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FIRST REPRINT

S.B. 355

SENATE BILL NO. 355—SENATOR PARKS

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to certain regulatory bodies which administer occupational licensing. (BDR 54-856)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to regulatory bodies; revising provisions governing the scope of practice of physical therapists relating to the use of the technique of dry needling; revising provisions governing the duties and powers of the State Board of Oriental Medicine; revising provisions governing the licensing of doctors of Oriental medicine; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing the licensure and regulation of physical therapists and doctors of Oriental medicine. (Chapters 634A and 640 of NRS) Existing law defines the scope of practice of physical therapy and restricts persons licensed to practice physical therapy from practicing other forms of healing. (NRS 640.024, 640.190) **Section 3** of this bill provides that the practice of Oriental medicine specifically includes dry needling as well as moxibustion and cupping. **Section 12.5** of this bill authorizes the Nevada Physical Therapy Board to prescribe by regulation the scope of the use of the technique of dry needling by a physical therapist. If the Nevada Physical Therapy Board adopts such regulations, **section 12.5** requires that the regulations establish requirements for training that a physical therapist must successfully complete to administer treatment through the use of the technique of dry needling. **Section 12** of this bill makes a conforming change. **Section 3.5** of this bill provides that a person is not practicing the healing art of Oriental medicine if the person is authorized to practice another healing art and is practicing within the scope of that authority, such as if a physical therapist is administering treatment through the technique of dry needling within the scope authorized pursuant to the regulations adopted by the Nevada Physical Therapy Board.

Section 2 of this bill authorizes the State Board of Oriental Medicine to issue an endorsement to practice acupuncture point injection therapy to a doctor of



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Oriental medicine who meets certain requirements. **Section 5** of this bill eliminates the authority of the Board in existing law to fix and pay a salary to the Secretary-Treasurer. (NRS 634A.060) **Section 6** of this bill eliminates the requirement in existing law that the Board establish and maintain a list of accredited schools and colleges of Oriental medicine. (NRS 634A.080)

Existing law authorizes the establishment and maintenance of a school or college of Oriental medicine in this State if its establishment and curriculum is approved by the Board. (NRS 634A.090) **Section 7** of this bill: (1) eliminates the requirement that the Board annually approve the curriculum; and (2) requires that the school or college be accredited by or have received at least candidacy status for accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization and hold a current license issued by the Commission on Postsecondary Education. **Section 4** of this bill makes a conforming change.

Existing law requires an applicant for a license to practice as a doctor of Oriental medicine to: (1) pass a national examination in Oriental medicine administered by a national organization approved by the Board and a practical examination approved by the Board that tests certain subject areas; and (2) meet certain educational and other requirements. (NRS 634A.120, 634A.140) **Section 8** of this bill requires such an applicant to pass each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine. Additionally, **section 8** eliminates several subjects on the examination approved by the Board. For issuance of a license, **section 9** of this bill: (1) revises the educational requirements; (2) requires applicants to hold a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization; and (3) authorizes the counting of certain work experience in lieu of educational experience for applicants who attended a school or college of Oriental medicine before January 1, 2008.

Sections 10 and 11 of this bill consolidate the requirements relating to the renewal of a license.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A doctor of Oriental medicine licensed pursuant to this chapter may apply to the Board for an endorsement to practice acupuncture point injection therapy. The applicant must submit with his or her application proof that the applicant has:

(a) Successfully completed postgraduate coursework approved by the National Certification Commission for Acupuncture and Oriental Medicine or a successor organization which provides at least 24 hours of instruction provided in person, including, without limitation, at least 8 hours of instruction received by practicum and 2 hours of training in the administration of intramuscular epinephrine; and



(b) *Obtained or otherwise carries a policy of professional liability insurance which insures the applicant against any liability arising from the provision of acupuncture point injection therapy by the applicant.*

2. *The Board shall issue an endorsement to practice acupuncture point injection therapy to an applicant who meets the requirements of subsection 1.*

3. *A licensee who is issued an endorsement to practice acupuncture point injection therapy may only inject substances for which the licensee has received training which may include, without limitation, nutritional, homeopathic and herbal substances.*

4. *As used in this section, "acupuncture point injection therapy" means the subcutaneous, intramuscular and intradermal injection of substances to stimulate acupuncture points, ashi points and trigger points to relieve pain and prevent illness.*

Sec. 3. NRS 634A.020 is hereby amended to read as follows:
634A.020 As used in this chapter, unless the context otherwise requires:

1. "Acupuncture" means the insertion of needles into the human body by piercing the skin of the body to control , ~~{and}~~ regulate , ~~{the flow and balance of energy in the body and to}~~ cure, relieve or palliate ~~{the body for therapeutic purposes, including, without limitation:~~

(a) Any ailment or disease of the mind or body; ~~{or}~~

(b) Any wound, bodily injury or deformity ~~{; or}~~

(c) The flow and balance of energy in the body.

2. "Board" means the State Board of Oriental Medicine.

3. "Doctor of Oriental medicine" means a person who is licensed under the provisions of this chapter to practice as a doctor of Oriental medicine.

4. **"Dry needling":**

(a) Means an advanced needling skill or technique limited to the treatment of myofascial pain, using a single-use, single-insertion, sterile needle without the use of heat, cold or any other added modality or medication, which is inserted into the skin or underlying tissue to stimulate a trigger point.

(b) Does not include:

(1) The stimulation of an auricular point;

(2) Utilization of a distal point or nonlocal point;

(3) Needle retention;

(4) Application of a retained electrical stimulation lead; or

(5) The teaching or application of other acupuncture theory.



5. “Herbal medicine” and “practice of herbal medicine” mean suggesting, recommending, prescribing or directing the use of herbs for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, bodily injury or deformity.

~~[5.] 6. “Herbs” means [plants or parts of plants valued for medicinal qualities.~~

~~—6.] any plant or part of a plant which is not prohibited by the laws of the United States or this State and is used in tests or examinations in the practice of Oriental medicine.~~

7. “Oriental medicine” means ~~[that]~~ a system of the healing art which places the chief emphasis on the flow and balance of energy in the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease. The term includes , *without limitation*, the practice of acupuncture , ~~[and]~~ herbal medicine , *moxibustion, cupping, dry needling* and other services approved by the Board.

Sec. 3.5. NRS 634A.025 is hereby amended to read as follows:

634A.025 1. This chapter does not apply to Oriental physicians who are:

(a) Called into this State for consultation; or

(b) Temporarily exempt from licensure pursuant to NRS 634A.163 and are practicing Oriental medicine within the scope of the exemption.

2. This chapter does not apply to a practitioner of acupuncture:

(a) Who is employed by an accredited school of Oriental medicine located in this State;

(b) Who is licensed to practice acupuncture in another state or jurisdiction; and

(c) Whose practice of acupuncture in this State:

(1) Is limited to teaching, supervising or demonstrating the methods and practices of acupuncture to students in a clinical setting; and

(2) Does not involve the acceptance of payment from any patient for services relating to his or her practice of acupuncture.

3. This chapter does not apply to ~~[a]~~:

(a) A physician who is licensed pursuant to chapter 630 or 633 of NRS.

(b) Any other person authorized to practice any other healing art under this title who does so within the scope of that authority.

4. This chapter does not prohibit:

(a) Gratuitous services of druggists or other persons in cases of emergency.

(b) The domestic administration of family remedies.



(c) Any person from assisting any person in the practice of the healing arts licensed under this chapter, except that such person may not insert needles into the skin or prescribe herbal medicine.

5. For the purposes of this section, "accredited school of Oriental medicine" means a school that has received at least candidacy status for institutional accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine, or its successor organization.

Sec. 4. NRS 634A.040 is hereby amended to read as follows:

634A.040 1. The Governor shall appoint four members to the Board who:

(a) Have a license issued pursuant to this chapter;

(b) Currently engage in the practice of Oriental medicine in this State, and have engaged in the practice of Oriental medicine in this State for at least 3 years preceding appointment to the Board;

(c) Are citizens of the United States; and

(d) Are residents of the State of Nevada and have been for at least 1 year preceding appointment to the Board.

2. The Governor shall appoint one member to the Board who:

(a) Is licensed pursuant to chapter 630 of NRS by the Board of Medical Examiners as a physician;

(b) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(c) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(d) Is a citizen of the United States; and

(e) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

3. The Governor shall appoint one member to the Board who:

(a) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(b) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(c) Is a citizen of the United States; and

(d) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

4. The Governor shall appoint one member to the Board who represents a school or college of Oriental medicine ~~{whose establishment has been approved by the Board}~~ *established* pursuant to NRS 634A.090.

Sec. 5. NRS 634A.060 is hereby amended to read as follows:

634A.060 The Board shall annually elect from its members a President, Vice President and Secretary-Treasurer . ~~{, and may fix and pay a salary to the Secretary-Treasurer.}~~



Sec. 6. NRS 634A.080 is hereby amended to read as follows:

634A.080 The Board shall:

1. Hold meetings at least once a year and at any other time at the request of the President or the majority of the members;

2. Have and use a common seal;

3. Deposit in interest-bearing accounts in the State of Nevada all money received under the provisions of this chapter, which must be used to defray the expenses of the Board;

4. ~~Establish and maintain a list of accredited schools and colleges of Oriental medicine that are approved by the Board;~~

~~—5.]~~ Operate on the basis of the fiscal year beginning July 1 and ending June 30; and

~~[6.]~~ 5. Keep a record of its proceedings which must be open to the public at all times and which must contain the name and business address of every registered licensee in this State.

Sec. 7. NRS 634A.090 is hereby amended to read as follows:

634A.090 1. A school or college of Oriental medicine may be established and maintained in this State only if:

(a) Its establishment is approved by the Board; ~~and]~~

(b) ~~[Its curriculum is approved annually by the Board for content and quality of instruction in accordance with the requirements of this chapter.]~~ *It is accredited by or has received at least candidacy status for institutional accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization; and*

(c) It holds a current license issued by the Commission on Postsecondary Education.

2. The Board may prescribe the course of study required for the degree of doctor of Oriental medicine.

Sec. 8. NRS 634A.120 is hereby amended to read as follows:

634A.120 1. Each applicant for a license to practice as a doctor of Oriental medicine must pass:

(a) ~~[An examination in Oriental medicine that is administered by a national organization approved by the Board;]~~ *Each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine; and*

(b) ~~[A practical]~~ *An* examination approved by the Board that tests the applicant's knowledge and understanding of ~~the~~:

~~—(1) Basic medical science;~~

~~—(2) Acupuncture;~~

~~—(3) Herbal medicine;~~

~~—(4) Oriental medicine;~~

~~—(5) English proficiency; and~~



1 ~~—(6) The~~ *the* laws and regulations of this State relating to
2 health and safety in the practice of Oriental medicine.

3 2. The Board may establish by regulation ~~{ }~~ *for the*
4 *examination required by paragraph (b) of subsection 1:*

5 (a) Additional subject areas to be included in the ~~{practical}~~
6 examination; and

7 (b) Specific methods for the administration of the ~~{practical}~~
8 examination, including, but not limited to, written, oral,
9 demonstrative, practical or any combination thereof.

10 3. The Board shall contract for the preparation, administration
11 and grading of the ~~{practical}~~ examination ~~{ }~~ *required by*
12 *paragraph (b) of subsection 1.*

13 4. Except as otherwise provided in subsection 5, the Board
14 shall offer the ~~{practical}~~ examination *required by paragraph (b) of*
15 *subsection 1* at least two times each year at a time and place
16 established by the Board.

17 5. The Board may cancel a scheduled ~~{practical}~~ examination
18 *required by paragraph (b) of subsection 1* if, within 60 days before
19 the examination, the Board has not received a request to take the
20 examination.

21 6. A person who fails the ~~{practical}~~ examination *required by*
22 *paragraph (b) of subsection 1* may retake the examination.

23 **Sec. 9.** NRS 634A.140 is hereby amended to read as follows:

24 634A.140 *1.* The Board shall issue a license to practice as a
25 doctor of Oriental medicine to an applicant who:

26 ~~{ }~~ (a) Has:

27 ~~{(a)}~~ (1) Successfully completed an accredited 4-year program
28 of study, or its equivalent, in Oriental medicine at a school or
29 college of Oriental medicine *accredited by the Accreditation*
30 *Commission for Acupuncture and Oriental Medicine or its*
31 *successor organization* that ~~{is approved}~~ *meets any requirements*
32 *prescribed by the Board { }* *pursuant to NRS 634A.090, including,*
33 *without limitation, requirements concerning clinical and didactic*
34 *components;*

35 ~~{(b)}~~ (2) Earned a bachelor's degree , *or completed a combined*
36 *bachelor's and master's degree program in Oriental medicine,*
37 from an accredited college or university in the United States;

38 ~~{(c)}~~ (3) Passed an investigation of his or her background and
39 personal history conducted by the Board; and

40 ~~{(d)}~~ (4) Passed the examinations required by NRS 634A.120;
41 ~~{or}~~ and

42 (b) *Holds a current certification in Oriental medicine issued by*
43 *the National Certification Commission for Acupuncture and*
44 *Oriental Medicine or its successor organization.*



2. *Except as otherwise provided in subsection 3, the Board may issue a license to practice as a doctor of Oriental medicine to an applicant who:*

(a) Has:

~~[(a)]~~ (1) Successfully completed a 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine that is approved by the Board ~~[(b)]~~

~~and meets any requirements prescribed by the Board pursuant to NRS 634A.090, including, without limitation, requirements concerning clinical and didactic components;~~

(2) Lawfully practiced Oriental medicine in another state or foreign country for at least 4 years;

~~[(e)]~~ (3) Passed an investigation of his or her background and personal history conducted by the Board; and

~~[(d)]~~ (4) Passed the examinations required by NRS 634A.120 ~~[(h)]~~; and

(b) *Holds a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.*

3. *The Board may issue a license to practice as a doctor of Oriental medicine to an applicant who:*

(a) Has:

(1) *Successfully completed a program in Oriental medicine from a school or college of Oriental medicine accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization before January 1, 2008, that included the study of herbology;*

(2) *Practiced Oriental medicine pursuant to the laws of another state or territory of the United States, the District of Columbia, or foreign country for at least of 6 of the 8 years immediately preceding the date of the application;*

(3) *Passed an investigation of his or her background and personal history conducted by the Board; and*

(4) *Passed the examinations required by NRS 634A.120; and*

(b) *Holds a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.*

Sec. 10. NRS 634A.160 is hereby amended to read as follows:

634A.160 ~~[(h)]~~ Every license must be displayed in the office, place of business or place of employment of the holder thereof.

~~[(2).—Every person holding a license shall pay to the Board on or before February 1 of each year, the annual fee for a license required pursuant to subsection 4. The holder of a license shall submit with the fee all information required to complete the renewal of the~~



~~license. If the holder of a license fails to pay the fee or submit all required information, the license must be suspended. The license may be reinstated by payment of the required fee and submission of all required information within 90 days after February 1.~~

~~—3.— A license which is suspended for more than 3 months under the provisions of subsection 2 may be cancelled by the Board after 30 days' notice to the holder of the license.~~

~~—4.— The annual fee for a license must be prescribed annually by the Board and must not exceed \$1,000.]~~

Sec. 11. NRS 634A.167 is hereby amended to read as follows:

634A.167 1. To renew a license issued pursuant to this chapter, each person must, on or before February 1 of each year:

(a) Apply to the Board for renewal;

(b) Pay the annual fee for a license prescribed by the Board ~~[,]~~, *which must not exceed \$1,000;*

(c) Submit evidence to the Board of completion of the requirements for continuing education; and

(d) Submit all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal or reinstatement of a license, require each holder of a license to comply with the requirements for continuing education adopted by the Board.

3. If the holder of a license fails to pay the fee or submit all required information by February 1 of each year, the license expires automatically. The license may be reinstated by payment of the required fee and submission of all required information within 90 days after the expiration of the license pursuant to this subsection.

Sec. 12. NRS 640.024 is hereby amended to read as follows:

640.024 "Practice of physical therapy":

1. Includes:

(a) The performing and interpreting of tests and measurements as an aid to evaluation or treatment;

(b) The planning of initial and subsequent programs of treatment on the basis of the results of tests; and

(c) The administering of treatment through the use of therapeutic exercise and massage, the mobilization of joints by the use of therapeutic exercise without chiropractic adjustment, mechanical devices, and therapeutic agents which employ the properties of air, water, electricity, sound and radiant energy ~~[,] and the use of the technique of dry needling if authorized by regulation by the Board.~~

2. Does not include:

(a) The diagnosis of physical disabilities;

(b) The use of roentgenic rays or radium;



- 1 (c) The use of electricity for cauterization or surgery; or
- 2 (d) The occupation of a masseur who massages only the
- 3 superficial soft tissues of the body.

4 **Sec. 12.5.** NRS 640.050 is hereby amended to read as follows:
5 640.050 1. The Board shall:

6 (a) Enforce the provisions of this chapter and any regulations
7 adopted pursuant thereto;

8 (b) Evaluate the qualifications and determine the eligibility of an
9 applicant for a license as a physical therapist or physical therapist
10 assistant and, upon payment of the applicable fee, issue the
11 appropriate license to a qualified applicant;

12 (c) Investigate any complaint filed with the Board against a
13 licensee; and

14 (d) Unless the Board determines that extenuating circumstances
15 exist, forward to the appropriate law enforcement agency any
16 substantiated information submitted to the Board concerning a
17 person who practices as a physical therapist or physical therapist
18 assistant without a license.

19 2. The Board may adopt reasonable regulations to carry this
20 chapter into effect, including, but not limited to, regulations
21 concerning the:

22 (a) Issuance and display of licenses.

23 (b) Supervision of physical therapist assistants and physical
24 therapist technicians.

25 *3. The Board may prescribe by regulation the scope of the use*
26 *of the technique of dry needling by a physical therapist. If the*
27 *Board adopts such regulations, the regulations must, without*
28 *limitation, establish requirements for training that a physical*
29 *therapist must successfully complete before administering*
30 *treatment through the use of the technique of dry needling.*

31 ~~3.4~~ 4. The Board shall prepare and maintain a record of its
32 proceedings, including, without limitation, any disciplinary
33 proceedings.

34 ~~4.4~~ 5. The Board shall maintain a list of licensed physical
35 therapists authorized to practice physical therapy and physical
36 therapist assistants licensed to assist in the practice of physical
37 therapy in this State.

38 ~~5.4~~ 6. The Board may:

39 (a) Maintain offices in as many localities in the State as it finds
40 necessary to carry out the provisions of this chapter.

41 (b) Employ attorneys, investigators and other professional
42 consultants and clerical personnel necessary to the discharge of its
43 duties.

44 (c) Adopt a seal of which a court may take judicial notice.



~~6.7~~ 7. Any member or agent of the Board may enter any premises in this State where a person who holds a license issued pursuant to the provisions of this chapter practices physical therapy or as a physical therapist assistant and inspect the premises to determine whether a violation of any provision of this chapter or any regulation adopted pursuant thereto has occurred, including, without limitation, an inspection to determine whether any person at the premises is practicing physical therapy or as a physical therapist assistant without the appropriate license issued pursuant to the provisions of this chapter.

~~7.8~~ 8. Any voting member of the Board may administer an oath to a person testifying in a matter that relates to the duties of the Board.

9. *As used in this section, "dry needling" has the meaning ascribed to it in NRS 634A.020.*

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020, for all other purposes.

