

HOUSE BILL NO. HB0165

Acupuncture Practice Act.

Sponsored by: Representative(s) Barlow, Allen, Brown,
Flitner, Kirkbride, Larsen, Northrup,
Pelkey, Schwartz, Sweeney and Zwonitzer and
Senator(s) Christensen and Peterson

A BILL

for

1 AN ACT relating to professions and occupations; creating
2 the Acupuncture Practice Act; establishing the board of
3 acupuncture; regulating the practice of acupuncture in this
4 state; providing rulemaking authority; providing penalties;
5 establishing an account; and providing for an effective
6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 33-49-101 through 33-49-112 are
11 created to read:

12

13

CHAPTER 49

14

ACUPUNCTURE PRACTICE ACT

1

2 **33-49-101. Short title.**

3

4 This chapter shall be known and may be cited as the
5 "Wyoming Acupuncture Practice Act".

6

7 **33-49-102. Definitions.**

8

9 (a) As used in this chapter:

10

11 (i) "ACAOM" means the accreditation commission
12 for acupuncture and oriental medicine educational
13 institutions, or its equivalent as determined by the board;

14

15 (ii) "Acupuncture" means the insertion of
16 acupuncture needles into the body, with or without the
17 application of electric current or heat to the needles, for
18 the therapeutic purpose of promoting, maintaining and
19 restoring health, including the treatment of dysfunctions
20 of the body involving pain;

21

1 (iii) "Acupuncturist" means any person to whom a
2 license to practice acupuncture in this state has been
3 issued under this chapter;

4

5 (iv) "Auricular acupuncture" means a practice
6 trained by a nationally recognized auricular acupuncture
7 program for the purpose of treating mental and emotional
8 health, post and acute trauma, substance abuse and chemical
9 dependency;

10

11 (v) "Board" means the Wyoming board of
12 acupuncture created under this chapter;

13

14 (vi) "License" means a license to practice
15 acupuncture in this state issued by the board pursuant to
16 this chapter and consistent with the scope of practice a
17 person is qualified to perform as a result of their NCCAOM
18 diplomate status, post graduate training, NADA
19 certification or as otherwise authorized by the board;

20

21 (vii) "Licensee" means a person licensed by the
22 board under this chapter;

23

1 (viii) "NADA" means the national acupuncture
2 detoxification association, or its equivalent as determined
3 by the board;

4

5 (ix) "NCCAOM" means the national certification
6 commission for acupuncture and oriental medicine, or its
7 equivalent as determined by the board.

8

9 **33-49-103. Board created; members; appointment;**
10 **terms; qualification; removal; vacancies.**

11

12 (a) The Wyoming board of acupuncture is created to
13 implement and administer the provisions of this chapter.
14 The board shall consist of five (5) members who are legal
15 residents of Wyoming. The board shall consist of one (1)
16 member of the public, three (3) members who have been
17 engaged in the practice of acupuncture for a period of not
18 less than five (5) years immediately preceding appointment
19 to the initial board and one (1) member who is a health
20 care professional licensed pursuant to this title other
21 than this chapter.

22

1 (b) The governor shall appoint the members of the
2 board. Of the initial members appointed to the board, two
3 (2) members shall be appointed for a term of two (2) years
4 and three (3) members shall be appointed for a term of four
5 (4) years. Thereafter, the terms of office shall be four
6 (4) years. Each member shall serve until the member's
7 successor is appointed and qualified. No member shall serve
8 more than two (2) consecutive full terms.

9
10 (c) Any vacancy on the board shall be filled by the
11 governor for the balance of the unexpired term.

12
13 (d) The governor may remove any member from the board
14 pursuant to W.S. 9-1-202.

15
16 **33-49-104. Board meetings; elections; quorum.**

17
18 The board shall meet at least once each year and elect a
19 chairman at the first meeting each year. The board may
20 convene at the request of the chairman or as determined by
21 the board for any other meeting as may be deemed necessary
22 to transact its business. Meetings may be carried out via

1 telecommunications. Three (3) board members shall
2 constitute a quorum.

3

4 **33-49-105. Reimbursement of expenses and immunity.**

5

6 (a) Members of the board shall not receive
7 compensation for their services but shall receive mileage
8 and per diem as provided in W.S. 33-1-302(a)(vii) while
9 engaged in the discharge of official duties.

10

11 (b) Members of the board shall have the same
12 immunities from personal liability as state employees for
13 actions taken in the performance of their duties under this
14 chapter, as provided in W.S. 1-39-104.

15

16 **33-49-106. Board responsibilities and duties.**

17

18 (a) The board shall:

19

20 (i) Administer this chapter;

21

22 (ii) Determine the following standards for
23 licensees:

1

2

(A) Continuing education requirements;

3

4

(B) Professional conduct standards;

5

6

(C) Ethical standards of practice.

7

8

(iii) Approve or disapprove applications for licensure and issue licenses, renewals and reinstatements;

10

11

(iv) Establish tiered licensing as necessary for the purpose of differentiating auricular acupuncture;

13

14

(v) Censure, suspend or revoke licenses as provided in this chapter and the Wyoming Administrative Procedure Act;

17

18

(vi) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this chapter and board rules;

21

1 (vii) Keep a record of all proceedings and make
2 available to licensees and other concerned parties an
3 annual report of all board action;

4

5 (viii) Establish application and licensure fee
6 requirements for licensees regulated under this chapter;

7

8 (ix) Prescribe fees in accordance with W.S.
9 33-1-201 for implementing this chapter;

10

11 (x) Promulgate rules and regulations as
12 necessary to carry out this chapter.

13

14 (b) The board may employ or contract with individuals
15 it determines necessary to administer its affairs and
16 provide support services.

17

18 (c) All fees collected by the board shall be
19 deposited by the state treasurer to the credit of the
20 Wyoming board of acupuncture account. Disbursements from
21 the account shall not exceed the monies credited to it. The
22 account shall be used by the board to defray costs incurred
23 in the administration of this chapter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

33-49-107. Licensure required; components; exemptions; other licensed health care professionals.

(a) Beginning January 1, 2018, unless the person is licensed to practice acupuncture in compliance with this chapter and the rules and regulations adopted pursuant thereto, no person shall:

(i) Practice acupuncture or hold himself out as an acupuncturist or as being able to practice acupuncture in Wyoming;

(ii) Use the title of acupuncturist or any variant thereof; or

(iii) Use any configuration of letters, including L. Ac., after his name indicating a degree in acupuncture.

(b) Any license issued under this chapter shall:

1 (i) Be issued in the name of the licensed
2 acupuncturist;

3
4 (ii) State the licensing and expiration dates;
5 and

6
7 (iii) Be displayed at all times in a conspicuous
8 manner in the place of business or employment of the
9 licensee.

10

11 (c) The following persons are exempt from this
12 chapter's licensure requirements:

13

14 (i) An acupuncturist licensed to practice
15 acupuncture in another jurisdiction while teaching or
16 demonstrating or providing acupuncture in connection with
17 teaching or participating in an educational seminar in
18 Wyoming. Any exemption under this paragraph shall not
19 exceed sixty (60) days cumulatively in a calendar year;

20

21 (ii) An acupuncturist licensed in another
22 jurisdiction who enters this state to provide acupuncture

1 during a natural disaster or a public health emergency, as
2 declared by the governor pursuant to W.S. 35-4-115(a) (i);

3

4 (iii) With board approval, a person in training
5 may practice acupuncture provided all services are
6 performed under the direct supervision of an acupuncturist
7 licensed in this state.

8

9 (e) Nothing in this chapter shall be construed to
10 prohibit or restrict any other licensed health care
11 provider in this state from practicing acupuncture within
12 their statutory scope of practice, provided the relevant
13 licensing board has adopted rules and regulations regarding
14 acupuncture within the context of the profession's
15 recognized standards. However, no person may represent
16 themselves as an acupuncturist in any manner unless
17 licensed in accordance with this chapter.

18

19 **33-49-108. Application for license; renewal and**
20 **reinstatement; qualifications; fees; reporting.**

21

22 (a) An applicant for licensure to practice
23 acupuncture under this chapter shall:

1

2 (i) Apply for licensure with the board by
3 providing an application in the form and manner prescribed
4 by the board;

5

6 (ii) Pay the required fees established by the
7 board; and

8

9 (iii) Furnish to the board evidence that the
10 applicant has:

11

12 (A) Graduated from an accredited ACAOM
13 program and passed NCCAOM examination;

14

15 (B) Graduated from an accredited ACAOM
16 program and continuously practiced acupuncture in this
17 state for at least ten (10) years before January 1, 2018;

18

19 (C) Completed other examination, education
20 or apprenticeship processes the board considers
21 substantively qualifying; or

22

1 (D) NADA certificate of training
2 completion, if applying for an acupuncturist license.

3

4 (b) Licenses shall be renewed or reinstated according
5 to a schedule established by the board pursuant to this
6 chapter. If a licensee fails to renew a license pursuant to
7 the schedule established by the board, the license shall
8 expire and the licensee shall not practice acupuncture in
9 this state.

10

11 (c) An applicant for licensure or licensee shall
12 report any pending or final administrative or disciplinary
13 actions, or other judgments, as well as the terms of any
14 settlement or other disposition of an action or judgment,
15 against the applicant or licensee involving malpractice or
16 improper practice of acupuncture, whether occurring in
17 Wyoming or in any other jurisdiction upon application for
18 licensure, renewal or reinstatement, or not later than
19 thirty (30) days after the licensee becomes aware of such
20 actions or judgments.

21

22 **33-49-109. Licensure by endorsement.**

23

1 (a) The board may issue a license by endorsement to
2 practice acupuncture in Wyoming to an applicant who is
3 licensed to practice acupuncture in another state subject
4 to the following:

5

6 (i) The other state shall have substantially
7 equivalent acupuncture licensure requirements as Wyoming,
8 including similar licensure by endorsement provisions for
9 licensees of this state;

10

11 (ii) The applicant shall not have any
12 disciplinary actions pending at the time of application;

13

14 (iii) The applicant shall not have had a license
15 to practice acupuncture suspended or revoked in this state
16 or any other; and

17

18 (iv) The person shall adhere to all requirements
19 of continuing education and ethical standards established
20 by the board.

21

22 **33-49-110. Hearings and investigations.**

23

1 (a) Upon receiving a complaint charging a licensee or
2 applicant with any act prohibited by this chapter, the
3 board may conduct an investigation. If the board finds
4 reasonable grounds to substantiate the allegations of the
5 complaint, a time and place for a hearing shall be set,
6 notice of which shall be served on the licensee or
7 applicant at least fifteen (15) calendar days prior to the
8 hearing. The notice shall be by personal service or by
9 certified or registered mail sent to the last known address
10 of the licensee or applicant.

11

12 (b) The board may issue subpoenas for the attendance
13 of witnesses and the production of necessary evidence in
14 any hearing before it. Upon request of the respondent or
15 his counsel, the board shall issue subpoenas on behalf of
16 the respondent.

17

18 (c) Hearings under this section shall be held in
19 accordance with, and a person aggrieved by a decision of
20 the board may take an appeal pursuant to, the Wyoming
21 Administrative Procedure Act.

22

1 **33-49-111. Disciplinary action; suspension and**
2 **revocation of license; application for reinstatement.**

3
4 (a) After any hearing conducted pursuant to W.S.
5 33-49-110, the board may approve, deny, suspend, revoke or
6 refuse to renew a license or impose probationary conditions
7 on the license if the licensee or applicant has engaged in
8 unprofessional conduct. For purposes of this section,
9 unprofessional conduct includes any of the following:

10
11 (i) Obtaining a license by means of fraud,
12 misrepresentation or concealment of material facts;

13
14 (ii) Violating the ethical standards of practice
15 or rules of professional conduct as adopted and published
16 by the board;

17
18 (iii) Being convicted of a felony;

19
20 (iv) Being convicted of an offense involving a
21 controlled substance;

22

1 (v) Being negligent in the practice of
2 acupuncture;

3

4 (vi) Violating any lawful order, rule or
5 regulation rendered or adopted by the board;

6

7 (vii) Violating any provision of this chapter.

8

9 (b) An application for reinstatement may be made to
10 the board not earlier than one (1) year after the date of
11 the revocation of the license. The board may accept or
12 reject an application for reinstatement and may hold a
13 hearing to consider reinstatement. An applicant for
14 reinstatement aggrieved by any final action of the board
15 may appeal to the district court pursuant to the Wyoming
16 Administrative Procedure Act.

17

18 (c) Upon receipt from the department of family
19 services of a certified copy of an order from a court to
20 withhold, suspend or otherwise restrict a license issued by
21 the board, the board shall notify the party named in the
22 court order of the withholding, suspension or restriction
23 of the license in accordance with the terms of the court

1 order. No appeal under the Wyoming Administrative Procedure
2 Act shall be allowed for a license withheld, suspended or
3 restricted under this subsection.

4

5 **33-49-112. Violations; penalties; proceedings.**

6

7 (a) Any person who violates any provision of this
8 chapter is guilty of a misdemeanor and upon conviction
9 shall be subject to the fines and penalties prescribed in
10 W.S. 6-10-103. If the board has reason to believe that any
11 individual is liable under this section, it may certify the
12 facts to the prosecuting attorney of the jurisdiction in
13 which the offense was committed.

14

15 (b) The attorney general, the board, any county or
16 district attorney or any citizen may obtain an injunction
17 in the name of the state of Wyoming upon the relation of a
18 complainant enjoining any person from engaging in the
19 practice of acupuncture without a license. The district
20 court of the district in which the offending person resides
21 or the district court of Laramie county has original
22 jurisdiction of any such injunction proceedings. An
23 injunction may be issued without proof of actual damage

1 sustained and upon proof of one (1) or more acts
2 constituting the practice of acupuncture without a license.
3 The standard of proof of any violation of this subsection
4 shall be by a preponderance of the evidence.

5

6 (c) Nothing in this section shall limit any
7 additional civil or criminal liability under the laws of
8 this state.

9

10 (d) Notwithstanding any other provision of this
11 chapter, the Wyoming Acupuncture Practice Act shall not
12 apply to persons licensed under title 33, chapter 25 or
13 chapter 26 of the Wyoming statutes.

14

15 **Section 2.** The board shall submit through the normal
16 budget process a standard budget request for the fiscal
17 biennium beginning July 1, 2018, and for subsequent
18 biennia.

19

1 **Section 3.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)