

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 46

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO ACUPUNCTURE; AMENDING SECTION 54-4703, IDAHO CODE, TO PRO-
2 VIDE THAT PERSONS HOLDING AN ACUPUNCTURE TRAINEE PERMIT MAY PRACTICE
3 ACUPUNCTURE ON A SUPERVISED, LIMITED BASIS; AMENDING SECTION 54-4705,
4 IDAHO CODE, TO REMOVE REFERENCE TO A TECHNICIAN CERTIFICATE, TO PRO-
5 VIDE FOR A TRAINEE PERMIT AND TO PROVIDE THE BOARD THE AUTHORITY TO
6 ADOPT RULES REQUIRING CONTINUING EDUCATION AS A CONDITION OF CONTIN-
7 UED CERTIFICATION; AMENDING SECTION 54-4707, IDAHO CODE, TO PROVIDE
8 ADDITIONAL REQUIREMENTS FOR CERTIFICATION; AMENDING SECTION 54-4708,
9 IDAHO CODE, TO REMOVE PROVISIONS RELATING TO AN ACUPUNCTURE TECHNICIAN
10 CERTIFICATE AND TO PROVIDE PROVISIONS FOR AN ACUPUNCTURE TRAINEE PER-
11 MIT; AMENDING CHAPTER 47, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW
12 SECTION 54-4708A, IDAHO CODE, TO PROVIDE FOR THE RETENTION AND RENEWAL
13 OF CERTAIN ACUPUNCTURE TECHNICIAN CERTIFICATES AND TO PROVIDE THAT NO
14 NEW TECHNICIAN CERTIFICATES SHALL BE ISSUED ON AND AFTER JULY 1, 2011;
15 AMENDING SECTION 54-4710, IDAHO CODE, TO REVISE PROVISIONS RELATING
16 TO FEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4711,
17 IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUSPENSION AND REVOCA-
18 TION OF A LICENSE, CERTIFICATION OR PERMIT AND TO MAKE A TECHNICAL COR-
19 RECTION; AMENDING SECTION 54-4712, IDAHO CODE, TO PROVIDE THAT A PERSON
20 GRANTED AN ACUPUNCTURE TRAINEE PERMIT MAY USE CERTAIN TITLES; AND
21 AMENDING SECTION 54-4713, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
22 AN UNLAWFUL METHOD, ACT OR PRACTICE AND TO MAKE A TECHNICAL CORRECTION.
23

24 Be It Enacted by the Legislature of the State of Idaho:

25 SECTION 1. That Section 54-4703, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-4703. LICENSE REQUIRED. (1) From and after the 1st day of July,
28 1999, it is unlawful for any person to practice acupuncture in this state
29 without, at such time being licensed or certified pursuant to this chapter;
30 provided however, the provisions of this chapter shall not apply to persons
31 licensed pursuant to chapter 18, title 54, Idaho Code, but such persons may
32 seek licensure or certification pursuant to this chapter on a voluntary ba-
33 sis. Persons holding an acupuncture trainee permit pursuant to this chapter
34 may practice acupuncture on a supervised, limited basis as prescribed by
35 this chapter, the board's rules and the permit.

36 (2) No person shall use any title, designation, words, letters, abbrev-
37 viations, or sign, card or device which indicates to the public that such
38 person may practice acupuncture in any form or has been issued a license or
39 been certified pursuant to this chapter unless the person is so licensed or
40 certified, has been issued such license or certification, and the license or
41 certification is in good standing pursuant to rules of the board.

1 SECTION 2. That Section 54-4705, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-4705. BOARD OF ACUPUNCTURE -- POWERS AND DUTIES -- FUNDS. (1) The
4 board shall have the authority to:

5 (a) Determine the qualifications of persons applying for licensure,
6 certification and acupuncture ~~technician certificates~~ trainee permits
7 pursuant to this chapter and define, by rule, the appropriate scope of
8 acupuncture services that may be rendered to the public in this state;

9 (b) Hire or appoint employees, including an executive director, inves-
10 tigators, attorneys, consultants and independent hearing examiners;

11 (c) Establish, pursuant to the administrative procedure act, such
12 rules as are necessary for the administration of this chapter, includ-
13 ing standards for professional conduct that reflect current practice
14 standards and promote inclusion of innovations and advances in acupunc-
15 ture;

16 (d) Conduct investigations and examinations and hold hearings;

17 (e) Collect fees and other funds as prescribed by this chapter;

18 (f) Contract, sue and be sued, and pursue other matters lawful in this
19 state;

20 (g) Provide such other services and perform such other functions as are
21 necessary and desirable to fulfill its purposes;

22 (h) Adopt rules requiring continuing education as a condition of con-
23 tinued licensure or certification.

24 (2) All fees received under the provisions of this chapter shall be paid
25 to the bureau of occupational licenses and deposited in the state treasury
26 to the credit of the occupational licenses fund and all costs and expenses
27 incurred under the provisions of this chapter shall be a charge against and
28 paid from said fund.

29 SECTION 3. That Section 54-4707, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 54-4707. REQUIREMENTS FOR CERTIFICATION. A person applying for a cer-
32 tification shall, in addition to paying all required fees, submit a written
33 application provided by the board showing that such person has successfully
34 passed an examination or other demonstration of proficiency as may be uni-
35 formly required by the board and:

36 (1) Has successfully completed the requirements for full membership in
37 the American academy of medical acupuncture; or

38 (2) Has met each of the following education and experience require-
39 ments:

40 (a) Possesses from an accredited college or university a doctoral de-
41 gree in chiropractic, dentistry, podiatric medicine, or naturopathic
42 medicine;

43 (b) Has successfully completed an approved program consisting of a
44 minimum of one hundred (100) hours of on-site didactic coursework in
45 acupuncture taught by an NCCAOM certified acupuncturist who has been
46 practicing acupuncture for at least five (5) years and is currently li-
47 icensed, two hundred (200) hours of practice as a certified technician

1 or as an acupuncture trainee over a one (1) year period and twenty-five
 2 (25) case studies; and

3 (c) Has successfully passed a blood-borne pathogen course and compre-
 4 hensive examination concerning the practice of acupuncture approved by
 5 the board that incorporates clean needle techniques and OSHA procedures
 6 and requirements.

7 SECTION 4. That Section 54-4708, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 54-4708. ACUPUNCTURE ~~TECHNICIAN CERTIFICATE~~ TRAINEE PERMIT. (1) A
 10 person seeking the experience needed to obtain licensure or certification
 11 pursuant to this chapter may apply for an acupuncture technician certifi-
 12 cate by, in addition to paying trainee permit. Such person shall pay all
 13 required fees, submitting a written application provided by the board and
 14 showing to the satisfaction of the board that such person meets the following
 15 requirements: is qualified and actively pursuing an acupuncture license or
 16 certification.

17 ~~(a) Completion of the requirements for clinical technician certifi-~~
 18 ~~cate by the international academy of medical acupuncture, inc., or such~~
 19 ~~other comparable requirements as are approved by the board; and~~

20 ~~(b) Passed a clean needle technique course that has been approved by the~~
 21 ~~board; and~~

22 ~~(c) Passed an examination or other demonstration of proficiency as may~~
 23 ~~be uniformly required for other similarly qualified applicants for an~~
 24 ~~acupuncture technician certificate.~~

25 (2) In approving an acupuncture ~~technician certificate~~ trainee permit
 26 the board shall consider the scope and
 27 extent of the applicant's academic and
 28 other training and experience in health care to date and may, for each indi-
 29 vidual acupuncture ~~technician~~ trainee:

30 (a) Require the direct and immediate supervision such supervision, as
 31 the board may deem appropriate, by a person licensed or certified pur-
 32 suant to this chapter or by a health care practitioner licensed or cer-
 33 tified in Idaho or by a health care practitioner otherwise exempt from
 34 licensure under this chapter;

35 (b) Restrict the practice of acupuncture for the acupuncture
 36 ~~technician~~ trainee to specified therapies or treatments.

37 (3) A person's acupuncture trainee permit expires one (1) year from the
 38 date of issuance. However, the board may renew the permit for up to one (1)
 39 year if, before the permit expires, the person asks the board for an exten-
 40 sion and establishes to the board's satisfaction that good cause exists for
 41 the board to renew the permit. The renewal of any acupuncture trainee permit
 42 may be upon such conditions as the board may require. The board may not renew
 43 a permit more than once and the board may not issue more than one (1) permit to
 44 any person.

45 SECTION 5. That Chapter 47, Title 54, Idaho Code, be, and the same is
 46 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 47 ignated as Section 54-4708A, Idaho Code, and to read as follows:

1 54-4708A. ACUPUNCTURE TECHNICIAN. Individuals who have been granted
2 an acupuncture technician certificate before July 1, 2011, shall be enti-
3 tled to retain and renew such certificate under the renewal terms as provided
4 in section 54-4710, Idaho Code, and the board's rules, but no new technician
5 certificates shall be issued on and after July 1, 2011.

6 SECTION 6. That Section 54-4710, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 54-4710. EXPIRATION AND RENEWAL -- REINSTATEMENT. (1) All licenses
9 and certifications issued under the provisions of this chapter shall be
10 subject to annual renewal and shall expire unless renewed in the manner
11 prescribed by the board regarding applications for renewal, continuing edu-
12 cation, and fees. License renewal and reinstatement shall be in accordance
13 with section 67-2614, Idaho Code.

14 (2) The board shall establish the following fees relating to licensing,
15 which fees shall be established in an amount that is sufficient to defray all
16 costs necessary for the administration of this chapter:

- 17 (a) Initial license;
18 (b) Renewal of license fee;
19 (c) Initial fee for certification;
20 (d) Initial acupuncture ~~technician certificate~~ trainee permit;
21 (e) Renewal acupuncture technician certificate or acupuncture trainee
22 permit;
23 (f) Inactive license and certification fees;
24 (g) Late renewal fees.

25 SECTION 7. That Section 54-4711, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-4711. SUSPENSION AND REVOCATION. To protect the health, safety and
28 welfare of the public, the board, in accordance with the requirements of
29 chapter 52, title 67, Idaho Code, may refuse to issue ~~a license or certifi-~~
30 ~~cation, or may~~ refuse to renew a license, ~~or certification or permit~~, or may
31 suspend or revoke a license, ~~or certification or permit~~, under such condi-
32 tions as the board may ~~determine~~ require, if the applicant or holder of the
33 license, ~~or certification or permit~~ has:

34 (1) ~~Has b~~ Been convicted of a felonious act, or crime involving moral
35 turpitude;

36 (2) Obtained or attempted to obtain the issuance or renewal of a li-
37 cence, certification or permit pursuant to this chapter by means of fraud,
38 misrepresentation or concealment of material facts;

39 (3) ~~Endangered the health of any person engaging~~ Engaged in the prac-
40 tice of acupuncture in a manner which does not meet the generally accepted
41 standards for the practice of acupuncture within the state of Idaho;

42 (4) ~~Has f~~ Failed to maintain the confidentiality of records or other in-
43 formation pertaining to an identifiable client, except as required or autho-
44 rized by law;

45 (5) Engaged in any conduct that constitutes an abuse or exploitation of
46 a client arising out of the trust and confidence placed in the acupuncturist
47 by the client; ~~or~~

1 (6) ~~Has e~~Engaged in conduct that violates the provisions of this chap-
 2 ter, ~~or~~ the rules of the board or the terms of any permit issued by the board;
 3 or
 4 (7) Failed to comply with a board order entered in a disciplinary mat-
 5 ter.

6 SECTION 8. That Section 54-4712, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 54-4712. TITLES. Persons licensed pursuant to this chapter may use the
 9 title "licensed acupuncturist." Persons certified or granted an acupuncture
 10 technician certificate, or an acupuncture trainee permit pursuant to this
 11 chapter, may use the title "certified acupuncturist," ~~or~~ "acupuncture tech-
 12 nician" or "acupuncture trainee," respectively, but may not use the title
 13 "licensed acupuncturist" or "doctor," or any abbreviation thereof, unless
 14 the acupuncturist is otherwise authorized to use such title. No person au-
 15 thorized to practice acupuncture pursuant to this chapter may hold himself
 16 out in any way as a medical physician, doctor of osteopathy, chiropractor,
 17 physical therapist or other health care professional unless the person is
 18 properly authorized for such practice pursuant to law.

19 SECTION 9. That Section 54-4713, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 54-4713. PENALTIES. (1) A person who violates any provision of this
 22 chapter shall, upon conviction, be guilty of a misdemeanor.

23 (2) The board may seek injunction against any person who practices
 24 acupuncture in violation of this chapter and may, in the event a permanent
 25 injunction is entered against such person or plea or verdict of guilty is
 26 entered in any criminal matter, impose a civil penalty in the amount of all
 27 costs and fees incurred by the board in prosecuting the matter.

28 (3) The representation to another person that a person ~~is licensed or~~
 29 holds a license, certification or permit pursuant to this chapter, when such
 30 representation is untrue, constitutes the using of a method, act, ~~or~~ prac-
 31 tice which is declared to be unlawful under the provisions of chapter 6, ti-
 32 tle 48, Idaho Code.