

New Mexico



Name of Law: Acupuncture and Oriental Medicine Practice Act

Statute Location: 61-14A-1

Statute URL: <http://public.nmcompcomm.us/nmpublic/gateway.dll?f=templates&fn=default.htm>

Rule: 16.2.1 NMAC

Rule URL: http://www.nmcpr.state.nm.us/nmac/_title16/T16C002.htm

License/Registration Required: Yes. Currently there are no states or countries with which the board has reciprocal licensing agreements. Unless licensed as a doctor of oriental medicine pursuant to the Acupuncture and Oriental Medicine Practice Act, no person shall practice acupuncture or oriental medicine.

Definition of Acupuncture: "Acupuncture" means the surgical use of needles inserted into and removed from the body and the use of other devices, modalities and procedures at specific locations on the body for the prevention, cure or correction of any disease, illness, injury, pain or other condition by controlling and regulating the flow and balance of energy and function to restore and maintain health;

"Doctor of oriental medicine" means a person licensed as a physician to practice acupuncture and oriental medicine with the ability to practice independently, serve as a primary care provider and as necessary collaborate with other health care providers;

"Oriental medicine" means the distinct system of primary health care that uses all allied techniques of oriental medicine, both traditional and modern, to diagnose, treat and prescribe for the prevention, cure or correction of disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy, form and function to restore and maintain health;

"Primary care provider" means a health care practitioner acting within the scope of the health care practitioner's license who provides the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiates referrals to other health care practitioners and maintains the continuity of care when appropriate;

"Techniques of oriental medicine" means:

(1) The diagnostic and treatment techniques used in oriental medicine that include diagnostic procedures; acupuncture; moxibustion; manual therapy, also known as tui na; other physical medicine

modalities and therapeutic procedures; breathing and exercise techniques; and dietary, nutritional and lifestyle counseling;

(2) The prescribing, administering, combining and providing of herbal medicines, homeopathic medicines, vitamins, minerals, enzymes, glandular products, natural substances, natural medicines, protomorphogens, live cell products, gerovital, amino acids, dietary and nutritional supplements, cosmetics and

(3) The prescribing, administering and providing of devices, restricted devices and prescription devices, as those devices are defined in the New Mexico Drug, Device and Cosmetic Act.

Scope of Practice: The practice of oriental medicine in New Mexico is a distinct system of primary health care with the goal of prevention, cure, or correction of any disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy, form and function to restore and maintain health. Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine.

The scope of practice of doctors of oriental medicine shall include but is not limited to:

A. evaluation, management and treatment services;

B. diagnostic examination, testing and procedures;

C. the ordering of diagnostic imaging procedures and laboratory or other diagnostic tests;

D. the surgical procedures of acupuncture and other related procedures;

E. the stimulation of points, areas of the body or substances in the body using qi, needles, heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy, bleeding, suction, or other devices or means;

F. physical medicine modalities, procedures and devices;

G. therapeutic exercises, qi exercises, breathing techniques, meditation, and the use of biofeedback devices and other devices that utilize heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy and other means therapeutically;

H. dietary and nutritional counseling and the prescription or administration of food, beverages and dietary supplements therapeutically;

I. counseling and education regarding physical, emotional and spiritual balance in lifestyle;

J. prescribing, administering, combining, providing, compounding and dispensing any non-injectable herbal medicine, homeopathic medicines, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, amino acids, dietary and nutritional supplements; cosmetics as they are defined in the New Mexico Drug, Device and Cosmetic Act and nonprescription drugs as they are defined in the Pharmacy Act;

K. the prescription or administration of devices, restricted devices and prescription devices as defined in the New Mexico Drug, Device and Cosmetic Act

Prohibitions: All offices shall be registered with the board. When the practice of acupuncture and oriental medicine is conducted in a building used for residential purposes, a room or rooms shall be set apart as an office for the practice and shall be used solely for this purpose. It shall be equipped with a washroom and toilet facilities readily available in the same premises.

A doctor of oriental medicine shall keep accurate records of each patient including the diagnosis and nature of treatment given and any other relevant data deemed necessary by the provider. Records shall be retained for a minimum of 10 years.

A doctor of oriental medicine shall be guilty of incompetence who fails to use pre-sterilized single use needles.

A doctor of oriental medicine shall be guilty of unprofessional conduct and attempting to attract patronage in an unethical manner who guarantees a cure will result from the performance of professional services.

A doctor of oriental medicine shall be guilty of unprofessional conduct who abandons or neglects a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandons professional employment in a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients.

A doctor of oriental medicine shall be guilty of attempting to attract patronage in an unethical manner who engages in fee splitting. "Fee splitting" means paying or offering to pay a business or professional person or receiving or offering to receive from a business or professional person a commission, rebate, or compensation for bringing or referring a patient or dividing or offering to divide fees received for service for bringing or referring a patient. A division of fees between or among practitioners in the same practice or fee arrangements to cover patients during temporary absences is not fee splitting and is not prohibited by this provision.

A doctor of oriental medicine shall be guilty of unprofessional conduct who commits an act of sexual abuse, exploitation or misconduct. Each of the following acts constitutes sexual abuse, exploitation or misconduct:

- A. physical or verbal sexual contact or intercourse during the course of the professional relationship, whether in or out of the practitioner's place of business;
- B. failure to maintain appropriate professional boundaries even if the patient is perceived as seductive;
- C. failure to provide the patient with an opportunity to undress and dress in private;
- D. failure to provide the patient with the opportunity to wear underwear or a smock during treatment;
- E. failure to obtain informed verbal consent before undraping or treating the patient's breasts, buttocks or genitals;
- F. use of inappropriate parts of the practitioner's body to brace the patient;
- G. palpation beyond that which is necessary to accomplish a competent examination or treatment;
- H. sexual repartee, innuendo, jokes or flirtation;
- I. sexual comments about the patient's person or clothing;
- J. inquiry into the patient's sexual history or behavior beyond that which is necessary for a competent examination, diagnosis or treatment; the practitioner shall not be unnecessarily intrusive; the practitioner shall not verbalize any unprofessional comments concerning the patient's sexual history or behavior; and
- K. attempting to diagnose or treat a sexual issue beyond the practitioner's scope of training or practice.

Disclosures: A doctor of oriental medicine shall be guilty of unprofessional conduct who fails to obtain, from the patient, a written informed consent for diagnosis and treatment that gives the patient at least a description of the types of diagnostic and treatment services used and any associated potential risks and sensations. The written informed consent shall also contain an explanation that the following will be discussed orally with the patient: (1) an estimate of the number of times the patient may need to return for treatment; (2) the frequency of treatment; and (3) the possible outcome of the diagnostic procedure or treatment service. The written informed consent shall also contain a statement that the patient shall have the choice to accept or reject the proposed diagnostic procedure or treatment, or any part of it, before or during the diagnosis or treatment.

The current license shall be conspicuously displayed in all offices of the doctor of oriental medicine or temporary licensee that are registered with the board.

Chinese Herbal Requirement: No. The board shall issue certifications for expanded practice and prescriptive authority. When compounding drugs for their patients, doctors of oriental medicine certified for expanded practice and prescriptive authority shall comply with the compounding requirements for licensed health care professionals in the United States pharmacopeia and national formulary.

Education Requirement: The board shall establish by rule the criteria for board approval of educational programs in acupuncture and oriental medicine. For an educational program to meet board approval, proof shall be submitted to the board demonstrating that the educational program as a minimum:

- (1) Was for a period of not less than four academic years;
- (2) Included a minimum of nine hundred hours of supervised clinical practice;
- (3) Was taught by qualified teachers or tutors;
- (4) Required as a prerequisite to graduation personal attendance in all classes and clinics and, as a minimum, the completion of the following subjects:
 - (a) Anatomy and physiology;
 - (b) Pathology;
 - (c) Diagnosis;
 - (d) Pharmacology;
 - (e) Oriental principles of life therapy, including diet, nutrition and counseling;
 - (f) Theory and techniques of oriental medicine;
 - (g) Precautions and contraindications for acupuncture treatment;
 - (h) Theory and application of meridian pulse evaluation and meridian point location;
 - (i) Traditional and modern methods of qi or life-energy evaluation;
 - (j) The prescription of herbal medicine and precautions and contraindications for its use;
 - (k) Hygiene, sanitation and clean-needle technique;
 - (l) Care and management of needling devices; and
 - (m) Needle and instrument sterilization techniques; and
- (5) Resulted in the presentation of a certificate or diploma after completion of all the educational program requirements.

Testing Requirement: Yes - \$500. The board approved examinations shall consist of a written examination portion and a practical examination portion.

A. The written examinations approved by the board shall be:

- (1) The national certification commission for acupuncture and oriental medicine foundations of oriental medicine module;
- (2) The national certification commission for acupuncture and oriental medicine acupuncture module;
- (3) The national certification commission for acupuncture and oriental medicine Chinese herbology module;
- (4) The national certification commission for acupuncture and oriental medicine biomedicine module;
- (5) The national certification commission for acupuncture and oriental medicine approved clean needle technique course; and
- (6) The board approved and board administered jurisprudence examination covering the act and the rules.

B. The practical examinations approved by the board shall be:

- (1) The national certification commission for acupuncture and oriental medicine point location module; and
- (2) The clinical skills examination; the clinical skills examination includes examination in acupuncture, herbal medicine and biomedicine competencies.

The board shall require each qualified applicant to pass a validated, objective written examination that covers areas that are not included in other examinations approved by the board, including, as a minimum, the following subjects:

- (1) Anatomy and physiology;
- (2) Pathology;
- (3) Diagnosis;
- (4) Pharmacology; and
- (5) Principles, practices and treatment techniques of acupuncture and oriental medicine.

The board may require each qualified applicant to pass a validated, objective practical examination that covers areas that are not included in other examinations approved by the board and that demonstrates his knowledge of and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine.

The board shall require each qualified applicant to pass a written or a practical examination or both in the following subjects:

- (1) Hygiene, sanitation and clean-needle technique; and
- (2) Needle and instrument sterilization techniques.

The board may require each qualified applicant to pass a written examination on the state laws and rules that pertain to the practice of acupuncture and oriental medicine.

The New Mexico Board of Acupuncture and Oriental Medicine requires licensing candidates to pass a clinical skills examination that demonstrates their knowledge of and skill in the diagnostic and treatment techniques of acupuncture and oriental medicine. Candidates are evaluated on their ability to apply

generally accepted techniques of oriental medicine in examining, diagnosing and prescribing treatment for an actual “patient” (a person with a real complaint and an authentic medical history) in a simulated clinical setting.

NCCAOM Certification Requirement: The Board requires certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) through achievement of a passing score on each of the following:

- (1) The NCCAOM foundations of oriental medicine module;
- (2) The NCCAOM acupuncture module;
- (3) The NCCAOM Chinese herbology module;
- (4) The NCCAOM biomedicine module; and
- (5) The NCCAOM point location module.

Continuing Education Requirement: A doctor of oriental medicine shall submit to the board at the time of license renewal either of the following:

- (1) Proof of continuing NCCAOM recertification in oriental medicine, acupuncture or Chinese herbology; or
- (2) Proof of completion of 15 hours annually, or every four years, of 60 hours of NCCAOM approved continuing education courses.

A doctor of oriental medicine who is a board approved examiner, examiner supervisor, or examiner trainer, for the clinical skills examination, shall be granted continuing education credit for time spent functioning as an examiner or training to be an examiner. This also applies to an observing board member who has completed the training. The continuing education credit is limited to six hours per year.

Bond/Insurance Requirement: No

Notes: N/A

License Application Fee: \$525

License Investigation Fee: \$800

Background Check: No

Fingerprint Check: No

License Renewal Fee: \$400

License Term: The licensing period shall run from August 1 to the following July 31. A newly licensed doctor of oriental medicine shall be issued a license that shall be required to be renewed on July 31, except that licenses initially issued after May 1 shall not expire until July 31 of the next renewal period.

Enforcement Department: Board of Acupuncture and Oriental Medicine

Enforcement Agency URL:

http://www.rld.state.nm.us/boards/Acupuncture_and_Oriental_Medicine.aspx

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Application URL:

http://www.rld.state.nm.us/uploads/FileLinks/b8c0b33a780c485590da7ee28d59890c/DOM_Application_1.pdf

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