

SENATE BILL No. 363

By Senators O'Donnell, Arpke, Baumgardner, Bruce, Fitzgerald, Francisco, Haley, Hawk, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Masterson, McGinn, Olson, Petersen, Pettey, Powell, Smith, Wagle, Wilborn and Wolf

1-25

1 AN ACT concerning the state board of healing arts; relating to the
2 licensure of acupuncturists; amending K.S.A. 2015 Supp. 65-2872 and
3 repealing the existing section.
4

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

6 New Section 1. ~~Sections 1 through 24, and amendments thereto, shall~~
7 ~~be known and may be cited as the acupunctue and oriental medicine~~
8 ~~practice act.~~

9 New Sec. 2. ~~As used in sections 1 through 24, and amendments~~
10 ~~thereto:~~

11 ~~(a) "Act" means the acupunctue and oriental medicine practice act.~~

12 ~~(b) "Acupunctue" means a distinct system of health care, based on~~
13 ~~traditional and modern oriental medical concepts, to examine, evaluate,~~
14 ~~diagnose, manage or treat disease, illness, injury, pain or other physical or~~
15 ~~mental conditions in order to promote the restoration and maintenance of~~
16 ~~health and wellness.~~

17 ~~(c) "Licensed acupuncturists" means any person licensed by the board~~
18 ~~in the practice of acupunctue and oriental medicine.~~

19 ~~(d) "Auricular detox technician" means a person trained solely in, and~~
20 ~~who performs only, auricular detox treatment.~~

21 ~~(e) "Auricular detox treatment" means a very limited procedure~~
22 ~~consisting of acupunctue needles inserted into specified points in the~~
23 ~~outer ear of a person undergoing treatment for drug or alcohol abuse or~~
24 ~~both drug and alcohol abuse.~~

25 ~~(f) "Board" means the state board of healing arts.—~~

26 ~~(g) "Council" means the acupunctue advisory council.~~

27 ~~(h) "Oriental medicine" means Chinese medicine, traditional Chinese~~
28 ~~medicine, Asian medicine, East Asian medicine and the other names used~~
29 ~~to describe such medical model and the therapies taught within such~~
30 ~~medical model.~~

31 ~~(i) "NCCAOM" means the national certification commission for~~
32 ~~acupunctue and oriental medicine. NCCAOM is a national organization~~
33 ~~that validates entry-level competency in the practice of acupunctue and~~
34 ~~oriental medicine through the administration of professional certification.~~

1 examinations.

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

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

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

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

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

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

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

26 (2) ~~Oriental medicine therapies do not include:~~

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

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

32 (C) ~~osteopathic medicine and surgery or osteopathic manipulative~~
33 ~~treatment; or~~

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

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

41 (b) (1) ~~No person shall depict oneself orally or in writing, expressly~~
42 ~~or by implication, as a holder of a Kansas acupuncture license who does~~
43 ~~not hold a current and valid acupuncture and oriental medicine license.~~

1 under this act.

2 (2) ~~Only a person licensed as an acupuncturist under the acupuncture~~
3 ~~and oriental medicine practice act shall be entitled to use the following~~
4 ~~titles, as appropriate: "Licensed acupuncturist," "oriental medicine~~
5 ~~practitioner," "practitioner of oriental medicine," abbreviations thereof or~~
6 ~~words similar to such titles or the designated letters "L.Ac."~~

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

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

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

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

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

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

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

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

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

36 (4) ~~any student, trainee or visiting teacher of acupuncture, oriental~~
37 ~~medicine or herbology who is designated as a student, trainee or visiting~~
38 ~~teacher while participating in a course of study or training under the~~
39 ~~supervision of a licensed acupuncturist licensed under this act in a program~~
40 ~~that the council has approved. This includes continuing education~~
41 ~~programs and any acupuncture, oriental medicine or herbology programs~~
42 ~~that are a recognized route by the NCCAOM to certification in~~
43 ~~acupuncture, oriental medicine or herbology;~~

1 ~~(5) persons rendering assistance in the case of an emergency or~~
2 ~~disaster relief;~~

3 ~~(6) self-care by a patient or gratuitous care by a family member who~~
4 ~~does not represent or hold oneself out to the public to be a licensed~~
5 ~~acupuncturist;~~

6 ~~(7) persons who massage, so long as such persons do not practice~~
7 ~~acupuncture and oriental medicine or hold themselves out to be licensed~~
8 ~~acupuncturists or oriental medicine practitioners;~~

9 ~~(8) any team acupuncturist, oriental medicine or herbology~~
10 ~~practitioner, who is traveling with and treating those associated with an~~
11 ~~out-of-state or national team that is temporarily in the state for training or~~
12 ~~competition purposes; and~~

13 ~~(9) any person who is an auricular detox technician, provided that~~
14 ~~such person performs only auricular detox treatments under the~~
15 ~~supervision of a licensed acupuncturist.~~

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

17 ~~New Sec. 5. (a) An applicant for licensure as an acupuncturist shall~~
18 ~~file an application, on forms provided by the board, showing to the~~
19 ~~satisfaction of the board that the applicant meets the following~~
20 ~~requirements:~~

21 ~~(1) At the time of application such applicant is at least 21 years of~~
22 ~~age;~~

23 ~~(2) has graduated from a school or an apprenticeship program~~
24 ~~recognized by the NCCAOM, or its equivalent, and approved by the board~~
25 ~~and satisfies one of the following requirements:~~

26 ~~(A) Has the active status of a NCCAOM certified diplomate of~~
27 ~~acupuncture;~~

28 ~~(B) has the active status of a NCCAOM certified diplomate of~~
29 ~~oriental medicine; or—~~

30 ~~(C) has an equivalent status as recognized by the council and~~
31 ~~approved by the board;~~

32 ~~(3) demonstrates the ability to communicate in the English language~~
33 ~~as determined by rules and regulations adopted by the board if English is a~~
34 ~~second language for the applicant;~~

35 ~~(4) has good moral character; and—~~

36 ~~(5) has paid all the fees required for licensure prescribed in section 8,~~
37 ~~and amendments thereto, which shall be nonrefundable.~~

38 ~~(b) Notwithstanding subsection (a), the board may issue a license to a~~
39 ~~person who has been in the active practice of acupuncture or oriental~~
40 ~~medicine in some other state, territory, the District of Columbia or other~~
41 ~~country upon certificate of the proper licensing authority of that state,~~
42 ~~territory, District of Columbia or other country certifying that the applicant~~
43 ~~is duly licensed, certified or registered, that the applicant's license,~~

1 certification or registration has never been limited, suspended or revoked,
2 that the licensee, certification or registration holder has never been
3 censured or had other disciplinary action taken and that, so far as the
4 records of such authority are concerned, the applicant is entitled to its
5 endorsement. The applicant shall also present proof satisfactory to the
6 board:

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

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

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

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

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

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

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

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

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

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

41 (A) ~~Two affidavits from office partners, clinic supervisors,~~
42 ~~accountants or other individuals approved by the board, who have personal~~
43 ~~knowledge of the years of practice and number of patients visiting the~~

1 applicant for acupuncture and oriental medicine services; and

2 ~~(B) notarized copies of appointment books, patient charts, financial~~
3 ~~records or other documentation as required by the board, except that no~~
4 ~~personally identifiable patient health information in violation of or~~
5 ~~protected by the provisions of the health insurance portability and~~
6 ~~accountability act of 1996 shall be disclosed;~~

7 ~~(3) the applicant must show that any complaints against the applicant~~
8 ~~have been absolved or resolved to the satisfaction of the board;~~

9 ~~(4) the applicant's application for licensure shall be submitted on or~~
10 ~~before January 1, 2018;~~

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

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

16 ~~(d) Notwithstanding subsections (a) and (c), the board may issue a~~
17 ~~license to a person who successfully passes the NCCAOM board~~
18 ~~examinations and who submits an application for license under the act on~~
19 ~~or before January 1, 2018.~~

20 ~~(e) A person whose license has been revoked may make written~~
21 ~~application to the board requesting reinstatement of the license in a manner~~
22 ~~prescribed by the board. An application for reinstatement of a license shall~~
23 ~~be accompanied by the fee provided for in section 8, and amendments~~
24 ~~thereto, and as established in the rules and regulations adopted by the~~
25 ~~board.~~

26 ~~New Sec. 6. (a) There is hereby created the designation of inactive~~
27 ~~license. The board is authorized to issue an inactive license to any licensee~~
28 ~~who makes written application for such license on a form provided by the~~
29 ~~board and remits the fee for an inactive license established pursuant to~~
30 ~~section 8, and amendments thereto.~~

31 ~~(b) The board may issue an inactive license only to a person who~~
32 ~~meets all the requirements for a license to practice as an acupuncturist and~~
33 ~~who does not engage in the active practice of acupuncture and oriental~~
34 ~~medicine in the state of Kansas.~~

35 ~~(c) An inactive license shall not entitle the holder to engage in active~~
36 ~~practice. The provisions of section 7, and amendments thereto, relating to~~
37 ~~expiration, renewal and reinstatement of a license shall be applicable to an~~
38 ~~inactive license issued under this subsection. Each inactive licensee may~~
39 ~~apply to engage in active practice by presenting a request required by~~
40 ~~section 5, and amendments thereto. The request shall be accompanied by~~
41 ~~the fee established pursuant to section 8, and amendments thereto.~~

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

43 ~~New Sec. 7. (a) Licenses issued annually under this act shall be~~

1 canceled on March 31 of each year unless renewed in the manner
 2 prescribed by the board. A license issued or reinstated from January 1
 3 through March 31 shall be cancelled on March 31 of the following year. A
 4 request for the renewal of a license shall be on a form provided by the
 5 board and shall be accompanied by the renewal fee established pursuant to
 6 section 8, and amendments thereto, which shall be paid not later than the
 7 renewal date of the license.

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

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

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

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

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

37 Initial application for licensure.....	\$700
38 Annual renewal of licensure:	
39 Paper renewal.....	\$300
40 On-line renewal.....	\$250
41 Late renewal of licensure:	
42 Late paper renewal.....	\$100
43 Late on-line renewal.....	\$100

1	Application for reinstatement of revoked license.....	\$800
2	Application for inactive license.....	\$30
3	Renewal of inactive license.....	\$150
4	Conversion of inactive license to active:	
5	Paper conversion.....	\$300
6	On-line conversion.....	\$250
7	Certified copy of license.....	\$25
8	Written verification of license.....	\$25

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

12 (e) ~~If an examination is not administered by the board, the board may~~
13 ~~require that fees paid for any examination under the acupunctuere and~~
14 ~~oriental medicine practice act be paid directly to the examination service~~
15 ~~by the person taking the examination.~~

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

27 ~~New Sec. 10. (a) There is established the acupunctuere advisory~~
28 ~~council to assist the state board of healing arts in carrying out the~~
29 ~~provisions of this act. The council shall consist of five members, all~~
30 ~~citizens and residents of the state of Kansas, appointed as follows:-~~

31 ~~(1) The board, with recommendation from the Kansas association of~~
32 ~~oriental medicine, shall appoint:~~

33 ~~(A) Two members who are actively licensed as acupuncturists under~~
34 ~~this act; and~~

35 ~~(B) one member who is actively licensed as an acupuncturist under~~
36 ~~this act and holds a current NCCAOM certification in herbology or~~
37 ~~oriental medicine;~~

38 ~~(2) one member shall be the president of the state board of healing~~
39 ~~arts or a person designated by the president; and-~~

40 ~~(3) the governor shall appoint one member from the public sector~~
41 ~~who is not engaged, directly or indirectly, in the provision of health~~
42 ~~services. Insofar as possible, persons appointed to the council shall be~~
43 ~~from different geographic areas. If a vacancy occurs on the council, the~~

1 appointing authority of the position which has become vacant shall appoint
2 a person of like qualifications to fill the vacant position for the unexpired
3 term, if any.

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

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

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

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

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

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

29 ~~(a) Examination, licensing and other fees;~~

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

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

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

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

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

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

41 ~~(b) adopt rules and regulations as may be necessary to administer the~~
42 ~~provisions of this act and prescribe forms which shall be issued in the~~
43 ~~administration of this act;~~

1 ~~(e) establish standards for approval of an educational course of study~~
2 ~~and clinical experience;~~

3 ~~(d) establish criteria for continuing education;~~

4 ~~(e) establish standards of professional conduct, procedure for the~~
5 ~~discipline of licensees and keep a record of all such proceedings; and~~

6 ~~(f) establish standards for clean needle technique.~~

7 New Sec. 13. ~~(a) A licensee's license may be revoked, suspended or~~
8 ~~limited, or the licensee may be publicly or privately censured, or an~~
9 ~~application for a license or for reinstatement of a license may be denied~~
10 ~~upon a finding of the existence of any of the following grounds:~~

11 ~~(1) The licensee has committed an act of unprofessional conduct as~~
12 ~~defined by rules and regulations adopted by the board;~~

13 ~~(2) the licensee has obtained a license by means of fraud,~~
14 ~~misrepresentations or concealment of material facts;~~

15 ~~(3) the licensee has committed an act of professional incompetency as~~
16 ~~defined by rules and regulations adopted by the board;~~

17 ~~(4) the licensee has been convicted of a felony;~~

18 ~~(5) the licensee has violated any provision of this act;~~

19 ~~(6) the licensee has violated any lawful order or rule and regulation of~~
20 ~~the board;~~

21 ~~(7) the licensee has been found to be mentally ill, disabled, not guilty~~
22 ~~by reason of insanity, not guilty because the licensee suffers from a mental~~
23 ~~disease or defect or incompetent to stand trial by a court of competent~~
24 ~~jurisdiction;~~

25 ~~(8) the licensee has failed to report to the board any adverse action~~
26 ~~taken against the licensee by another state or licensing jurisdiction, a peer~~
27 ~~review body, a health care facility, a professional association or society, a~~
28 ~~governmental agency, a law enforcement agency or a court for acts or~~
29 ~~conduct similar to acts or conduct which would constitute grounds for~~
30 ~~disciplinary action under this section;~~

31 ~~(9) the licensee has surrendered a license or authorization to practice~~
32 ~~as an acupuncturist in another state or jurisdiction, has agreed to a~~
33 ~~limitation to or restriction of privileges at any medical care facility or has~~
34 ~~surrendered the licensee's membership on any professional staff or in any~~
35 ~~professional association or society while under investigation for acts or~~
36 ~~conduct similar to acts or conduct which would constitute grounds for~~
37 ~~disciplinary action under this section;~~

38 ~~(10) the licensee has failed to report to the board the surrender of the~~
39 ~~licensee's license or authorization to practice as an acupuncturist in another~~
40 ~~state or jurisdiction or the surrender of the licensee's membership on any~~
41 ~~professional staff or in any professional association or society while under~~
42 ~~investigation for acts or conduct similar to acts or conduct which would~~
43 ~~constitute grounds for disciplinary action under this section;~~

1 ~~(11) the licensee has an adverse judgment, award or settlement~~
2 ~~against the licensee resulting from a medical liability claim related to acts~~
3 ~~or conduct similar to acts or conduct which would constitute grounds for~~
4 ~~disciplinary action under this section;~~

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

10 ~~(13) the licensee's ability to practice with reasonable skill and safety~~
11 ~~to patients is impaired by reason of physical or mental illness, or condition~~
12 ~~or use of alcohol, drugs or controlled substances. All information, reports,~~
13 ~~findings and other records relating to impairment shall be confidential and~~
14 ~~not subject to discovery by or release to any person or entity outside of a~~
15 ~~board proceeding. The provision regarding confidentiality shall expire on~~
16 ~~July 1, 2022. The state legislature shall review such provision before July~~
17 ~~1, 2022.~~

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

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

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

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

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

42 ~~(c) The board may temporarily suspend or temporarily limit the~~
43 ~~license of any licensee in accordance with the emergency adjudicative~~

1 ~~proceedings under the Kansas administrative procedure act if the board~~
2 ~~determines that there is cause to believe that grounds exist for disciplinary~~
3 ~~action against the licensee and that the licensee's continuation of practice~~
4 ~~would constitute an imminent danger to public health and safety.~~

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

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

13 ~~(1) Seeks to establish continued competency for renewal of licensure~~
14 ~~other than through continued education requirements;~~

15 ~~(2) has been absent from clinical practice for an extended period of~~
16 ~~time and seeks to resume clinical practice;~~

17 ~~(3) has failed to adhere to the applicable standard of care; or~~

18 ~~(4) has engaged in an act or practice that, if continued, would~~
19 ~~reasonably be expected to result in future violations of this act.~~

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

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

34 ~~New Sec. 16. (a) In connection with any investigation by the board,~~
35 ~~the board or its duly authorized agents or employees shall at all reasonable~~
36 ~~times have access to, for the purpose of examination, and the right to copy~~
37 ~~any document, report, record or other physical evidence of any person~~
38 ~~being investigated, or any document, report, record or other evidence~~
39 ~~maintained by and in possession of any clinic, office of a practitioner of~~
40 ~~acupuncture and oriental medicine or other public or private agency if such~~
41 ~~document, report, record or evidence relates to the competence,~~
42 ~~unprofessional conduct or the mental or physical ability of a licensee to~~
43 ~~safely practice acupuncture and oriental medicine.~~

1 ~~(b) For the purpose of all investigations and other administrative~~
2 ~~proceedings under this act, the board may issue subpoenas compelling the~~
3 ~~attendance and testimony of witnesses or the production for examination~~
4 ~~or copying of documents or any other physical evidence if such evidence~~
5 ~~relates to the competence, unprofessional conduct or the mental or~~
6 ~~physical ability of a licensee to safely practice acupuncture and oriental~~
7 ~~medicine. Any member of the board, or any agent designated by the board,~~
8 ~~may administer oaths or affirmations, examine witnesses and receive such~~
9 ~~evidence.~~

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

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

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

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

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

30 ~~New Sec. 17.—The board, in addition to any other penalty prescribed~~
31 ~~pursuant to this act, may assess a civil fine, after proper notice and an~~
32 ~~opportunity to be heard, against a licensee for a violation of this act in an~~
33 ~~amount not to exceed \$2,000 for the first violation, \$5,000 for the second~~
34 ~~violation and \$10,000 for the third violation and for each subsequent~~
35 ~~violation. All fines assessed and collected under this section shall be~~
36 ~~remitted to the state treasurer in accordance with the provisions of K.S.A.~~
37 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~
38 ~~the state treasurer shall deposit the entire amount in the state treasury to~~
39 ~~the credit of the state general fund.~~

40 ~~New Sec. 18.—(a) Any complaint or report, record or other information~~
41 ~~relating to a complaint which is received, obtained or maintained by the~~
42 ~~board shall be confidential and shall not be disclosed by the board or its~~
43 ~~employees in a manner which identifies or enables identification of the~~

1 person who is the subject or source of the information, except the
2 information may be disclosed:

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

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

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

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

18 (e) This provision regarding confidentiality shall expire on July 1,
19 2022. The state legislature shall review such provision before July 1, 2022.

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

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

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

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

43 New Sec. 21. (a) The confidential relations and communications-

1 between a licensed acupuncturist and the acupuncturist's patient are placed
2 on the same basis as provided by law as those between a physician and a
3 physician's patient in K.S.A. 60-427, and amendments thereto.

4 (b) ~~The provisions of this section shall take effect on and after July 1,~~
5 ~~2017.~~

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

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

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

16 ~~New Sec. 24. If any section of sections 1 through 23, and~~
17 ~~amendments thereto, or any part thereof, is adjudged by any court of~~
18 ~~competent jurisdiction to be invalid, such judgment shall not affect, impair~~
19 ~~or invalidate the remainder or any other section or part thereof.~~

20 ~~*{New Section 1. Sections 1 through 24, and amendments thereto,*~~
21 ~~*shall be known and may be cited as the acupuncture practice act.*~~

22 ~~*New Sec. 2. As used in the acupuncture practice act:*~~

23 (a) ~~*"ACAOM" means the national accrediting agency recognized*~~
24 ~~*by the U.S. department of education that provides accreditation for*~~
25 ~~*educational programs for acupuncture and oriental medicine. For*~~
26 ~~*purposes of the acupuncture practice act, the term ACAOM shall also*~~
27 ~~*include any entity deemed by the board to be the equivalent of ACAOM.*~~

28 (b) ~~*"Act" means the acupuncture practice act.*~~

29 (c) ~~*"Acupuncture" means the use of needles inserted into the*~~
30 ~~*human body by piercing of the skin and related modalities for the*~~
31 ~~*assessment, evaluation, prevention, treatment or correction of any*~~
32 ~~*abnormal physiology or pain by means of controlling and regulating the*~~
33 ~~*flow and balance of energy in the body and stimulating the body to*~~
34 ~~*restore itself to its proper functioning and state of health.*~~

35 (d) ~~*"Licensed acupuncturist" means any person licensed to*~~
36 ~~*practice acupuncture under the acupuncture practice act.*~~

37 (e) ~~*"Board" means the state board of healing arts.*~~

38 (f) ~~*"Council" means the acupuncture advisory council established*~~
39 ~~*by section 13, and amendments thereto.*~~

40 (g) ~~*"NCCAOM" means the national certification commission for*~~
41 ~~*acupuncture and oriental medicine. NCCAOM is a national*~~
42 ~~*organization that validates entry-level competency in the practice of*~~
43 ~~*acupuncture and oriental medicine through the administration of*~~

1 *professional certification examinations. For purposes of the*
2 *acupuncture practice act, the term NCCAOM shall also include any*
3 *entity deemed by the board to be the equivalent of the NCCAOM.*

4 *(h) "Physician" means a person licensed to practice medicine and*
5 *surgery or osteopathy in Kansas.*

6 *(i) "Practice of acupuncture" includes, but is not limited to:*

7 *(1) Techniques sometimes called "dry needling," "trigger point*
8 *therapy," "intramuscular therapy," "auricular detox treatment" and*
9 *similar terms;*

10 *(2) mechanical, thermal, pressure, suction, friction, electrical,*
11 *magnetic, light, sound, vibration, manual and electromagnetic*
12 *treatment;*

13 *(3) the use, application or recommendation of therapeutic*
14 *exercises, breathing techniques, meditation and dietary and nutritional*
15 *counselings; and*

16 *(4) the use and recommendation of herbal products and nutritional*
17 *supplements, according to the acupuncturist's level of training and*
18 *certification by the NCCAOM or its equivalent.*

19 *(j) "Practice of acupuncture" does not include:*

20 *(1) Prescribing, dispensing or administering of any controlled*
21 *substances as defined in K.S.A. 65-4101 et seq., and amendments*
22 *thereto, or any prescription-only drugs;*

23 *(2) the practice of medicine and surgery, including obstetrics and*
24 *the use of lasers or ionizing radiation;*

25 *(3) the practice of osteopathic medicine and surgery or osteopathic*
26 *manipulative treatment;*

27 *(4) the practice of chiropractic;*

28 *(5) the practice of dentistry; or*

29 *(6) the practice of podiatry.*

30 *New Sec. 3. (a) On and after July 1, 2017, except as otherwise*
31 *provided in this act, no person shall practice acupuncture unless such*
32 *person possesses a current and valid acupuncture license issued under*
33 *this act.*

34 *(b) (1) No person shall depict oneself orally or in writing, expressly*
35 *or by implication, as a holder of a license who does not hold a current*
36 *license under this act.*

37 *(2) Only persons licensed under this act shall be entitled to use the*
38 *title "licensed acupuncturist" or the designated letters "L.Ac."*

39 *(3) Nothing in this section shall be construed to prohibit an*
40 *acupuncturist licensed under this act from listing or using in*
41 *conjunction with their name any letters, words, abbreviations or other*
42 *insignia to denote any educational degrees, certifications or credentials*
43 *which such licensed acupuncturist has earned.*

1 (4) *Violation of this section shall constitute a class B misdemeanor.*
2 *New Sec. 4. Needles used in the practice of acupuncture shall only*
3 *be prepackaged, single-use and sterile. These needles shall only be used*
4 *on an individual patient in a single treatment session.*

5 *New Sec. 5. (a) The following shall be exempt from the*
6 *requirements for an acupuncture license pursuant to this act:*

7 (1) *Any person licensed in this state to practice medicine and*
8 *surgery, osteopathy, dentistry or podiatry, a licensed chiropractor or a*
9 *licensed naturopathic doctor, if the person confines the person's acts or*
10 *practice to the scope of practice authorized by their health professional*
11 *licensing laws and does not represent to the public that the person is*
12 *licensed under this act;*

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

15 (3) *any health care provider in the United States armed forces,*
16 *federal facilities and other military service when acting in the line of*
17 *duty in this state;*

18 (4) *any student, trainee or visiting teacher of acupuncture, oriental*
19 *medicine or herbology who is designated as a student, trainee or visiting*
20 *teacher while participating in a course of study or training under the*
21 *supervision of a licensed acupuncturist licensed under this act in a*
22 *program that the council has approved. This includes continuing*
23 *education programs and any acupuncture or herbology programs that*
24 *are a recognized route by the NCCAOM, or its equivalent, to*
25 *certification;*

26 (5) *any person rendering assistance in the case of an emergency or*
27 *disaster relief;*

28 (6) *any person practicing self-care or any family member providing*
29 *gratuitous care, so long as such person or family member does not*
30 *represent or hold oneself out to the public to be an acupuncturist*

31 (7) *any person who massages, so long as such person does not*
32 *practice acupuncture or hold oneself out to be a licensed acupuncturist;*

33 (8) *any person whose professional services are performed pursuant*
34 *to delegation by and under the supervision of a practitioner licensed*
35 *under this act; and*

36 (9) *any team acupuncturist or herbology practitioner, who is*
37 *traveling with and treating those associated with an out-of-state or*
38 *national team that is temporarily in the state for training or competition*
39 *purposes.*

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

41 *New Sec. 6. An applicant for licensure as an acupuncturist shall*
42 *file an application, on forms provided by the board, showing to the*
43 *satisfaction of the board that the applicant:*

- 1 (a) *Is at least 21 years of age;*
2 (b) *has successfully completed secondary schooling or the its*
3 *equivalent;*
4 (c) *has satisfactorily completed a course of study involving*
5 *acupuncture from an accredited school of acupuncture which the board*
6 *shall determine to have educational standards substantially equivalent to*
7 *the minimum educational standards for acupuncture colleges as*
8 *established by the ACAOM or NCCAOM;*
9 (d) *has satisfactorily passed a license examination approved by the*
10 *board;*
11 (e) *has the reasonable ability to communicate in English; and*
12 (f) *has paid all fees required for licensure pursuant to section 11,*
13 *and amendments thereto.*

14 *New Sec. 7. (a) The board, without examination, may issue a*
15 *license to a person who has been in the active practice of acupuncture in*
16 *some other state, territory, the District of Columbia or other country*
17 *upon certification by the proper licensing authority of that state,*
18 *territory, District of Columbia or other country certifying that the*
19 *applicant is duly licensed, that the applicant's license has never been*
20 *limited, suspended or revoked, that the licensee has never been censured*
21 *or received other disciplinary actions and that, so far as the records of*
22 *such authority are concerned, the applicant is entitled to such licensing*
23 *authority's endorsement. The applicant shall also present proof*
24 *satisfactory to the board:*

25 (1) *That the state, territory, District of Columbia or country in*
26 *which the applicant last practiced has and maintains standards at least*
27 *equal to those maintained in Kansas;*

28 (2) *that the applicant's original license was based upon an*
29 *examination at least equal in quality to the examination required in this*
30 *state and that the passing grade required to obtain such original license*
31 *was comparable to that required in this state;*

32 (3) *the date of the applicant's original license and all endorsed*
33 *licenses and the date and place from which any license was attained;*

34 (4) *the applicant has been actively engaged in practice under such*
35 *license or licenses since issued. The board may adopt rules and*
36 *regulations establishing qualitative and quantitative practice activities*
37 *which qualify as active practice;*

38 (5) *that the applicant has a reasonable ability to communicate in*
39 *English; and*

40 (6) *has paid all the application fees as prescribed by section 11, and*
41 *amendments thereto.*

42 (b) *An applicant for a license by endorsement shall not be licensed*
43 *unless, as determined by the board, the applicant's individual*

1 *qualifications are substantially equivalent to the Kansas requirements*
2 *for licensure under the acupuncture practice act.*

3 *New Sec. 8. The board shall waive the education and examination*
4 *requirements for an applicant who submits an application on or before*
5 *January 1, 2018, and who, on or before July 1, 2017:*

6 *(a) Is 21 years of age or older;*

7 *(b) has successfully completed secondary schooling or its*
8 *equivalent;*

9 *(c) (1) (A) has completed a minimum of 1,350 hours of study,*
10 *excluding online study in the field of acupuncture; and*

11 *(B) has been engaged in the practice of acupuncture with a*
12 *minimum of 1,500 patient visits during a period of at least three of the*
13 *five years immediately preceding July 1, 2017, as evidenced by two*
14 *affidavits from office partners, clinic supervisors or other individuals*
15 *approved by the board, who have personal knowledge of the years of*
16 *practice and number of patients visiting the applicant for acupuncture.*
17 *The board may adopt rules and regulations for further verification of*
18 *the applicant's practice of acupuncture; or*

19 *(2) as satisfactorily passed a license examination approved by the*
20 *board;*

21 *(d) has a reasonable ability to communicate in English; and*

22 *(e) has paid all fees required for licensure as prescribed by section*
23 *11, and amendments thereto.*

24 *New Sec. 9. (a) The license shall be canceled on March 31 of each*
25 *year unless renewed in the manner prescribed by the board. In each case*
26 *in which a license is renewed for a period of time of less than 12 months,*
27 *the board may prorate the amount of the fee established under section*
28 *11, and amendments thereto. The request for renewal shall be on a form*
29 *provided by the board and shall be accompanied by the prescribed fee,*
30 *which shall be paid not later than the renewal date of the license.*

31 *(b) There is hereby created a designation of an active license. The*
32 *board is authorized to issue an active license to any licensee who makes*
33 *written application for such license on a form provided by the board and*
34 *remits the fee established pursuant to section 11, and amendments*
35 *thereto. The board shall require every active licensee to submit evidence*
36 *of satisfactory completion of a program of continuing education*
37 *required by the board. The requirements for continuing education for*
38 *licensed acupuncturists shall be established by rules and regulations*
39 *adopted by the board.*

40 *(c) The board, prior to renewal of a license, shall require an active*
41 *licensee to submit to the board evidence satisfactory to the board that the*
42 *licensee is maintaining a policy of professional liability insurance. The*
43 *board shall fix by rules and regulations the minimum level of coverage*

1 *for such professional liability insurance.*

2 *(d) At least 30 days before the renewal date of a licensee's license,*
3 *the board shall notify the licensee of the renewal date by mail addressed*
4 *to the licensee's last known mailing address. If the licensee fails to*
5 *submit the renewal application and pay the renewal fee by the renewal*
6 *date of the license, the licensee shall be given notice that the licensee has*
7 *failed to submit the renewal application and pay the renewal fee by the*
8 *renewal date of the license, that the license will be deemed canceled if*
9 *not renewed within 30 days following the renewal date, that upon receipt*
10 *of the renewal application and renewal fee and an additional late fee*
11 *established by rules and regulations not to exceed \$500 within the 30-*
12 *day period, the license will not be canceled and that, if both fees are not*
13 *received within the 30-day period, the license shall be deemed canceled*
14 *by operation of law and without further proceedings.*

15 *(e) Any license canceled for failure to renew may be reinstated*
16 *within two years of cancellation upon recommendation of the board and*
17 *upon payment of the renewal fees then due and upon proof of*
18 *compliance with the continuing education requirements established by*
19 *the board by rules and regulations. Any person who has not been in the*
20 *active practice of acupuncture for which reinstatement is sought or who*
21 *has not been engaged in a formal educational program during the two*
22 *years preceding the application for reinstatement may be required to*
23 *complete such additional testing, training or education as the board may*
24 *deem necessary to establish the licensee's present ability to practice with*
25 *reasonable skill and safety.*

26 *(f) There is hereby created a designation of an exempt license. The*
27 *board is authorized to issue an exempt license to any licensee who makes*
28 *written application for such license on a form provided by the board and*
29 *remits the fee established pursuant to section 11, and amendments*
30 *thereto. The board may issue an exempt license to a person who is not*
31 *regularly engaged in the practice of acupuncture in Kansas and who*
32 *does not hold oneself out to the public as being professionally engaged*
33 *in such practice. An exempt license shall entitle the holder to all*
34 *privileges attendant to the practice of acupuncture for which such*
35 *license is issued. Each exempt license may be renewed subject to the*
36 *provisions of this section. Each exempt licensee shall be subject to all*
37 *provisions of the acupuncture practice act, except as otherwise provided*
38 *in this subsection. The holder of an exempt license may be required to*
39 *submit evidence of satisfactory completion of a program of continuing*
40 *education required by this section. The requirements for continuing*
41 *education for exempt licensees shall be established by rules and*
42 *regulations adopted by the board. Each exempt licensee may apply for*
43 *an active license to regularly engage in the practice of acupuncture*

1 *upon filing a written application with the board. The request shall be on*
2 *a form provided by the board and shall be accompanied by the license*
3 *fee established pursuant to section 11, and amendments thereto. For the*
4 *licensee whose license has been exempt for less than two years, the*
5 *board shall adopt rules and regulations establishing appropriate*
6 *continuing education requirements for exempt licensees to become*
7 *licensed to regularly practice acupuncture within Kansas. Any licensee*
8 *whose license has been exempt for more than two years and who has not*
9 *been in the active practice of acupuncture since the license has been*
10 *exempt may be required to complete such additional testing, training or*
11 *education as the board may deem necessary to establish the licensee's*
12 *present ability to practice with reasonable skill and safety. Nothing in*
13 *this subsection shall be construed to prohibit a person holding an*
14 *exempt license from serving as a paid employee of: (1) A local health*
15 *department as defined by K.S.A. 65-241, and amendments thereto; or (2)*
16 *an indigent health care clinic as defined by K.S.A. 75-6102, and*
17 *amendments thereto.*

18 *(g) There is hereby created the designation of inactive license. The*
19 *board is authorized to issue an inactive license to any licensee who*
20 *makes written application for such license on a form provided by the*
21 *board and remits the fee established pursuant to section 11, and*
22 *amendments thereto. The board may issue an inactive license only to a*
23 *person who is not regularly engaged in the practice of acupuncture in*
24 *Kansas and who does not hold oneself out to the public as being*
25 *professionally engaged in such practice. An inactive license shall not*
26 *entitle the holder to practice acupuncture in this state. Each inactive*
27 *license may be renewed subject to the provisions of this section. Each*
28 *inactive licensee shall be subject to all provisions of the acupuncture*
29 *practice act, except as otherwise provided in this subsection. The holder*
30 *of an inactive license shall not be required to submit evidence of*
31 *satisfactory completion of a program of continuing education required*
32 *by subsection (b). Each inactive licensee may apply for an active license*
33 *upon filing a written application with the board. The request shall be on*
34 *a form provided by the board and shall be accompanied by the license*
35 *fee established pursuant to section 11, and amendments thereto. For*
36 *those licensees whose licenses have been inactive for less than two years,*
37 *the board shall adopt rules and regulations establishing appropriate*
38 *continuing education requirements for inactive licensees to become*
39 *licensed to regularly practice acupuncture within Kansas. Any licensee*
40 *whose license has been inactive for more than two years and who has*
41 *not been in the active practice of acupuncture or engaged in a formal*
42 *education program since the license has been inactive may be required*
43 *to complete such additional testing, training or education as the board*

1 *may deem necessary to establish the licensee's present ability to practice*
 2 *with reasonable skill and safety.*

3 *(h) This section shall take effect on and after July 1, 2017.*

4 *New Sec. 10. A person whose license has been revoked may apply*
 5 *for reinstatement after the expiration of three years from the effective*
 6 *date of the revocation. Application for reinstatement shall be on a form*
 7 *provided by the board and shall be accompanied by the fee established*
 8 *by the board in accordance with section 11, and amendments thereto.*
 9 *The burden of proof by clear and convincing evidence shall be on the*
 10 *applicant to show sufficient rehabilitation to justify reinstatement. If the*
 11 *board determines that a license should not be reinstated, the person shall*
 12 *not be eligible to reapply for reinstatement for three years from the*
 13 *effective date of the denial. All proceedings conducted on an application*
 14 *for reinstatement shall be in accordance with the Kansas administrative*
 15 *procedure act and shall be reviewable in accordance with the Kansas*
 16 *judicial review act. The board, on its own motion, may stay the*
 17 *effectiveness of an order of revocation of license.*

18 *New Sec. 11. The board shall charge and collect in advance*
 19 *nonrefundable fees for acupuncturists as established by the board by*
 20 *rules and regulations, not to exceed:*

21 <i>Initial application for licensure.....</i>	<i>\$700</i>
22 <i>Annual renewal for active license - paper.....</i>	<i>\$300</i>
23 <i>Annual renewal for active license - online.....</i>	<i>\$250</i>
24 <i>Annual renewal for inactive license - paper.....</i>	<i>\$200</i>
25 <i>Annual renewal for inactive license - online.....</i>	<i>\$150</i>
26 <i>Annual renewal for exempt license - paper.....</i>	<i>\$200</i>
27 <i>Annual renewal for exempt license - online.....</i>	<i>\$150</i>
28 <i>Late renewal fee.....</i>	<i>\$100</i>
29 <i>Conversion from inactive to active license.....</i>	<i>\$300</i>
30 <i>Conversion from exempt to active license.....</i>	<i>\$300</i>
31 <i>Application for reinstatement of revoked license.....</i>	<i>\$1,000</i>
32 <i>Certified copy of license.....</i>	<i>\$25</i>
33 <i>Written verification of license.....</i>	<i>\$25</i>

34 *New Sec. 12. The board shall remit all moneys received by or for*
 35 *the board from fees, charges or penalties to the state treasurer in*
 36 *accordance with the provisions of K.S.A. 75-4215, and amendments*
 37 *thereto. Upon receipt of each such remittance, the state treasurer shall*
 38 *deposit the entire amount in the state treasury. Ten percent of such*
 39 *amount shall be credited to the state general fund and the balance shall*
 40 *be credited to the healing arts fee fund. All expenditures from the*
 41 *healing arts fee fund shall be made in accordance with appropriation*
 42 *acts upon warrants of the director of accounts and reports issued*
 43 *pursuant to vouchers approved by the president of the board or by a*

1 *person or persons designated by the president.*

2 *New Sec. 13. (a) There is hereby established the acupuncture*
3 *advisory council to assist the state board of healing arts in carrying out*
4 *the provisions of this act. The council shall consist of five members, all*
5 *citizens and residents of the state of Kansas, appointed as follows:*

6 *(1) The board shall appoint one member who is a physician*
7 *licensed to practice medicine and surgery or osteopathy. The member*
8 *appointed by the board shall serve at the pleasure of the board. The*
9 *governor shall appoint three acupuncturists who have at least three*
10 *years' experience in acupuncture preceding appointment and are*
11 *actively engaged, in this state, in the practice of acupuncture or the*
12 *teaching of acupuncture. At least two of the governor's appointments*
13 *shall be made from a list of four nominees submitted by the Kansas*
14 *association of oriental medicine. The governor shall appoint one*
15 *member from the public sector who is not engaged, directly or indirectly,*
16 *in the provision of health services. Insofar as possible, persons*
17 *appointed by the governor to the council shall be from different*
18 *geographic areas.*

19 *(2) The members appointed by the governor shall be appointed for*
20 *terms of four years and until a successor is appointed. If a vacancy*
21 *occurs on the council, the appointing authority of the position which has*
22 *become vacant shall appoint a person of like qualifications to fill the*
23 *vacant position for the unexpired term.*

24 *(b) The council shall meet at least once each year at a time of its*
25 *choosing at the board's main office and at such other times as may be*
26 *necessary on the chairperson's call or on the request of a majority of the*
27 *council's members.*

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

31 *(d) Members of the council attending meetings of the council, or a*
32 *subcommittee of the council, shall be paid amounts provided in K.S.A.*
33 *75-3223(e), and amendments thereto, from the healing arts fee fund.*

34 *New Sec. 14. The acupuncture advisory council shall advise the*
35 *board regarding:*

36 *(a) Examination, licensing and other fees;*

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

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

41 *(d) changes and new requirements taking place in the areas of*
42 *acupuncture; and*

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

1 *New Sec. 15. The board shall promulgate all necessary rules and*
2 *regulations which may be necessary to administer the provisions of this*
3 *act and to supplement the provisions herein.*

4 *New Sec. 16. (a) A licensee's license may be revoked, suspended,*
5 *limited or placed on probation, or the licensee may be publicly censured,*
6 *or an application for a license or for reinstatement of a license may be*
7 *denied upon a finding of the existence of any of the following grounds:}*

8 *(1) The licensee has committed an act of unprofessional conduct as*
9 *defined by rules and regulations adopted by the board;*

10 *(2) the licensee has committed fraud or misrepresentation in*
11 *applying for or securing an original, renewal or reinstated license;*

12 *(3) the licensee has committed an act of professional incompetency*
13 *as defined by rules and regulations adopted by the board;*

14 *(4) the licensee has been convicted of a felony;*

15 *(5) the licensee has violated any provision of the acupuncture*
16 *practice act;*

17 *(6) the licensee has violated any lawful order or rule and regulation*
18 *of the board;*

19 *(7) the licensee has been found to be mentally ill, disabled, not*
20 *guilty by reason of insanity, not guilty because the licensee suffers from*
21 *a mental disease or defect or incompetent to stand trial by a court of*
22 *competent jurisdiction;*

23 *(8) the licensee has failed to report to the board any adverse action*
24 *taken against the licensee by another state or licensing jurisdiction, a*
25 *peer review body, a health care facility, a professional association or*
26 *society, a governmental agency, a law enforcement agency or a court for*
27 *acts or conduct similar to acts or conduct which would constitute*
28 *grounds for disciplinary action under this section;*

29 *(9) the licensee has surrendered a license or authorization to*
30 *practice as an acupuncturist in another state or jurisdiction, has agreed*
31 *to a limitation or restriction of privileges at any medical care facility or*
32 *has surrendered the licensee's membership on any professional staff or*
33 *in any professional association or society while under investigation for*
34 *acts or conduct similar to acts or conduct which would constitute*
35 *grounds for disciplinary action under this section;*

36 *(10) the licensee has failed to report to the board the surrender of*
37 *the licensee's license or authorization to practice as an acupuncturist in*
38 *another state or jurisdiction or the surrender of the licensee's*
39 *membership on any professional staff or in any professional association*
40 *or society while under investigation for acts or conduct similar to acts or*
41 *conduct which would constitute grounds for disciplinary action under*
42 *this section;*

43 *(11) the licensee has an adverse judgment, award or settlement*

1 *against the licensee resulting from a medical liability claim related to*
2 *acts or conduct similar to acts or conduct which would constitute*
3 *grounds for disciplinary action under this section;*

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

9 *(13) the licensee's ability to practice with reasonable skill and safety*
10 *to patients is impaired by reason of physical or mental illness, or*
11 *condition of or use of alcohol, drugs or controlled substances. When*
12 *reasonable suspicion of impairment exists, the board may take action in*
13 *accordance with K.S.A. 65-2842, and amendments thereto. All*
14 *information, reports, findings and other records relating to impairment*
15 *shall be confidential and not subject to discovery by or release to any*
16 *person or entity outside of a board proceeding. This provision regarding*
17 *confidentiality shall expire on July 1, 2022, unless the legislature*
18 *reviews and reenacts such provision pursuant to K.S.A. 45-229, and*
19 *amendments thereto, prior to July 1, 2022.*

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

26 *(c) This section shall take effect on and after July 1, 2017.*

27 *New Sec. 17. (a) The board shall have jurisdiction of proceedings to*
28 *take disciplinary action against any licensee practicing under the*
29 *acupuncture practice act. Any such action shall be taken in accordance*
30 *with the Kansas administrative procedure act.*

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

39 *(c) The board may temporarily suspend or temporarily limit the*
40 *license of any licensee in accordance with the emergency adjudicative*
41 *proceedings provisions under the Kansas administrative procedure act if*
42 *the board determines that there is cause to believe that grounds exist for*
43 *disciplinary action against the licensee and that the licensee's*

1 *continuation of practice would constitute an imminent danger to public*
2 *health and safety.*

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

5 *New Sec. 18. The board or a committee of the board may implement*
6 *non-disciplinary resolutions concerning a licensed acupuncturist*
7 *consistent with the provisions of K.S.A. 65-2838a, and amendments*
8 *thereto.*

9 *New Sec. 19. The state board of healing arts, in addition to any*
10 *other penalty prescribed under the acupuncture practice act, may assess*
11 *a civil fine, after proper notice and an opportunity to be heard, against a*
12 *licensee for a violation of the acupuncture practice act in an amount not*
13 *to exceed \$2,000 for a first violation, \$5,000 for a second violation and*
14 *\$10,000 for a third violation and any subsequent violation. All fines*
15 *assessed and collected under this section shall be remitted to the state*
16 *treasurer in accordance with the provisions of K.S.A. 75-4218, and*
17 *amendments thereto. Upon receipt of each such remittance, the state*
18 *treasurer shall deposit the entire amount in the state treasury to the*
19 *credit of the state general fund. Fines collected under this section shall*
20 *be considered administrative fines pursuant to 11 U.S.C. § 523.*

21 *New Sec. 20. (a) Any complaint or report, record or other*
22 *information relating to a complaint which is received, obtained or*
23 *maintained by the board shall be confidential and shall not be disclosed*
24 *by the board or its employees in a manner which identifies or enables*
25 *identification of the person who is the subject or source of the*
26 *information, except the information may be disclosed:*

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

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

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

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

43 *(c) This section regarding confidentiality shall expire on July 1,*

1 2022, unless the legislature reviews and reenacts such provision
2 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1,
3 2022.

4 **New Sec. 21.** (a) *No person reporting to the state board of healing
5 arts in good faith any information such person may have relating to
6 alleged incidents of malpractice, or the qualifications, fitness or
7 character of, or disciplinary action taken against a person licensed,
8 registered or certified by the board shall be subject to a civil action for
9 damages as a result of reporting such information.*

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

21 **New Sec. 22.** (a) *The confidential relations and communications
22 between a licensed acupuncturist and the acupuncturist's patient are
23 placed on the same basis as those established between a physician and a
24 physician's patient in K.S.A. 60-427, and amendments thereto.*

25 (b) *The provisions of this section shall take effect on and after July
26 1, 2017.*

27 **New Sec. 23.** (a) *When it appears that any person is violating any
28 provision of this act, the board may bring an action in the name of the
29 state in a court of competent jurisdiction for an injunction against such
30 violation without regard as to whether proceedings have been or may be
31 instituted before the board or whether criminal proceedings have been
32 or may be instituted.*

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

34 **New Sec. 24.** *If any provision of the acupuncture practice act or
35 application thereof to any person or circumstance is held invalid, such
36 invalidity shall not affect other provisions or applications of the
37 acupuncture practice act which can be given effect without the invalid
38 provision or application, and to this end the provisions of the
39 acupuncture practice act are declared to be severable.}*

40 **Sec. 25.** K.S.A. 2015 Supp. 65-2872 is hereby amended to read as
41 follows: 65-2872. The practice of the healing arts shall not be construed to
42 include the following persons:

43 (a) Persons rendering gratuitous services in the case of an emergency.

1 (b) Persons gratuitously administering ordinary household remedies.

2 (c) The members of any church practicing their religious tenets
3 provided they shall not be exempt from complying with all public health
4 regulations of the state.

5 (d) Students while in actual classroom attendance in an accredited
6 healing arts school who after completing one year's study treat diseases
7 under the supervision of a licensed instructor.

8 (e) Students upon the completion of at least three years study in an
9 accredited healing arts school and who, as a part of their academic
10 requirements for a degree, serve a preceptorship not to exceed 180 days
11 under the supervision of a licensed practitioner.

12 (f) Persons who massage for the purpose of relaxation, muscle
13 conditioning, or figure improvement, provided no drugs are used and such
14 persons do not hold themselves out to be physicians or healers.

15 (g) Persons whose professional services are performed under the
16 supervision or by order of or referral from a practitioner who is licensed
17 under this act.

18 (h) Persons in the general fields of psychology, education and social
19 work, dealing with the social, psychological and moral well-being of
20 individuals or groups, or both, provided they do not use drugs and do not
21 hold themselves out to be the physicians, surgeons, osteopathic physicians
22 or chiropractors.

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

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

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

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

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

41 (n) Podiatrists practicing their profession, when licensed and
42 practicing under and in accordance with the provisions of article 20 of
43 chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and

1 any interpretation thereof by the supreme court of this state.

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

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

8 (q) A dentist licensed in accordance with the provisions of article 14
9 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
10 who administers general and local anesthetics to facilitate medical
11 procedures conducted by a person licensed to practice medicine and
12 surgery if such dentist is certified by the board of healing arts under K.S.A.
13 65-2899, and amendments thereto, to administer such general and local
14 anesthetics.

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

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

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

32 Sec. 26. K.S.A. 2015 Supp. 65-2872 is hereby repealed.

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