

CHAPTER 436E
ACUPUNCTURE PRACTITIONERS

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Cross References

Sunset evaluations modified, see §§26H-4 and 26H-5.
Health care professionals, see chapter 451D.

" **[§436E-1] Declaration of necessity for regulation and control.** The legislature hereby finds and declares that the practice of acupuncture is a theory and method for treatment of illness and disability and for strengthening and invigorating the body and as such affects the public health, safety, and welfare, and therefore there is a necessity that individuals practicing acupuncture be subject to regulation and control. [L 1985, c 214, pt of §1]

" **[§436E-2] Definitions.** As used in this chapter:

"Acupuncture practitioner" means a person engaged in the practice of acupuncture.

"Board" means the board of acupuncture.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Earned degree" means an academically or a clinically obtained degree (not honorary).

"Practice of acupuncture" means stimulation of a certain acupuncture point or points on the human body for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, thermal, or traditional therapeutic means. [L 1985, c 214, pt of §1]

" **§436E-3 License required.** Except as otherwise provided by law, no person shall practice acupuncture in this State either gratuitously or for pay, or shall offer to so practice, or shall announce themselves either publicly or privately as prepared or qualified to so practice any method of acupuncture without having a valid unrevoked license or intern permit from the State; provided that the requirement for a permit shall not be enforced until the board has initially adopted rules pursuant to section 436E-3.6. [L 1985, c 214, pt of §1; am L 1995, c 124, §2]

" **§436E-3.5 Physicians and osteopaths not exempt.** Persons licensed under chapter 453 who desire to practice acupuncture shall be subject to licensing under this chapter. [L 1989, c 180, §2; am L 1993, c 260, §1; am L 2009, c 11, §57]

Attorney General Opinions

Medical acupuncture is not sufficiently distinct from traditional acupuncture so as to fall outside the scope of the practice of acupuncture. Physicians licensed by board of medical examiners cannot practice medical acupuncture absent licensure by board of acupuncture. Att. Gen. Op. 03-5.

" **[§436E-3.6] Acupuncture intern permit required.** (a) Except as otherwise provided by law, no person shall practice as an acupuncture intern in this State either gratuitously or for pay, without having first obtained a permit from the board. This permit shall entitle the applicant to engage in the practice of acupuncture for a period of four years under the immediate supervision of a licensed acupuncturist duly licensed under this chapter.

(b) An acupuncture intern permit may be reissued once, for a period not to exceed one year, upon written request to the board and payment of the required fee.

(c) The board shall adopt rules pursuant to chapter 91 defining the functions of an acupuncture intern, establishing the requirements to be met by an applicant for an acupuncture intern permit, and specifying the procedures for the immediate supervision of the acupuncture intern by a licensed acupuncturist. [L 1995, c 124, §1]

" **§436E-4 Exemptions.** A licensed acupuncturist of another state or country for demonstrations or lectures to be given at acupuncture or medical society meetings or at acupuncture schools shall be exempt from licensing procedures set forth in this chapter. [L 1985, c 214, pt of §1; am L 1989, c 180, §1]

" **§436E-5 Qualifications for examination.** (a) No person shall be licensed to practice acupuncture unless the person has passed an examination and has been found to have the necessary qualifications as prescribed in the rules adopted by the board pursuant to chapter 91.

(b) Prior to September 1, 2000, and except as provided in subsection (c), before any applicant shall be eligible for the examination, the applicant shall furnish satisfactory proof to the board that the applicant has received a total of not less than one thousand five hundred hours of education and training consisting of:

- (1) A formal program in the science of acupuncture (traditional oriental medicine) at an institute or school approved by the board that:

- (A) Shall be for a period of not less than two academic years (not less than six hundred hours); and
 - (B) Shall result in the award of a certificate or diploma; and
- (2) One clinical year in a clinical internship program (not less than twelve months and not less than nine hundred hours) supervised by a licensed acupuncturist; provided that the nine hundred hours of the clinical internship program may be obtained from the institute or school awarding the certificate or diploma or may be obtained under the supervision of a licensed acupuncturist not affiliated with an institute or school.
- (c) Students who started training prior to December 31, 1984, in a school approved by the board prior to December 31, 1984, and who complete their training by December 31, 1989, and who file an application with the board before September 1, 2000 shall:
- (1) Not lose their rights of continued education, and earned or accumulated credits; and
 - (2) For the purposes of this chapter, meet requirements for examination and licensure as provided in chapter 436D and rules adopted by the board as they existed on December 31, 1984; provided that the school has not altered its program so as to lower the standards for completion of the program. These students may qualify for examination if they submit evidence of having completed:
 - (A) At least eighteen months (not less than five hundred seventy-six hours) of academic training; and
 - (B) At least six months (not less than four hundred eighty hours) of clinical training in the practice of acupuncture on human subjects under the supervision of a licensed acupuncturist.
- (d) Notwithstanding subsections (b) and (c), effective September 1, 2000, before any applicant shall be eligible to take the licensing examination, the applicant shall furnish satisfactory proof to the board that the applicant has completed a formal acupuncture program and has received a total of at least two thousand, one hundred seventy-five hours of academic and clinical training consisting of an academic program of at least one thousand, five hundred fifteen hours in the science of acupuncture (traditional oriental medicine) and a clinical training program of at least six hundred sixty hours under the supervision of a licensed acupuncturist, which shall result in

the award of a certificate or diploma. For applicants who graduated from an institute, school, or college located in the United States or any territory under the jurisdiction of the United States, the institute, school, or college shall be accredited or recognized as a candidate for accreditation by any acupuncture or oriental medicine accrediting body recognized by the United States Department of Education. For applicants who graduated from a foreign institute, school, or college with a formal program in the science of acupuncture, the applicant, at the applicant's own expense, shall have the applicant's transcripts and curriculum evaluated by a board approved and designated professional evaluator who shall make a determination whether the transcripts and curriculum are at least equivalent to that of the United States accredited acupuncture program, and that the foreign institute is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in the respective foreign jurisdiction and whose curriculum is approved by the board. [L 1985, c 214, pt of §1; am L 1993, c 194, §1; am L 1997, c 226, §1; am L 2008, c 21, §1]

" **§436E-6 Board of acupuncture.** (a) There shall be a board of acupuncture, the members of which shall be appointed by the governor.

The board shall consist of five persons, two of whom shall be private citizens and three shall be acupuncturists licensed in accordance with this chapter.

(b) Commencing July 1, 1992, and thereafter, each person appointed to the board shall have a four-year term and shall serve not more than two consecutive terms. Members appointed to the board prior to July 1, 1992, shall be permitted to continue to serve on the board until such time when a maximum of eight consecutive years from the date of initial appointment has been attained. [L 1985, c 214, pt of §1; am L 1992, c 8, §1 and c 202, §22]

" **§436E-7 Powers and duties of the board.** In addition to any other powers and duties authorized by law, the board shall:

- (1) Adopt rules in accordance with chapter 91 to carry out the purposes of this chapter, with special emphasis on the health and safety of the public;
- (2) Develop standards for licensure;
- (3) Prepare, administer, and grade examinations, provided that the board may contract with a testing agency to provide those services;
- (4) Issue, renew, suspend, and revoke licenses;
- (5) Register applicants or holders of a license;

- (6) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- (7) Maintain a record of its proceedings; and
- (8) Do all things necessary to carry out the functions, powers, and duties set forth in the chapter. [L 1985, c 214, pt of §1; am L 1992, c 202, §23]

" **§436E-8 REPEALED.** L 1992, c 202, §181.

" **[§436E-9] Biennial renewal.** Every person holding a license under this chapter shall register with the board and pay a biennial fee on or before June 30 of each odd-numbered year. Failure to pay the biennial fee shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after the expiration upon filing of an application and payment of a restoration fee. [L 1985, c 214, pt of §1]

" **§436E-10 Revocation or suspension of licenses.** In addition to any other actions authorized by law, any license to practice acupuncture under this chapter may be revoked or suspended by the board of acupuncture at any time in a proceeding before the board for any cause authorized by law, including but not limited to the following:

- (1) Obtaining a fee on the assurance that a manifestly incurable ailment can be permanently cured;
- (2) The use of false, fraudulent, or deceptive advertising and making untruthful and improbable statements;
- (3) Habitually using any habit-forming controlled substance, such as opium or any of its derivatives, morphine, heroin, or cocaine;
- (4) Procuring a license through fraud, misrepresentation, or deceit;
- (5) Professional misconduct or gross carelessness or manifest incapacity in the practice of acupuncture; or
- (6) Violating any rules adopted under this chapter. [L 1985, c 214, pt of §1; am L 1992, c 202, §24]

" **§436E-11 REPEALED.** L 1992, c 202, §182.

" **[§436E-12] Penalty.** (a) Any person except a person licensed under this chapter who practices, treats, or instructs in any phase of acupuncture without a license or permit issued by the board, or uses any word or title to induce the belief that they are engaged in the practice of any type of acupuncture, shall be guilty of a misdemeanor and subject to a

fine of not less than \$50 nor more than \$1,000 for each violation.

- (b) Any person, except a licensed acupuncturist, who:
- (1) Practices or attempts to practice acupuncture;
 - (2) Buys, sells, or fraudulently obtains any diploma or license to practice acupuncture whether recorded or not;
 - (3) Uses the title "acupuncturist", "D.Ac." or "D.O.M." or any word or title to induce the belief that the person is engaged in the practice of acupuncture without complying with this chapter; or
 - (4) Violates this chapter;

shall be penalized as provided in subsection (a). The department may also seek all legal and equitable remedies available to it for the enforcement of the provisions of this chapter, including seeking injunctive relief. [L 1985, c 214, pt of §1]

" **§436E-13 Use of titles.** (a) A licensee who has been awarded a license to practice acupuncture by the board in this State may use the title of "Licensed Acupuncturist" or designation "L.Ac." with the licensee's name in an advertisement for acupuncture or announce or append the designation to the licensee's name.

(b) A licensee who has been awarded an earned doctoral degree may use the designation "Ph.D." in an advertisement for acupuncture or announce or append the designation to the licensee's name if the degree was granted from a university or college recognized by a regional or national accrediting body recognized by the United States Department of Education. A Ph.D. recognized by the board under this subsection shall designate a nonpractitioner as opposed to a practitioner or "doctor" of acupuncture as provided in subsection (c).

(c) A licensee who has been approved by the board to use the doctor of acupuncture title, may use the title "Doctor of Acupuncture" or designation of "D.Ac.", after the licensee's name, or the term "Doctor" or prefix "Dr." provided that the word "Acupuncturist" immediately follows the licensee's name if the term "Doctor", or the prefix "Dr." is used alone.

(d) Before any licensee shall be eligible to use the doctor of acupuncture title, the licensee shall furnish satisfactory proof to the board that the licensee has been awarded an earned doctoral degree in acupuncture (traditional oriental medicine). For licensees who graduated from an institute, school, or college located in the United States or any territory under the jurisdiction of the United States, the institute, school, or college shall be accredited or recognized

as a candidate for accreditation by a regional or national accrediting body that is recognized by the United States Department of Education for the accreditation or pre-accreditation ("candidacy") of professional post-graduate doctoral programs in acupuncture and oriental medicine. For licensees who graduated from a foreign institute, school, or college, the licensee, at the licensee's own expense, shall have the licensee's transcripts and curriculum evaluated by a board approved and designated professional evaluator who shall make a determination on whether the transcripts and curriculum are at least equivalent to the United States recognized doctoral program of study in acupuncture and oriental medicine, and that the foreign institute is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in the respective foreign jurisdiction and whose curriculum is approved by the board.

(e) Except as provided in this section, use of other titles, prefixes, or designations shall not be permitted. [L 1985, c 214, pt of §1; am L 1992, c 90, §1; am L 1994, c 43, §1; am L 2013, c 36, §1]

" **[\$436E-14] Foreign school curricula and standards.** The board of acupuncture shall not recognize and approve an earned doctoral degree from a foreign university or college whose curricula and standards are not equivalent to or higher than institutions in the United States which have been recognized and approved by the board in the study or practice of acupuncture. [L 1985, c 214, pt of §1]

Note

Actions taken by the board prior to December 31, 1984, remain in full force and effect. L 1985, c 214, pt of §1.