

CHAPTER 133

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 95-1182

BY REPRESENTATIVES Morrison, Dyer, Hagedorn, Hernandez, June, Kaufman, Kreutz, Reeves, Tool, Friednash, Lyle, Saliman, and Tupa;
also SENATORS Thiebaut, Casey, Martinez, Perlmutter, and Rupert.

AN ACT**CONCERNING THE REGULATION OF PRACTITIONERS OF ACUPUNCTURE.**

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

SECTION 1. 12-29.5-102 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-29.5-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-29.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Acupuncture" means ~~the insertion of needles into the human body by piercing the skin of the body at specific locations based on traditional oriental concepts of evaluation and treatment~~ A SYSTEM OF HEALTH CARE BASED UPON TRADITIONAL ORIENTAL MEDICAL CONCEPTS THAT EMPLOYS ORIENTAL METHODS OF DIAGNOSIS, TREATMENT, AND ADJUNCTIVE THERAPIES FOR THE PROMOTION, MAINTENANCE, AND RESTORATION OF HEALTH AND THE PREVENTION OF DISEASE.

(3.2) "GUEST ACUPUNCTURIST" MEANS AN ACUPUNCTURIST WHO IS:

(a) LICENSED, REGISTERED, CERTIFIED, OR REGULATED AS AN ACUPUNCTURIST IN ANOTHER JURISDICTION;

(b) IN THIS STATE FOR THE PURPOSE OF INSTRUCTION OR EDUCATION FOR NOT MORE THAN SEVEN DAYS WITHIN A THREE-MONTH PERIOD; AND

(c) UNDER THE DIRECT SUPERVISION OF A COLORADO REGISTERED ACUPUNCTURIST OR LICENSED CHIROPRACTOR WHILE PERFORMING SUCH INSTRUCTION OR EDUCATION.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3.5) "PRACTICE OF ACUPUNCTURE" MEANS THE INSERTION AND REMOVAL OF ACUPUNCTURE NEEDLES, THE APPLICATION OF HEAT THERAPIES TO SPECIFIC AREAS OF THE HUMAN BODY, AND TRADITIONAL ORIENTAL ADJUNCTIVE THERAPIES. TRADITIONAL ORIENTAL ADJUNCTIVE THERAPIES WITHIN THE SCOPE OF ACUPUNCTURE MAY INCLUDE MANUAL, MECHANICAL, THERMAL, ELECTRICAL, AND ELECTROMAGNETIC TREATMENT, THE RECOMMENDATION OF ORIENTAL THERAPEUTIC EXERCISES, AND, SUBJECT TO FEDERAL LAW, THE RECOMMENDATION OF HERBS AND DIETARY GUIDELINES. THE "PRACTICE OF ACUPUNCTURE" SHALL BE DEFINED BY TRADITIONAL ORIENTAL MEDICAL CONCEPTS AND SHALL NOT INCLUDE THE UTILIZATION OF WESTERN MEDICAL DIAGNOSTIC TESTS AND PROCEDURES, SUCH AS MAGNETIC RESONANCE IMAGING, RADIOGRAPHS (X-RAYS), COMPUTERIZED TOMOGRAPHY SCANS, AND ULTRASOUND. "PRACTICE OF ACUPUNCTURE" DOES NOT MEAN:

(a) OSTEOPATHIC MEDICINE AND OSTEOPATHIC MANIPULATIVE TREATMENT;

(b) "CHIROPRACTIC" OR "CHIROPRACTIC ADJUSTMENT" AS DEFINED IN SECTION 12-33-102 OR THERAPIES ALLOWED AS PART OF THE PRACTICE OF CHIROPRACTIC OR CHIROPRACTIC ADJUSTMENT;

(c) PHYSICAL THERAPY AS DEFINED IN SECTION 12-41-103 OR THERAPIES ALLOWED AS PART OF THE PRACTICE OF PHYSICAL THERAPY.

SECTION 2. 12-29.5-103 (1) (g), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended, and the said 12-29.5-103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-29.5-103. 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:

(g) A statement indicating that the practice of acupuncture is regulated by the department of regulatory agencies and the address and phone number of the director of the division of registrations in the department of regulatory agencies; AND

(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 CONCEPTS.

SECTION 3. 12-29.5-104, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-29.5-104. Requirement for registration with the division of registrations - annual fee - required disclosures. (6) AS A CONDITION OF REGISTRATION, EVERY ACUPUNCTURIST SHALL PURCHASE AND MAINTAIN COMMERCIAL PROFESSIONAL LIABILITY INSURANCE WITH AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE IN A MINIMUM INDEMNITY AMOUNT OF:

(a) FIFTY THOUSAND DOLLARS PER INCIDENT AND FIFTY THOUSAND DOLLARS PER YEAR, IF PRACTICING AS A SOLE PROPRIETOR OR GENERAL PARTNERSHIP;

(b) THREE HUNDRED THOUSAND DOLLARS PER INCIDENT AND THREE HUNDRED THOUSAND DOLLARS PER YEAR, IF PRACTICING AS A LIMITED LIABILITY COMPANY OR A CORPORATION.

SECTION 4. 12-29.5-105, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-29.5-105. Unlawful acts - exceptions. (1) NOTHING IN THIS ARTICLE SHALL INTERFERE WITH, OR BE INTERPRETED TO INTERFERE WITH OR PREVENT, ANY OTHER LICENSED HEALTH CARE PROFESSIONAL FROM PRACTICING WITHIN THE SCOPE OF HIS OR HER PRACTICE, AS DEFINED IN THIS TITLE.

(1) (1.5) (a) It ~~shall be~~ IS unlawful for any ~~acupuncturist~~ PERSON to practice acupuncture without a valid and current registration on file with the division of registrations, unless the acupuncturist is practicing pursuant to section 12-36-106 (3) (1) or ~~unless~~ HAS MET the requirements of subsection (2) of this section. ~~have been met.~~

(b) IT IS UNLAWFUL FOR ANY PERSON TO:

(I) ENGAGE IN THE PRACTICE OF ACUPUNCTURE WITHOUT BEING REGISTERED; OR

(II) USE THE TITLE "REGISTERED ACUPUNCTURIST" OR "DIPLOMATE OF ACUPUNCTURE" OR USE THE DESIGNATION "R.Ac." OR "DIPL. Ac.", UNLESS SUCH PERSON IS PRACTICING PURSUANT TO SECTION 12-36-106 (3).

(2) ~~Persons~~ NOTWITHSTANDING THE PROVISIONS OF THIS SECTION TO THE CONTRARY, A PERSON in training may practice acupuncture without a valid and current registration on file with the division if such practice takes place in the course of a bona fide training program and:

(a) All acupuncture acts and services performed by such persons are performed under the direct, on-site supervision of a registered acupuncturist, who shall be responsible for all such acts and services as though the registered acupuncturist had personally performed them; and

(b) The names and current residence addresses of all of such persons have been reported to the director by or on behalf of the registered acupuncturist supervising such persons.

SECTION 5. 12-29.5-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-29.5-113. Scope of article. The provisions of this article shall not apply to those persons who are otherwise licensed by the state of Colorado under this title if the provision of acupuncture services is within the scope of such licensure. IT IS NOT INTENDED NOR SHALL IT BE INTERPRETED THAT THE PRACTICE OF ACUPUNCTURE CONSTITUTES THE PRACTICE OF MEDICINE WITHIN THE SCOPE OF THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF THIS TITLE.

SECTION 6. 13-20-602 (1), (2), and (3) (b), Colorado Revised Statutes, 1987

Repl. Vol., as amended, are amended to read:

13-20-602. Actions against licensed professionals and acupuncturists - certificate of review required. (1) In every action for damages or indemnity based upon the alleged professional negligence of AN ACUPUNCTURIST REGULATED PURSUANT TO ARTICLE 29.5 OF TITLE 12, C.R.S., OR a licensed professional, the plaintiff's or complainant's attorney shall file with the court a certificate of review for each ACUPUNCTURIST OR licensed professional named as a party, as specified in subsection (3) of this section, within sixty days after the service of the complaint, counterclaim, or cross claim against such ~~licensed professional~~ PERSON unless the court determines that a longer period is necessary for good cause shown.

(2) In the event of failure to file a certificate of review in accordance with this section and if the ACUPUNCTURIST OR licensed professional defending the claim believes that an expert is necessary to prove the claim of professional negligence, the defense may move the court for an order requiring filing of such a certificate. The court shall give priority to deciding such a motion, and in no event shall the court allow the case to be set for trial without a decision on such motion.

(3) (b) The court, in its discretion, may require the identity of the ACUPUNCTURIST OR licensed professional who was consulted pursuant to subparagraph (I) of paragraph (a) of this subsection (3) to be disclosed to the court and may verify the content of such certificate of review. The identity of the professional need not be identified to the opposing party or parties in the civil action.

SECTION 7. Effective date - applicability. This act shall take effect January 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 16, 1995