SESSIONS BILL No. 363


1-25

AN ACT concerning the state board of healing arts; relating to the licensure of acupuncturists; amending K.S.A. 2015 Supp. 65-2872 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. Sections 1 through 24, and amendments thereto, shall be known and may be cited as the acupuncture and oriental medicine practice act.

New Sec. 2. As used in sections 1 through 24, and amendments thereto:
(a) "Act" means the acupuncture and oriental medicine practice act.
(b) "Acupuncture" means a distinct system of health care, based on traditional and modern oriental medical concepts, to examine, evaluate, diagnose, manage or treat disease, illness, injury, pain or other physical or mental conditions in order to promote the restoration and maintenance of health and wellness.
(c) "Licensed acupuncturists" means any person licensed by the board in the practice of acupuncture and oriental medicine.
(d) "Auricular detox technician" means a person trained solely in, and who performs only, auricular detox treatment.
(e) "Auricular detox treatment" means a very limited procedure consisting of acupuncture needles inserted into specified points in the outer ear of a person undergoing treatment for drug or alcohol abuse or both drug and alcohol abuse.
(f) "Board" means the state board of healing arts.
(g) "Council" means the acupuncture advisory council.
(h) "Oriental medicine" means Chinese medicine, traditional Chinese medicine, Asian medicine, East Asian medicine and the other names used to describe such medical model and the therapies taught within such medical model.
(i) "NCCAOM" means the national certification commission for acupuncture and oriental medicine. NCCAOM is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification.
examinations.

(j) "Physician" means a person licensed to practice medicine and surgery in Kansas.

(k) "Practice of acupuncture and oriental medicine" means the use, recommendation and application of oriental medicine therapies, within the scope of and based on oriental medicine concepts.

(1) Oriental medicine therapies include, but are not limited to:

(A) Acupuncture treatment and those related techniques which involve the insertion and removal of needles through the skin at specific points on the body with or without the palpation of specific points on the body, with or without manipulation of the needles and with or without the application of heat sources or electrical current. This includes, but is not limited to, the techniques sometimes called "dry needling," "trigger point therapy," "intramuscular therapy," "auricular detox treatment" and similar terms;

(B) mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual treatment and electromagnetic treatment;

(C) the use, application or recommendation of therapeutic exercises, breathing techniques, meditation and dietary and nutritional counseling based on oriental medicine principles; and

(D) the use and recommendation of herbal products and nutritional supplements, according to the acupuncturist's level of training and certification as a diplomate in oriental medicine or diplomate in herbology by NCCAOM.

(2) Oriental medicine therapies do not include:

(A) Dispensing or administering of any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs;

(B) medicine and surgery including the use of lasers for surgical purposes as practiced by physicians and surgeons;

(C) osteopathic medicine and surgery or osteopathic manipulative treatment; or

(D) the practice of chiropractic as defined by article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 3. (a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act, is licensed to practice medicine and surgery, is a licensed chiropractor or is a licensed naturopathic doctor.

(b) (1) No person shall depict oneself orally or in writing, expressly or by implication, as a holder of a Kansas acupuncture license who does not hold a current and valid acupuncture and oriental medicine license.
(2) Only a person licensed as an acupuncturist under the acupuncture and oriental medicine practice act shall be entitled to use the following titles, as appropriate: "Licensed acupuncturist," "oriental medicine practitioner," "practitioner of oriental medicine," abbreviations thereof or words similar to such titles or the designated letters "L.Ac."

(3) Nothing in this section shall be construed to prohibit an acupuncturist licensed under this act from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such licensed acupuncturist has earned. Each licensee, when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a doctor of oriental medicine.

(4) Only a person licensed as an acupuncturist under this act shall be entitled, as appropriate, to represent oneself, in any manner, as specializing in or practicing any form of oriental medicine in the state of Kansas.

(c) Needles used in the practice of acupuncture shall only be prepackaged, single use and sterile needles. These needles shall only be used on an individual patient in a single treatment session.

New Sec. 4. (a) The following shall be exempt from the requirement of an acupuncture license pursuant to this act:

(1) A person licensed to practice medicine and surgery, a licensed chiropractor or a licensed naturopathic doctor if the person confines the person's acts or practice to the scope of practice authorized by the other health professional licensing laws and does not represent to the public, directly or indirectly, that under this act:

(A) The person is licensed under this act; or

(B) through the usage of a name, title or other designation, the person indicates licensure;

(2) any herbalist or herbal retailer who does not hold oneself out to be a licensed acupuncturist;

(3) health care providers in the United States armed forces, federal facilities and other military service when acting in the line of duty in this state;

(4) any student, trainee or visiting teacher of acupuncture, oriental medicine or herbology who is designated as a student, trainee or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist licensed under this act in a program that the council has approved. This includes continuing education programs and any acupuncture, oriental medicine or herbology programs that are a recognized route by the NCCAOM to certification in acupuncture, oriental medicine or herbology;
(5) persons rendering assistance in the case of an emergency or disaster relief;
(6) self-care by a patient or gratuitous care by a family member who does not represent or hold oneself out to the public to be a licensed acupuncturist;
(7) persons who massage, so long as such persons do not practice acupuncture and oriental medicine or hold themselves out to be licensed acupuncturists or oriental medicine practitioners;
(8) any team acupuncturist, oriental medicine or herbology practitioner, who is traveling with and treating those associated with an out-of-state or national team that is temporarily in the state for training or competition purposes; and
(9) any person who is an auricular detox technician, provided that such person performs only auricular detox treatments under the supervision of a licensed acupuncturist.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 5. (a) An applicant for licensure as an acupuncturist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:
(1) At the time of application such applicant is at least 21 years of age;
(2) has graduated from a school or an apprenticeship program recognized by the NCCAOM, or its equivalent, and approved by the board and satisfies one of the following requirements:
(A) Has the active status of a NCCAOM certified diplomate of acupuncture;
(B) has the active status of a NCCAOM certified diplomate of oriental medicine; or
(C) has an equivalent status as recognized by the council and approved by the board;
(3) demonstrates the ability to communicate in the English language as determined by rules and regulations adopted by the board if English is a second language for the applicant;
(4) has good moral character; and
(5) has paid all the fees required for licensure prescribed in section 8, and amendments thereto, which shall be nonrefundable.
(b) Notwithstanding subsection (a), the board may issue a license to a person who has been in the active practice of acupuncture or oriental medicine in some other state, territory, the District of Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, certified or registered, that the applicant's license,
certification or registration has never been limited, suspended or revoked, that the licensee, certification or registration holder has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

(1) (A) That the state, territory, District of Columbia or country in which the applicant last practiced maintains standards at least equal to those maintained by Kansas;

(B) that the applicant's original license, certification or registration was based upon licensure, certification or registration requirements at least equal in quality to the state of Kansas licensure requirements pursuant to this section;

(C) of the date of the applicant's original and any and all endorsed licenses, certifications or registrations and the date and place from which any license, certification or registration was attained; and

(D) that the applicant has been actively engaged in acupuncture and oriental medicine under such license, certification or registration since issued, and if not, indicate the time when and reason why the applicant was out of practice.

An applicant for license by endorsement shall not be granted a license unless such applicant's individual qualifications meet the state of Kansas requirements;

(2) the applicant shall demonstrate the ability to communicate in the English language, if English is a second language for such applicant, as determined by rules and regulations adopted by the board; and

(3) the applicant shall pay all fees required for licensure as prescribed by section 8, and amendments thereto, which shall be nonrefundable.

(c) The board may issue a license to a person who does not meet the qualifications listed in subsection (a), but who has practiced acupuncture and oriental medicine in Kansas during three of the last five years preceding the effective date of this act. Such applicant shall meet the following requirements:

(1) The applicant shall provide proof of a minimum of 1,350 hours of study, excluding online study, in the field of acupuncture obtained on or before July 1, 2017;

(2) the applicant's practice shall include a minimum of 1,500 patient visits to the applicant for the purpose of acupuncture and oriental medicine services for three of the last five years preceding application for licensure.

Documentation shall include:

(A) Two affidavits from office partners, clinic supervisors, accountants or other individuals approved by the board, who have personal knowledge of the years of practice and number of patients visiting the
applicant for acupuncture and oriental medicine services; and
(B) notarized copies of appointment books, patient charts, financial
records or other documentation as required by the board, except that no
personally identifiable patient health information in violation of or
protected by the provisions of the health insurance portability and
accountability act of 1996 shall be disclosed;
(3) the applicant must show that any complaints against the applicant
have been absolved or resolved to the satisfaction of the board;
(4) the applicant's application for licensure shall be submitted on or
before January 1, 2018;
(5) the applicant shall demonstrate the ability to communicate in the
English language, if English is a second language for such applicant, as
determined by rules and regulations adopted by the board; and
(6) the applicant shall pay all fees required for licensure as prescribed
by section 8, and amendments thereto, which shall be nonrefundable.
(d) Notwithstanding subsections (a) and (c), the board may issue a
license to a person who successfully passes the NCCAOM board
examinations and who submits an application for license under the act on
or before January 1, 2018.
(e) A person whose license has been revoked may make written
application to the board requesting reinstatement of the license in a manner
prescribed by the board. An application for reinstatement of a license shall
be accompanied by the fee provided for in section 8, and amendments
thereto, and as established in the rules and regulations adopted by the
board.
New Sec. 6. (a) There is hereby created the designation of inactive
license. The board is authorized to issue an inactive license to any licensee
who makes written application for such license on a form provided by the
board and remits the fee for an inactive license established pursuant to
section 8, and amendments thereto.
(b) The board may issue an inactive license only to a person who
meets all the requirements for a license to practice as an acupuncturist and
who does not engage in the active practice of acupuncture and oriental
medicine in the state of Kansas.
(c) An inactive license shall not entitle the holder to engage in active
practice. The provisions of section 7, and amendments thereto, relating to
expiration, renewal and reinstatement of a license shall be applicable to an
inactive license issued under this subsection. Each inactive licensee may
apply to engage in active practice by presenting a request required by
section 5, and amendments thereto. The request shall be accompanied by
the fee established pursuant to section 8, and amendments thereto.
(d) This section shall take effect on and after July 1, 2017.
New Sec. 7. (a) Licenses issued annually under this act shall be
canceled on March 31 of each year unless renewed in the manner
prescribed by the board. A license issued or reinstated from January 1
through March 31 shall be cancelled on March 31 of the following year. A
request for the renewal of a license shall be on a form provided by the
board and shall be accompanied by the renewal fee established pursuant to
section 8, and amendments thereto, which shall be paid not later than the
renewal date of the license.

(b) At least 60 days before the renewal date of a licensee's license, the
board shall notify the licensee of the licensure renewal date by mail
addressed to the licensee's last mailing address as noted upon the office
records. If the licensee fails to submit an application for renewal of
licensure on a form provided by the board, or fails to pay the renewal fee
by the date of cancellation, the board shall give notice to the licensee that
the license has been canceled and the license may be renewed only if an
application for active status reinstatement, a renewal fee, and a late
renewal fee are received by the board. If cancelled for at least one year but
not more than five years, an active status license shall be reinstated when
an appropriate fee has been paid and proof of NCCAOM current
credentials has been presented, or an equivalent status as recognized by the
council and approved by the board in lieu of the NCCAOM credentials.

(c) The board may require any licensee to submit to a continuing
education audit and provide to the board evidence of satisfactory
completion of a program of continuing education required by rules and
regulations of the board. The board may accept a licensee's current active
status as a NCCAOM diplomate of acupuncture or NCCAOM diplomate
of oriental medicine as proof of satisfactory completion of continuing
education requirements.

(d) The board, prior to renewal of a license, shall require the licensee,
if in the active practice of acupuncture and oriental medicine within the
state, to submit to the board evidence satisfactory to the board that the
licensee is maintaining a policy of professional liability insurance. The
board may require any licensee to provide to the board evidence of
malpractice insurance.

(e) This section shall take effect on and after July 1, 2017.

New Sec. 8. (a) The board shall charge and collect in advance fees for
acupuncturists, as follows, through March 31, 2018:

Initial application for licensure.................................................................$700
Annual renewal of license:
Paper renewal.......................................................................................$300
On-line renewal.....................................................................................$250
Late renewal of licensure:
Late paper renewal..............................................................................$100
Late on-line renewal..........................................................................$100
Application for reinstatement of revoked license..................................$800
Application for inactive license...............................................................$30
Renewal of inactive license.................................................................$150
Conversion of inactive license to active:
   Paper conversion..................................................................................$300
   On-line conversion...............................................................................$250
   Certified copy of license......................................................................$25
Written verification of license..................................................................$25

(b) After March 31, 2018, the board shall charge and collect in advance fees for acupuncturists as established by the board by rules and regulations not to exceed the amounts in subsection (a).

(c) If an examination is not administered by the board, the board may require that fees paid for any examination under the acupuncture and oriental medicine practice act be paid directly to the examination service by the person taking the examination.

New Sec. 9. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

New Sec. 10. (a) There is established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:
   (1) The board, with recommendation from the Kansas association of oriental medicine, shall appoint:
      (A) Two members who are actively licensed as acupuncturists under this act; and
      (B) one member who is actively licensed as an acupuncturist under this act and holds a current NCCAOM certification in herbology or oriental medicine;
   (2) one member shall be the president of the state board of healing arts or a person designated by the president; and
   (3) the governor shall appoint one member from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible, persons appointed to the council shall be from different geographic areas. If a vacancy occurs on the council, the
appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

(b) The member of the council appointed by the governor shall be appointed for a term of three years and until a successor is appointed. The members appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. If a member is designated by the president of the state board of healing arts, the member shall serve at the pleasure of the president.

(c) Acupuncturists initially appointed to the council must be eligible, as appropriate, for licensure pursuant to section 5, and amendments thereto. On and after July 1, 2017, new appointees, as appropriate, shall be licensed under the provisions of this act.

(d) The council shall meet at least once each year at a time and place of its choosing and at such other times as may be necessary on the chairperson's call or on the request of a majority of the council's members. At the first meeting, the council shall select a chairperson and vice-chairperson, and annually thereafter. The first meeting shall be called by the president of the state board of healing arts or such person's designee.

(e) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(f) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, from the healing arts fee fund.

New Sec. 11. The acupuncture advisory council shall advise the board regarding:

(a) Examination, licensing and other fees;

(b) rules and regulations to be adopted to carry out the provisions of this act;

(c) the number of yearly continuing education hours required to maintain active licensure;

(d) changes and new requirements taking place in the areas of acupuncture and oriental medicine; and

(e) such other duties and responsibilities as the board may assign.

New Sec. 12. The board, with the advice and assistance of the acupuncture advisory council, shall:

(a) Duly license and regulate applicants for licensure and keep a roster of all such licensed individuals;

(b) adopt rules and regulations as may be necessary to administer the provisions of this act and prescribe forms which shall be issued in the administration of this act;
(c) establish standards for approval of an educational course of study and clinical experience;
(d) establish criteria for continuing education;
(e) establish standards of professional conduct, procedure for the discipline of licensees and keep a record of all such proceedings; and
(f) establish standards for clean needle technique.

New Sec. 13. (a) A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:
(1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;
(2) the licensee has obtained a license by means of fraud, misrepresentations or concealment of material facts;
(3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;
(4) the licensee has been convicted of a felony;
(5) the licensee has violated any provision of this act;
(6) the licensee has violated any lawful order or rule and regulation of the board;
(7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;
(8) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(11) the licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. The provision regarding confidentiality shall expire on July 1, 2022. The state legislature shall review such provision before July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture and oriental medicine practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) A person whose acupuncture license is suspended, limited or revoked shall not engage in any conduct or activity in violation of the order.

(d) This section shall take effect on and after July 1, 2017.

New Sec. 14. (a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture and oriental medicine practice act. Any such action shall be taken in accordance with the provisions of the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the licensee entering into such stipulation.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative
proceedings under the Kansas administrative procedure act if the board
determines that there is cause to believe that grounds exist for disciplinary
action against the licensee and that the licensee's continuation of practice
would constitute an imminent danger to public health and safety.

(d) Judicial review and civil enforcement of any agency actions under
this act shall be in accordance with the Kansas judicial review act.

New Sec. 15. (a) The board or a committee of the board as a non-
disciplinary resolution, may enter into a written agreement with a licensee
for a professional development plan, make written recommendations to a
licensee or issue a written letter of concern to a licensee if the board,
committee of the board or peer review committee determines that the
licensee:

(1) Seeks to establish continued competency for renewal of licensure
other than through continued education requirements;
(2) has been absent from clinical practice for an extended period of
time and seeks to resume clinical practice;
(3) has failed to adhere to the applicable standard of care; or
(4) has engaged in an act or practice that, if continued, would
reasonably be expected to result in future violations of this act.

(b) Notwithstanding any other provision of law, a meeting of the
board or a committee of the board for the purpose of discussing or
adopting a non-disciplinary resolution authorized by this section shall not
be subject to the Kansas administrative procedure act, K.S.A. 77-501 et
seq., and amendments thereto, and shall not be subject to the Kansas open
meetings act as provided in K.S.A. 75-4317 et seq., and amendments
thereto. A non-disciplinary resolution authorized by this section shall not
be deemed disciplinary action or other order or adjudication. No failure to
adhere to the applicable standard of care or violation of this act may be
implied by the adoption of a non-disciplinary resolution.

(c) A non-disciplinary resolution authorized by this section shall be
confidential and shall not be admissible in any civil, criminal or
administrative action, except that such resolution shall be admissible in
any disciplinary proceeding by the board.

New Sec. 16. (a) In connection with any investigation by the board,
the board or its duly authorized agents or employees shall at all reasonable
times have access to, for the purpose of examination, and the right to copy
any document, report, record or other physical evidence of any person
being investigated, or any document, report, record or other evidence
maintained by and in possession of any clinic, office of a practitioner of
acupuncture and oriental medicine or other public or private agency if such
document, report, record or evidence relates to the competence,
unprofessional conduct or the mental or physical ability of a licensee to
safely practice acupuncture and oriental medicine.
For the purpose of all investigations and other administrative proceedings under this act, the board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to the competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice acupuncture and oriental medicine. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(1) Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena.

(2) The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(3) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

New Sec. 17. The board, in addition to any other penalty prescribed pursuant to this act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of this act in an amount not to exceed $2,000 for the first violation, $5,000 for the second violation and $10,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

New Sec. 18. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the
person who is the subject or source of the information, except the
information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an
appeal of an order of the board entered in a proceeding, or to any party to a
proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any
person or entity when requested by the person who is the subject of the
information, but the board may require disclosure in such a manner that
will prevent identification of any other person who is the subject or source
of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency
with jurisdiction over the subject of the information or to an agency with
jurisdiction over acts or conduct similar to acts or conduct which would
constitute grounds for action under this act.

(b) Any confidential complaint or report, record or other information
disclosed by the board as authorized by this section shall not be re-
disclosed by the receiving agency except as otherwise authorized by law.

(c) This provision regarding confidentiality shall expire on July 1,
2022. The state legislature shall review such provision before July 1, 2022.

New Sec. 19. (a) No person reporting to the state board of healing
arts in good faith any information such person may have relating to alleged
incidents of malpractice, or the qualifications, fitness or character of, or
disciplinary action taken against a person licensed, registered or certified
by the board shall be subject to a civil action for damages as a result of
reporting such information.

(b) Any state, regional or local association composed of persons
licensed to practice acupuncture and oriental medicine and the individual
members of any committee thereof, which in good faith investigates or
communicates information pertaining to the alleged incidents of
malpractice, or the qualifications, fitness or character of, or disciplinary
action taken against any licensee, registrant or certificate holder to the
state board of healing arts or to any committee or agent thereof, shall be
immune from liability in any civil action that is based upon such
investigation or transmittal of information if the investigation and
communication was made in good faith and did not represent as true any
matter not reasonably believed to be true.

New Sec. 20. (a) Professional liability insurance coverage shall be
maintained in effect by each licensed acupuncturist and as a condition to
rendering professional services as a licensed acupuncturist in the state of
Kansas. The board shall fix by rules and regulations the minimum level of
coverage for such professional liability insurance.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 21. (a) The confidential relations and communications
between a licensed acupuncturist and the acupuncturist's patient are placed
on the same basis as provided by law as those between a physician and a
physician's patient in K.S.A. 60-427, and amendments thereto.

(b) The provisions of this section shall take effect on and after July 1,
2017.

New Sec. 22. (a) When it appears that any person is violating any
 provision of this act, the board may bring an action in the name of the
state in a court of competent jurisdiction for an injunction against such
violation without regard as to whether proceedings have been or may be
instituted before the board or whether criminal proceedings have been or
may be instituted.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 23. On and after July 1, 2017, any violation of sections 1
through 23, and amendments thereto, shall constitute a class B
misdemeanor.

New Sec. 24. If any section of sections 1 through 23, and
amendments thereto, or any part thereof, is adjudged by any court of
competent jurisdiction to be invalid, such judgment shall not affect, impair
or invalidate the remainder or any other section or part thereof.
Sec. 25. K.S.A. 2015 Supp. 65-2872 is hereby amended to read as
follows: 65-2872. The practice of the healing arts shall not be construed to
include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.
(b) Persons gratuitously administering ordinary household remedies.
(c) The members of any church practicing their religious tenets
provided they shall not be exempt from complying with all public health
regulations of the state.
(d) Students while in actual classroom attendance in an accredited
healing arts school who after completing one year's study treat diseases
under the supervision of a licensed instructor.
(e) Students upon the completion of at least three years study in an
accredited healing arts school and who, as a part of their academic
requirements for a degree, serve a preceptorship not to exceed 180 days
under the supervision of a licensed practitioner.
(f) Persons who massage for the purpose of relaxation, muscle
conditioning, or figure improvement, provided no drugs are used and such
persons do not hold themselves out to be physicians or healers.
(g) Persons whose professional services are performed under the
supervision or by order of or referral from a practitioner who is licensed
under this act.
(h) Persons in the general fields of psychology, education and social
work, dealing with the social, psychological and moral well-being of
individuals or groups, or both, provided they do not use drugs and do not
hold themselves out to be the physicians, surgeons, osteopathic physicians
or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air
force, public health service, and coast guard or other military service when
acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and
while incidentally called into this state in consultation with practitioners
licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing
in accordance with the provisions of article 14 of chapter 65 of the Kansas
Statutes Annotated, and amendments thereto, and any interpretation
thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and
practicing under and in accordance with the provisions of article 15 of
chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing
under and in accordance with the provisions of article 11 of chapter 65 of
the Kansas Statutes Annotated, and amendments thereto, and any
interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and
practicing under and in accordance with the provisions of article 20 of
chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing arts, not
specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and
practicing under and in accordance with the provisions of article 16 of
chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14
of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
who administers general and local anesthetics to facilitate medical
procedures conducted by a person licensed to practice medicine and
surgery if such dentist is certified by the board of healing arts under K.S.A.
65-2899, and amendments thereto, to administer such general and local
anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of
another state who do not open an office or maintain or appoint a place to
regularly meet patients or to receive calls within this state, but who order
services which are performed in this state in accordance with rules and
regulations of the board. The board shall adopt rules and regulations
identifying circumstances in which professional services may be
performed in this state based upon an order by a practitioner of the healing
arts licensed under the laws of another state.

(s) Acupuncturists, when licensed and practicing in accordance with
sections 1 through 24, and amendments thereto, rules and regulations
adopted thereto, and interpretations thereof by the supreme court of this
state.

(t) Persons licensed by the state board of cosmetology practicing their
professions, when licensed and practicing under and in accordance with
the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated,
and amendments thereto, and any interpretation thereof by the supreme
court of this state.


Sec. 27. This act shall take effect and be in force from and after its
publication in the statute book.