudetox training and be registered, certified, or licensed pursuant the mental health practice act. H.B. 20-1206 amended the practice act so that a person no longer needs to hold a registration, certification, or license.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Contrary to the new requirements in the mental health practice act, section § 12-200-108 (4)(a), C.R.S., currently states that it is an unlawful act to perform auricular acudetox without holding a registration, certification, or license as a mental health professional. The attached bill deletes this requirement from § 12-200-108 (4)(a), C.R.S., while retaining the appropriate training requirements that a professional needs to meet in order to lawfully perform auricular acudetox.

Statutory Charge²

The attached bill fits under the charge of the Statutory Revision Committee as it proposes to fix a contradiction that currently exists in the law.

Proposed Bill

The attached bill drafted by the Office of Legislative Legal Services proposes a change to the current law to correct the contradiction in the mental health practice act and to reflect the legislative intent of H.B. 20-1206.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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2.15.21

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LLS NO. 21-0796.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Auricular Acudetox Professional Practice"
DEADLINES: File by: 2/25/2021

A BILL FOR AN ACT

101 CONCERNING THE PRACTICE OF AURICULAR DETOX BY A
102 PROFESSIONAL, AND, IN CONNECTION THEREWITH, CLARIFYING
103 THAT IN ORDER TO PERFORM AURICULAR ACUDETUX, A PERSON
104 DOES NOT NEED TO BE LICENSED, CERTIFIED, OR REGISTERED AS
105 A MENTAL HEALTH PROFESSIONAL.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. In 2020, the general assembly repealed the requirement in the mental health practice act that a

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

professional must be licensed, registered, or certified as a mental health professional in order to practice auricular acudetox. The bill makes a conforming amendment to clarify that it is not an unlawful act for a professional to perform auricular acudetox without a license, registration, or certification as a mental health professional.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-200-108, **amend**
3 (4)(a), (4)(b), and (4)(d) as follows:

4 **12-200-108. Unlawful acts - exceptions - definition.**

5 (4)(a) Notwithstanding any provision of this article 200 to the contrary,
6 a professional who has provided documentation that ~~he or she~~ THE
7 PROFESSIONAL has been trained to perform auricular acudetox in
8 compliance with subsection (4)(d) of this section may perform auricular
9 acudetox if the auricular acudetox is performed under the professional's
10 current scope of practice. ~~and the professional is:~~

11 ~~(I) Licensed pursuant to article 245 of this title 12; or~~

12 ~~(II) Certified as a level III addiction counselor pursuant to part 8~~
13 ~~of article 245 of this title 12.~~

14 ~~(III) Repealed.~~

15 (b) A ~~mental health~~ professional performing auricular acudetox
16 pursuant to this subsection (4) shall not use the title "acupuncturist" or
17 otherwise claim to be a person qualified to perform acupuncture beyond
18 the scope of this subsection (4).

19 (d) In order to perform auricular acudetox pursuant to this
20 subsection (4), a ~~mental health-care~~ professional must successfully
21 complete a training program in auricular acudetox for the treatment of
22 substance use disorders that meets or exceeds standards of training
23 established by the National Acupuncture Detoxification Association or

1 another organization approved by the director.

2 **SECTION 2. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.