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Medical Ethics

Ethics are moral principles that act as guidelines for behavior. They act as a guiding philosophy, impart moral importance, and help discern right from wrong. Although ethics correlate to legality, ethical obligations are often greater than what is legally required. Conversely, simply because something is legal does not necessarily make it ethical. The following is an excerpt from the American Medical Association's website on the topic of the relation of law and ethics:

Ethical values and legal principles are usually closely related, but ethical obligations typically exceed legal duties. In some cases, the law mandates unethical conduct. In general, when physicians believe a law is unjust, they should work to change the law. In exceptional circumstances of unjust laws, ethical responsibilities should supersede legal obligations.

The fact that a physician charged with allegedly illegal conduct is acquitted or exonerated in civil or criminal proceedings does not necessarily mean that the physician acted ethically.¹

While it is ethical to practice acupuncture, it is not legal to practice it in many jurisdictions and settings. Likewise, there are acupuncture procedures that are ethical to perform but lack legal support in state scope of practice definitions. The same is true for herbal medicines. Herbs may be illegal that are safe and effective. In all cases, acupuncturists must abide by the law, but ethics imparts the responsibility of working towards changing the laws for the betterment of humanity.

¹ ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion102.page? 1-1-16.

Sun Simiao

A famous 7th century physician, Sun Simiao, wrote a treatise entitled “On the Absolute Sincerity of Great Physicians.” This was a section of the work entitled *The Important Prescription Worth a Thousand Pieces of Gold*. The treatise is sometimes referred to as the Chinese Hippocratic Oath. The treatise “requires the physician to develop first a sense of compassion and piety, and then to make a commitment to try to save every living creature, to treat every patient on equal grounds, and to avoid seeking wealth because of his expertise.”²

Sun Simiao commented on relations with colleagues, “it is inappropriate to emphasize one’s reputation, to belittle the rest of the physicians and to praise only one’s own virtue.”³ He also wrote:

...a Great Physician should possess a clear mind, in order to look at himself; he should make a dignified appearance, neither luminous nor somber. It is his duty to reduce diseases and to diagnose sufferings and for this purpose to examine carefully the external indications and the symptoms appearing in the pulse. He has to include thereby all the details and should not overlook anything. In the decision over the subsequent treatment with acupuncture or with medicaments nothing should occur that is contrary to regulations. The saying goes: “In case of a disease one has to help quickly,” yet it is nevertheless indispensable to acquaint oneself fully with the particular situation so that there remain no doubts. It is important that the examination be carried out with perseverance. Wherever someone’s life is at stake, one should neither act hastily nor rely on one’s own superiority and ability, and least of all keep one’s own reputation in mind. This would not correspond to the demands of humaneness!⁴

2. Veatch, Robert M. Cross-cultural perspectives in medical ethics. Jones & Bartlett Learning, p 320-321, 2000.

3. Veatch, Robert M. Cross-cultural perspectives in medical ethics. Jones & Bartlett Learning, 2000.

4. Veatch, Robert M. Cross-cultural perspectives in medical ethics. Jones & Bartlett Learning, p 314, 2000.

Prof. Shui Wae

Prof. Shui Wae, a renown acupuncturist, was teaching a Qi Gong class in San Francisco in the late 1980s. A student of Prof. Shui Wae asked him, “What is most important of an acupuncturist?” He replied, “To be a good hearted doctor.”

The student then asked, “What is second most important?” The student understood Prof. Shui Wae’s reply as, “To have patience.” The student asked, “Do you mean to patiently diagnose and work with patients towards treatment goals?” Lovingly and laughing, Prof. Shui Wae replied, “No... to have patients! Work hard and take your education to the world and help as many people as possible.”

In the reception room of his clinical practice, Prof. Shui Wae had an antique wooden table. Atop this table were dozens of icons representing many religions, peoples, and cultures. A student of Prof. Shui Wae asked, “Why so many icons?” He replied, “Medicine is for all people, I treat everyone.” Interestingly, Prof. Shui Wae charged per office visits as is typical of an acupuncturist. However, he was generous with trades, giving away free care, and he even offered his own money to the poor after acupuncture treatments if they did not have enough funds to pay for acupuncture appointments.

Prof. Shui Wae noted:

To be a practitioner of acupuncture one must have knowledge of diagnosis and physiology. Otherwise, wrongly applying the needles could lead to accidents or prevent a patient from being cured at an early stage of an illness which would later become chronic. In other words, it is impossible to cure a disease without diagnosis. Therefore to learn acupuncture one must first possess fundamental knowledge.⁵

He notes that channel theory (Jing Luo, Jing Mo) is an important starting point of education for an acupuncturist:

5. Shui, Wae. A Research Into Acupuncture and Its Clinical Practice [English-Chinese]. Commercial Press, 1976.

The Theory of Jing Luo is the fundamental principle of Chinese medicine. It declares that Jing Luo not only has great significance in the physical function of the human body, but also serves as an important guide for diagnosis and treatment. In chapter “Jing Mo Pian” in the “Ling Shu Jing” it was written, “The knowledge of Jing Mo directs us how to treat all illnesses, to regulate the human health condition and even to save a patient’s life. So it must be thoroughly mastered.” Hua Bo Ren [a famous Yuan Dynasty physician] said, “One will never find out the cause of illness if he does not know Jing Luo.” Hence, the Jing Luo theory, in Chinese medicine, governs physiology, pathology, diagnosis, therapy and so on. Whether one is a medical or a surgical practitioner, and especially if one is a acupuncture practitioner, one must grasp the theory of Jing Luo in order to achieve effective treatments in clinical practice.⁶



6. Shui, Wae. *A Research Into Acupuncture and Its Clinical Practice [English-Chinese]*. Commercial Press, pg. 2, 1976.

NCCAOM Code of Ethics

The NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) has a code of ethics for all diplomates:⁷

- Respect the rights, privacy and dignity of my patients and maintain confidentiality and professional boundaries at all times.
- Treat within my lawful scope of my practice and training and only if I am able to safely, competently and effectively do so.
- Allow my patients to fully participate in decisions related to their healthcare by documenting and keeping them informed of my treatments and outcomes.
- Accept and treat those seeking my services in a fair and nondiscriminatory manner.
- Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate.
- Continue to advance my knowledge through education, training and collaboration with my colleagues to maintain excellence and high ethical standards in our profession.
- Support my medicine's access to all people and its growth in the broad spectrum of U.S. health care.
- Assist in the professional development and advancement of my colleagues.
- Participate in activities that contribute to the betterment of my community.

7. NCCAOM, Effective January 1, 2016.

WMA Code of Ethics

The following is the World Medical Association's code of ethics.⁸ The WMA is an international organization founded in 1947 by physicians from 27 countries. The WMA ensures the independence of physicians and sets standards of excellence and ethics.

Duties of Physicians in General

- A physician shall always exercise his/her independent professional judgment and maintain the highest standards of professional conduct.
- A physician shall respect a competent patient's right to accept or refuse treatment.
- A physician shall not allow his/her judgment to be influenced by personal profit or unfair discrimination.
- A physician shall be dedicated to providing competent medical service in full professional and moral independence, with compassion and respect for human dignity.
- A physician shall deal honestly with patients and colleagues, and report to the appropriate authorities those physicians who practice unethically or incompetently or who engage in fraud or deception.
- A physician shall not receive any financial benefits or other incentives solely for referring patients or prescribing specific products.
- A physician shall respect the rights and preferences of patients, colleagues, and other health professionals.
- A physician shall recognize his/her important role in educating the public but should use due caution in divulging discoveries or new techniques or treatment through non-professional channels.
- A physician shall certify only that which he/she has personally verified.
- A physician shall strive to use health care resources in the best way to benefit patients and their community.
- A physician shall seek appropriate care and attention if he/she suffers from mental or physical illness.

8. wma.net/en/30publications/10policies/c8/index.html. 03-26-2017.

- A physician shall respect the local and national codes of ethics.

Duties of Physicians to Patients

- A physician shall always bear in mind the obligation to respect human life.
- A physician shall act in the patient's best interest when providing medical care.
- A physician shall owe his/her patients complete loyalty and all the scientific resources available to him/her. Whenever an examination or treatment is beyond the physician's capacity, he/she should consult with or refer to another physician who has the necessary ability.
- A physician shall respect a patient's right to confidentiality. It is ethical to disclose confidential information when the patient consents to it or when there is a real and imminent threat of harm to the patient or to others and this threat can be only removed by a breach of confidentiality.
- A physician shall give emergency care as a humanitarian duty unless he/she is assured that others are willing and able to give such care.
- A physician shall in situations when he/she is acting for a third party, ensure that the patient has full knowledge of that situation.
- A physician shall not enter into a sexual relationship with his/her current patient or into any other abusive or exploitative relationship.

Duties of Physicians to Colleagues

- A physician shall behave towards colleagues as he/she would have them behave towards him/her.
- A physician shall NOT undermine the patient-physician relationship of colleagues in order to attract patients.
- A physician shall when medically necessary, communicate with colleagues who are involved in the care of the same patient. This communication should respect patient confidentiality and be confined to necessary information.

Medical Errors

It is the responsibility of the acupuncturist to be truthful with the patient when a medical error has occurred. Being accountable for a mistake, offering to correct errors or referring to a medical provider to correct errors, and authentically expressing concern to the patient maintains the integrity of the health provider to patient relationship.

Equipment

Providing for the safety of patients is an important ethical consideration. The NCCAOM Code of Ethics notes, “Treat within my lawful scope of my practice and training and only if I am able to safely, competently and effectively do so.” Select and maintain only high grade medical equipment for your clinical practice. The following are some basic considerations in an acupuncture clinic:

Treatment Tables

- Patients with disabilities may have difficulty getting on and off of a treatment table. Proper guidance and assistance may be necessary to provide safety and comfort.
- A heavy, well-made step stool may help patients get on and off of a treatment table. Inexpensive plastic step stools may not suffice. Heavier metal step stools tend to provide more stability and are available at medical supply companies. Medical grade step stools often have a rubberized grip pad to prevent slippage.
- Some patients must be carefully positioned on the treatment table, or propped into a stable position with pillows, to ensure that they will not fall off of the treatment table. Wider treatment tables offer more security and leeway for larger patients.
- The seated position for patients presents challenges. Practitioners may have a patient sit on a treatment table or on a chair while applying acupuncture.

For example, applying acupoint LI10 (Shousanli) on the forearm for the treatment of rotator cuff pain and motor impairment often involves active movements by the patient. While the acupuncturist applies manual contralateral stimulation of the acupoint, the patient is requested to move the affected arm to activate the channels in the rotator cuff region. The concern is that the patient may experience temporary loss of consciousness while in the seated position.

Remember to continually communicate with the patient during the procedure to prevent loss of consciousness. Ask if the patient feels clammy, sweaty, faint, dizzy, or nauseous. Look for signs of abnormal sweating or pallor. Remove the needles immediately and have the patient rest in a supine position if these conditions occur.

Prior to applying the seated treatment with manual stimulation combined with active patient movements, make sure the patient has slept the night before, has eaten, is not nervous, and is not fatigued. These steps screen for light headedness and prevent loss of consciousness and potential harm to the patient.

If the patient becomes faint, remove the needles immediately and assist the patient to a supine position. Offer the patient warm water. It is beneficial to raise the body above the level of the head; consider putting a pillow under the legs to elevate them. This will help blood flow to the brain. These attentive steps are intentional ethical acts to protect the patient.

Infrared Lamps and Burns

Malpractice insurance companies note that many law suits against acupuncturists are preventable. Uniformly, insurance carriers voice a concern regarding burns. Heat lamps and moxibustion are the primary concern.

The Medical Insurance Exchange of California (MIEC) reports that 17% of all claims against acupuncturists in 2005 – 2014 were for patients sustaining a burn injury. Out of the 17% total, 11% of burns were caused by infrared heat lamps, 4% due to indirect moxibustion, and 2% were due to hot stone massage.⁹ The MIEC recommends that placement of a heat lamp should be such that, in case of a malfunction, the lamp will not come into contact with the patient.

If a burn occurs, it is legally important that the patient had been aware of this possibility. This goes to the issue of informed consent. The American Acupuncture Council includes the following informed consent item in their recommended *Acupuncture Informed Consent to Treat* form:

I have been informed that acupuncture is a generally safe method of treatment, but that it may have some side effects, including bruising, numbness or tingling near the needling sites that may last a few days, and dizziness or fainting. **Burns and/or scarring are a potential risk of moxibustion and cupping, or when treatment involves the use of heat lamps.** Bruising is a common side effect of cupping.¹⁰

Direct moxa is expressly forbidden by law in some US states, while indirect moxa is allowed in most states and countries. Check your scope of practice regulations or confer with your state acupuncture board to find out what types of moxibustion are legal in your state. Indirect moxa may leave scars or welts. Practitioners are advised to ensure that no scarring or welts occur to avoid legal ramifications. Although scarring moxibustion is historically used, in today's legal environment, it is either inappropriate or illegal in most regions. Heat shields are important at the base of a needle when moxa is attached to the handle.

TDP (Teding Diancibo Pu) heat lamps and other types of infrared lamps must be used with care. One of the most important concerns is awareness of patients with numbness or any impairment of the sensory capacity for

9. MIEC, Point of Exchange, July 2015. Burn injury claims resulting from indirect moxibustion and TDP lamps.

10. AAC-FED, A2004. OPTIONAL Arbitration Information Packet. American Acupuncture Council.

heat. For example, diabetics often have decreased sensitivity in their extremities. These patients may be unable to tell the acupuncturist that the lamp is too hot because they are unable to feel the area receiving the heat.

Consider some of the following issues with heat lamps:

- **unstable base or stand**
- **overextended heat lamp adjustment arm**
- **inadequate screen (protective guard) between the heating element or bulb and the patient**
- **a power cord that may be tripped over**
- **heat source too close to patient's skin**

The Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) notes “It is imperative that a TDP lamp be monitored carefully when in use and that unexpected movements of the heating element be prevented. Some lamps may slowly lower during the course of a treatment, resulting in a burn over the area being warmed. Mechanical failure of the heat lamp itself may occur during treatment allowing the arm and heating element to rapidly descend near or onto the patient’s skin.”¹¹

One of the best legal protections in the case of an accident or injury in an acupuncturist clinic is the acupuncturist’s good relations with the patient. Insurance companies note that, even in the case of severe burns, cases have a higher tendency to settle out of court when there is a good relationship between the acupuncturist and the patient.

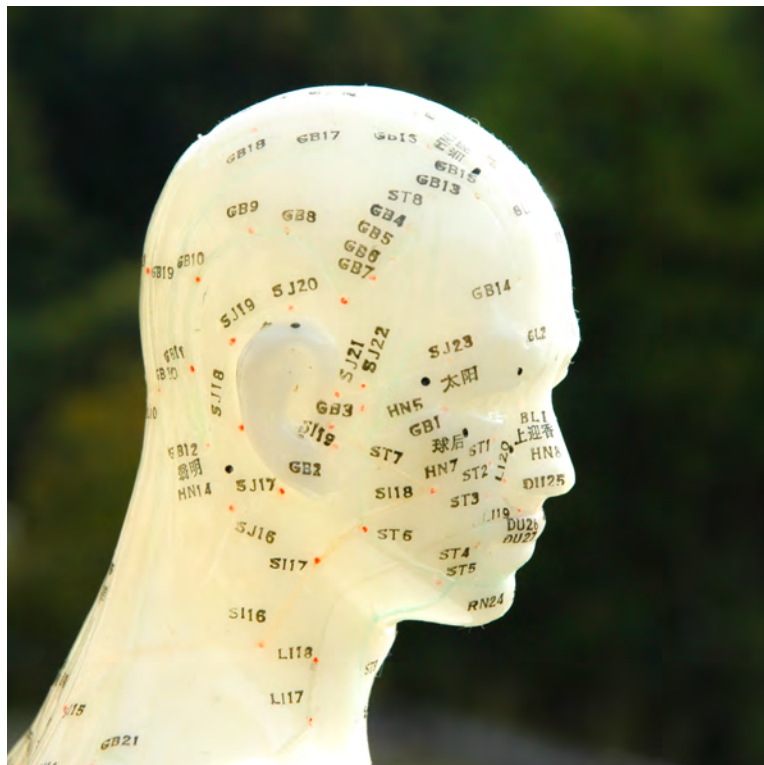
If an accident or injury occurs, take appropriate steps to provide care to the patient to help remedy the medical issue. The Council of Colleges of Acupuncture and Oriental Medicine recommends, “If the burn is a very small, first-degree burn, provide treatment such as cool water, sterile gauze

11. Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), 2014.

and over-the-counter burn creams. If the burn is severe, or there is concern with infection, refer the patient to a physician.”¹²

Steps to take:

- for minor burns: apply a burn cream, cool water, or other appropriate treatments to alleviate inflammation and skin damage
- refer to an appropriate outside medical source when needed
- express genuine concern and care for the patient’s health and well-being
- document the issue
- document follow-ups with patient on their health status
- advise the patient on steps they may take to relieve a burn



12. Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), 2014.

Sharing Medical Information

Compassionate acknowledgement that an illness may be terminal is consistent with Chinese medicine history.¹³ In the book Medical Ethics in China: A Transcultural Interpretation, Jing-Bao Nie writes:

Besides Yi He and Yi Huan, other founding figures of Chinese medicine include Qin Yueren (fl. c. 500 BCE, popularly known as Bian Que, dubbed the “father of medicine” by some historians), Zhang Zhongjing (c. second century AD, renowned as the “sage of medicine”) and Hua Tuo (c. second century AD known as the “father of surgery”). Without exception, their practice was to tell their patients the truth when their illness was diagnosed as terminal. There are no records of any of these great Chinese physicians ever recommending that a doctor should conceal such information from his patients. Zhongjian once predicted that a patient would die in twenty years’ time, and prescribed medicine to prevent it. However, despite the doctor’s warning, the patient refused to take the prescribed medication and died exactly as Zhang had foretold.

In the case of a non-compliant patient, an attempt to work with the patient, care givers, or family to encourage compliance with health care advice for the safety of the patient is an ethical choice to advocate for the patient even when they may resist beneficial care. There are other historical examples wherein the attending physician communicated the news of a terminal prognosis truthfully, but may have told the care givers and the patient directly:

In another case, Cang Gong’s language was evasive. He first told his patient: “You are suffering from such a grave illness that I should not speak about it (Jun zi bing’e, buke yan ye).” He then disclosed some further medical information and told the patient’s brother that he had just eight days to live. In another case, although the truth about a terminal illness was delivered in straightforward terms, it is unclear whether this information was given to the patient or to a third party. In two other cases where the patients were

13. Nie, Jing-Bao. *Medical ethics in China: A transcultural interpretation*. Routledge, 2013.

respectively a maid and male servant, it was their masters, not the patients themselves, who were directly informed.¹⁴

Care must be given when sharing medical information. Privacy laws prevent sharing medical information to third parties without consent of the patient. Therefore, some of Cang Gong's actions are not legally permissible in today's environment without prior consent. However, sharing important medical information is legal for the purposes of treatment. Under the Privacy Rule, the HHS (U.S. Department of Health and Human Services) notes that health care providers may share patient information for treatment purposes:

Does the HIPAA (Health Insurance Portability and Accountability Act of 1996) Privacy Rule permit doctors, nurses, and other health care providers to share patient health information for treatment purposes without the patient's authorization?

Answer:

Yes. The Privacy Rule allows those doctors, nurses, hospitals, laboratory technicians, and other health care providers that are covered entities to use or disclose protected health information, such as X-rays, laboratory and pathology reports, diagnoses, and other medical information for treatment purposes without the patient's authorization. This includes sharing the information to consult with other providers, including providers who are not covered entities, to treat a different patient, or to refer the patient.

This statement on sharing patient health information is taken from the Code of Federal Regulations, Title 45, Public Welfare, 164.506 (45 CFR 164.506). The following is the federal code:

Uses and disclosures to carry out treatment, payment, or health care operations.

(a) Standard: Permitted uses and disclosures. Except with respect to uses or disclosures that require an authorization under § 164.508(a)(2) and (3), a

14. Nie, Jing-Bao. Medical ethics in China: A transcultural interpretation. Routledge, 2013, pg 105.

covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

(b) Standard: Consent for uses and disclosures permitted. (1) A covered entity may obtain consent of the individual to use or disclose protected health information to carry out treatment, payment, or health care operations.

(2) Consent, under paragraph (b) of this section, shall not be effective to permit a use or disclosure of protected health information when an authorization, under § 164.508, is required or when another condition must be met for such use or disclosure to be permissible under this subpart.

(c) Implementation specifications: Treatment, payment, or health care operations.

(1) A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.

(2) A covered entity may disclose protected health information for treatment activities of a health care provider.

(3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.

(4) A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is:

(i) For a purpose listed in paragraph (1) or (2) of the definition of health care operations; or

(ii) For the purpose of health care fraud and abuse detection or compliance.

(5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to another covered entity that participates in the organized health care

arrangement for any health care operations activities of the organized health care arrangement.

This code allows licensed acupuncturists to work with other licensed health care providers and share patient information for purposes of treatment. The same applies to working with specialists. The HHS notes:

Does a physician need a patient's written authorization to send a copy of the patient's medical record to a specialist or other health care provider who will treat the patient?

Answer:

No. The HIPAA Privacy Rule permits a health care provider to disclose protected health information about an individual, without the individual's authorization, to another health care provider for that provider's treatment of the individual.

Can a physician's office fax patient medical information to another physician's office?

Answer:

The HIPAA Privacy Rule permits physicians to disclose protected health information to another health care provider for treatment purposes. This can be done by fax or by other means. Covered entities must have in place reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information that is disclosed using a fax machine. Examples of measures that could be reasonable and appropriate in such a situation include the sender confirming that the fax number to be used is in fact the correct one for the other physician's office, and placing the fax machine in a secure location to prevent unauthorized access to the information.

Scope of Practice

The NCCAOM code of ethics states, “Treat within my lawful scope of my practice and training and only if I am able to safely, competently and effectively do so.”

Legal and ethical considerations may conflict. Legally, the scope of practice and state laws may prevent an acupuncturist from using procedures and implements consistent with traditional implementation of acupuncture and herbal medicine. Herbs may not be lawful in some areas; certain types of acupuncture needles or manual acupuncture techniques may be illegal in other areas. The acupuncturist is challenged to work within the legally defined scope of practice.

There is also a gray area. The scope of practice or regional laws may not prohibit a treatment modality or technique but also do not explicitly allow for its use. Magnet therapy, laser acupuncture, bleeding techniques, etc... may not be prohibited or explicitly allowed. As result, acupuncturists are advised to work strictly within their scope of practice and check with their state boards concerning undefined procedures and techniques.

At all times, stay within the boundaries of the law and the scope of practice. That is the legal standard. The ethical standard is to contribute towards changing the law such that appropriate modalities and techniques are included in the scope of practice. The American Medical Association notes:

In general, when physicians believe a law is unjust, they should work to change the law.¹⁵

At the Healthcare Medicine Institute, our team of translators and writers provides a free news service that covers up-to-date acupuncture and herbal medicine research. This helps to create public awareness and has contributed to changes in legislation. To access this service, visit the news section of healthcmi.com to see our latest publications. Contributions to

¹⁵ <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion102.page>. 1-1-16.

research and political outreach are two methods to ensure access to appropriate traditional medicine including acupuncture and herbs.

Examples of State Scope of Practice Rules

The following is a comparison of Florida and California to help get a general understanding of scope of practice on a national scale.

The following is the rule for the State of Florida:

457.102 Definitions.—As used in this chapter:

- (1) “Acupuncture” means a form of primary health care, based on traditional Chinese medical concepts and modern oriental medical techniques, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by board rule.
- (2) “Acupuncturist” means any person licensed as provided in this chapter to practice acupuncture as a primary health care provider.
- (3) “Board” means the Board of Acupuncture.
- (4) “License” means the document of authorization issued by the department for a person to engage in the practice of acupuncture.
- (5) “Department” means the Department of Health.
- (6) “Oriental medicine” means the use of acupuncture, electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.
- (7) “Prescriptive rights” means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

The following are from the State of California laws and regulations:

4927. As used in this chapter, unless the context otherwise requires:

- (a) "Board" means the Acupuncture "Board".

(b) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

4937. An acupuncturist's license authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

(b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing, or prescribing the use of any modality listed in this subdivision.

(c) For purposes of this section, a "magnet" means a mineral or metal that produces a magnetic field without the application of an electric current.

(d) For purposes of this section, "plant, animal, and mineral products" means naturally occurring substances of plant, animal, or mineral origin, except that it does not include synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(e) For purposes of this section, "dietary supplement" has the same meaning as defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary supplement does not include controlled substances or dangerous drugs as defined in Section 4021 or 4022, or a controlled substance listed in Chapter 2

(commencing with Section 11053) of Division 10 of the Health and Safety Code.

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

- (a) Is at least 18 years of age.

This last part is an interesting contrast. In California, an acupuncturist must be at least 18 years of age but in Florida the minimum age is 21. The following is the State of Florida rule:

57.105 Licensure qualifications and fees.—

(1) It is unlawful for any person to practice acupuncture in this state unless such person has been licensed by the board, is in a board-approved course of study, or is otherwise exempted by this chapter.

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

- (a) Is 21 years of age or older, has good moral character, and has the ability to communicate in English, which is demonstrated by having passed the national written examination in English or, if such examination was passed in a foreign language, by also having passed a nationally recognized English proficiency examination;

This last section (57.105, 2, a) represents another emerging trend. English is slowly becoming a required language in the USA on a national scale. There has been a phasing out of Korean, Japanese and Chinese language acupuncture examinations for licensure nationally. This is controversial in that expert practitioners from China and other Asian countries may not be able to obtain acupuncture licenses in the USA without significant study of the English language. The proponents of this requirement suggest that this will reduce medical errors. In Florida, the English language requirement is written into law.

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