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SENATE BILL 353

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO ORIENTAL MEDICINE; CLARIFYING THE PRACTICE OF  
ORIENTAL MEDICINE AND PRESCRIPTIVE AUTHORITY OF DOCTORS OF  
ORIENTAL MEDICINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14A-3 NMSA 1978 (being Laws 1993,  
Chapter 158, Section 11, as amended) is amended to read:

"61-14A-3. DEFINITIONS.--As used in the Acupuncture and  
Oriental Medicine Practice Act:

A. "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

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1 restore and maintain health;

2 B. "board" means the board of acupuncture and  
3 oriental medicine;

4 C. "doctor of oriental medicine" means a person  
5 licensed as a physician to practice acupuncture and oriental  
6 medicine with the ability to practice independently, serve as a  
7 primary care provider and as necessary collaborate with other  
8 health care providers;

9 D. "moxibustion" means the use of heat on or above  
10 specific locations or on acupuncture needles at specific  
11 locations on the body for the prevention, cure or correction of  
12 any disease, illness, injury, pain or other condition;

13 E. "oriental medicine" means the distinct system of  
14 primary health care that uses all allied techniques of oriental  
15 medicine, both traditional and modern, to diagnose, treat and  
16 prescribe for the prevention, cure or correction of [~~any~~]  
17 disease, illness, injury, pain or other physical or mental  
18 condition by controlling and regulating the flow and balance of  
19 energy, form and function to restore and maintain health;

20 F. "primary care provider" means a health care  
21 practitioner acting within the scope of [~~his~~] the health care  
22 practitioner's license who provides the first level of basic or  
23 general health care for a person's health needs, including  
24 diagnostic and treatment services, initiates referrals to other  
25 health care practitioners and maintains the continuity of care

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1 when appropriate;

2 G. "techniques of oriental medicine" means:

3 (1) the diagnostic and treatment techniques  
4 used in oriental medicine that include diagnostic procedures;  
5 acupuncture; moxibustion; manual therapy, also known as tui na;  
6 other physical medicine modalities and therapeutic procedures;  
7 breathing and exercise techniques; and dietary, nutritional and  
8 lifestyle counseling;

9 (2) the ~~[prescription or administration]~~  
10 prescribing, administering, compounding or dispensing of ~~[any]~~  
11 herbal [medicine] medicines, homeopathic ~~[medicine]~~ medicines,  
12 vitamins, minerals, amino acids, proteins, enzymes,  
13 carbohydrates, lipids, glandular products, natural substances,  
14 natural products, natural medicines, traditional medicines,  
15 protomorphogens, live cell products, gerovital ~~[amino acids]~~  
16 and dietary and nutritional supplements;

17 (3) the ~~[prescription or administration]~~  
18 prescribing, administering, compounding or dispensing of  
19 devices, restricted devices and prescription devices, as those  
20 devices are defined in the New Mexico Drug, Device and Cosmetic  
21 Act, if the board determines by rule that the devices are  
22 necessary in the practice of oriental medicine and if the  
23 prescribing doctor of oriental medicine has fulfilled  
24 requirements for prescriptive authority in accordance with  
25 rules promulgated by the board for the devices enumerated in

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1 this paragraph;

2 (4) the [~~prescription or administration~~]  
3 prescribing, administering, compounding or dispensing of  
4 cosmetics, biological products, including therapeutic serum,  
5 and [~~over-the-counter~~] nonprescription drugs, other than those  
6 enumerated in Paragraph (2) of this subsection, as those are  
7 defined in the New Mexico Drug, Device and Cosmetic Act and the  
8 Pharmacy Act, if the prescribing doctor of oriental medicine  
9 has fulfilled the requirements for expanded prescriptive  
10 authority in accordance with rules promulgated by the board for  
11 the substances enumerated in this paragraph; and

12 (5) the [~~prescription or administration~~]  
13 prescribing, administering, compounding or dispensing of the  
14 following dangerous drugs or controlled substances as they are  
15 defined in the New Mexico Drug, Device and Cosmetic Act, [~~or~~]  
16 the Controlled Substances Act or the Pharmacy Act, if the  
17 prescribing doctor of oriental medicine has fulfilled the  
18 requirements for [~~extended or~~] expanded prescriptive authority  
19 in accordance with rules promulgated by the board for the  
20 substances enumerated in this paragraph:

- 21 (a) sterile water;  
22 (b) sterile saline;  
23 (c) sarapin or its generic;  
24 (d) caffeine;  
25 (e) procaine;

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- 1 (f) oxygen;  
2 (g) epinephrine;  
3 (h) vapocoolants;  
4 (i) bioidentical hormones; and  
5 (j) any of the drugs or substances  
6 enumerated in Paragraphs (2) and (4) of this subsection if at  
7 any time these substances or drugs are classified as dangerous  
8 drugs or controlled substances; and

9 H. "tutor" means a doctor of oriental medicine with  
10 at least ten years of clinical experience who is a teacher of  
11 acupuncture and oriental medicine."

12 Section 2. Section 61-14A-4.1 NMSA 1978 (being Laws 2003,  
13 Chapter 193, Section 1) is amended to read:

14 "61-14A-4.1. CERTIFIED AURICULAR DETOXIFICATION  
15 SPECIALISTS, SUPERVISORS AND TRAINING PROGRAMS--FEES.--

16 A. A person who is not a doctor of oriental  
17 medicine or who is not a person certified as an auricular  
18 detoxification specialist pursuant to the Acupuncture and  
19 Oriental Medicine Practice Act shall not:

20 (1) practice auricular acupuncture for the  
21 treatment of alcoholism, substance abuse or chemical  
22 dependency;

23 (2) use the title of or represent as a  
24 certified auricular detoxification specialist or use any other  
25 title, abbreviation, letters, figures, signs or devices that

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1 indicate that the person is certified to practice as an  
2 auricular detoxification specialist; or

3 (3) advertise, hold out to the public or  
4 represent in any manner that the person is authorized to  
5 practice auricular detoxification.

6 B. The board shall issue an auricular  
7 detoxification specialist certification to a person who has  
8 paid an application fee to the board and has successfully  
9 completed all board requirements. The board shall adopt rules  
10 that require an applicant to:

11 (1) successfully complete the national  
12 acupuncture detoxification association training or equivalent  
13 training approved by the board that shall include clean needle  
14 technique training;

15 (2) demonstrate experience in treatment,  
16 disease prevention, harm reduction and counseling of people  
17 suffering from alcoholism, substance abuse or chemical  
18 dependency or become employed by a substance abuse treatment  
19 program;

20 (3) complete a board-approved training program  
21 that will include examinations on clean needle technique,  
22 jurisprudence and other skills required by the board; and

23 (4) demonstrate a record free of convictions  
24 for drug- or alcohol-related offenses for at least two  
25 consecutive years before the person applied to the board for

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1 certification.

2 C. A certified auricular detoxification specialist  
3 is authorized to perform auricular acupuncture and the  
4 application to the ear of simple board-approved devices that do  
5 not penetrate the skin for the purpose of treating and  
6 preventing alcoholism, substance abuse or chemical dependency.  
7 The specialist shall use the five auricular point national  
8 acupuncture detoxification procedure or auricular procedures  
9 approved or established by rule of the board and shall only  
10 treat or prevent alcoholism, substance abuse or chemical  
11 dependency within a board-approved program that demonstrates  
12 experience in disease prevention, harm reduction or the  
13 treatment or prevention of alcoholism, substance abuse or  
14 chemical dependency.

15 D. A person certified pursuant to this section  
16 shall use the title "certified auricular detoxification  
17 specialist" or "C.A.D.S." for the purpose of advertising  
18 auricular acupuncture services to the public.

19 E. A certified auricular detoxification specialist  
20 shall apply with the board to renew the certification. The  
21 board shall for one year renew the certification of an  
22 applicant who pays a renewal fee and completes the requirements  
23 established by rule of the board. An applicant who does not  
24 apply for renewal before the last date that the certification  
25 is valid may be required to pay a late fee pursuant to a rule

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1 of the board. The board shall deem a certification for which a  
2 renewal has not been applied within sixty days of that date as  
3 expired and an applicant that seeks valid certification shall  
4 apply with the board for new certification. The board shall by  
5 rule require an applicant for renewal of the certification to  
6 demonstrate a record free of convictions for drug- or alcohol-  
7 related offenses for a minimum of one year prior to application  
8 for renewal with the board.

9 F. A certified auricular detoxification specialist  
10 shall practice under the supervision of a licensed doctor of  
11 oriental medicine registered with the board as an auricular  
12 detoxification specialist supervisor. A supervising doctor of  
13 oriental medicine shall be accessible for consultation directly  
14 or by telephone to a practicing auricular detoxification  
15 specialist. The supervising doctor of oriental medicine shall  
16 not supervise more specialists than permitted by board rule.  
17 Supervision requirements shall be provided by rule of the  
18 board.

19 G. A doctor of oriental medicine who supervises a  
20 certified auricular detoxification specialist shall apply for  
21 registration with the board. The board shall issue an  
22 auricular detoxification specialist supervisor registration to  
23 a doctor of oriental medicine who fulfills board requirements.  
24 The board shall by rule require an applicant for registration  
25 to list the certified auricular detoxification specialists that

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1 will be supervised, pay an application fee for registration and  
2 demonstrate clinical experience in treating or counseling  
3 people suffering from alcoholism, substance abuse or chemical  
4 dependency. ~~[The registration shall be valid until July 31~~  
5 ~~following the initial registration.~~

6 ~~H. A doctor of oriental medicine who is registered~~  
7 ~~to supervise certified auricular detoxification specialists~~  
8 ~~shall apply to renew the registration annually with the board.~~  
9 ~~The board shall renew the registration of an applicant who~~  
10 ~~fulfills board requirements. The board shall by rule require~~  
11 ~~an applicant to list the certified auricular detoxification~~  
12 ~~specialists that the applicant is supervising and pay a fee for~~  
13 ~~registration renewal. The renewed registration shall be valid~~  
14 ~~for one year. An applicant who does not apply for renewal~~  
15 ~~before the last date that the certification is valid may be~~  
16 ~~required to pay a late fee pursuant to a rule of the board.~~  
17 ~~The board shall deem a registration for which a renewal has not~~  
18 ~~been applied within sixty days of that date as expired and an~~  
19 ~~applicant that seeks valid registration shall apply with the~~  
20 ~~board for new registration.~~

21 ~~F.]~~ H. A training program that educates auricular  
22 detoxification specialists for certification shall apply for  
23 approval by the board. The board shall approve a training  
24 program that fulfills the board requirements established by  
25 rule and that pays an application fee. The approval shall be

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1 valid until July 31 following the initial approval.

2 [~~J~~] I. A training program that is approved by the  
3 board to provide training for certification of auricular  
4 detoxification specialists shall apply to renew the approval  
5 with the board. The board shall renew the approval of a  
6 program that fulfills board requirements established by rule,  
7 and the renewal shall be valid for one year. An applicant who  
8 does not renew before the last date that the renewed approval  
9 is valid shall pay a late fee. The board shall deem a program  
10 approval that is not renewed within sixty days of that date as  
11 expired and a program that seeks board approval shall apply  
12 with the board for new approval.

13 [~~K~~] J. The board shall impose the following fees:

14 (1) an application fee not to exceed one  
15 hundred fifty dollars (\$150) for auricular detoxification  
16 specialist certification;

17 (2) a fee not to exceed seventy-five dollars  
18 (\$75.00) for renewal of an auricular detoxification specialist  
19 certification;

20 (3) an application fee not to exceed two  
21 hundred dollars (\$200) for registration of a certified  
22 auricular detoxification specialist supervisor;

23 [~~(4) a fee not to exceed seventy-five dollars~~  
24 ~~(\$75.00) for the renewal of the registration of a certified~~  
25 ~~auricular detoxification specialist supervisor;~~

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1                   ~~(5)~~ (4) an application fee not to exceed two  
2 hundred dollars (\$200) for the approval of an auricular  
3 detoxification specialist training program;

4                   ~~(6)~~ (5) a fee not to exceed one hundred  
5 fifty dollars (\$150) for the renewal of the approval of an  
6 auricular detoxification training specialist training program;  
7 and

8                   ~~(7)~~ (6) a late fee not to exceed fifty  
9 dollars (\$50.00) for applications for renewal filed after the  
10 last valid date of a registration, certification, approval or  
11 renewal issued pursuant to this section.

12                   ~~[E.]~~ K. In accordance with the procedures set forth  
13 in the Uniform Licensing Act, the board may deny, revoke or  
14 suspend any certification, registration, approval or renewal  
15 that a person holds or applies for pursuant to this section  
16 upon findings by the board that the person violated any rule  
17 established by the board."

18                   Section 3. Section 61-14A-8.1 NMSA 1978 (being Laws 2000,  
19 Chapter 53, Section 12) is amended to read:

20                   "61-14A-8.1. ~~[EXTENDED OR]~~ EXPANDED PRESCRIPTIVE  
21 AUTHORITY--~~[CERTIFICATION]~~ CERTIFICATIONS.--~~[A. The board may~~  
22 ~~issue certification for extended prescriptive authority as~~  
23 ~~defined by the board to a doctor of oriental medicine who has~~  
24 ~~submitted completed forms provided by the board, paid the~~  
25 ~~application fee for certification and submitted proof of~~

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1 ~~successful completion of additional training required by rule~~  
2 ~~of the board.~~

3 B.] The board [~~may~~] shall issue [~~certification~~]  
4 certification, as determined by rule of the board, for expanded  
5 prescriptive authority only for the substances listed in [~~this~~]  
6 Section 61-14A-3 NMSA 1978 to a doctor of oriental medicine who  
7 has submitted completed forms provided by the board, paid the  
8 application fee for certification and submitted proof of  
9 successful completion of additional training required by rule  
10 of the board. The board shall issue certifications in the  
11 expanded prescriptive authority practices of basic injection  
12 therapy, injection therapy, intravenous therapy and  
13 bioidentical hormone therapy. The board shall adopt the rules  
14 determined by the board of pharmacy for additional training  
15 required for [~~the prescription or administration~~] prescribing,  
16 administering, compounding or dispensing of caffeine, procaine,  
17 oxygen, epinephrine and bioidentical hormones. The board and  
18 the board of pharmacy shall consult as appropriate."

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