

POLITICS / GOVERNMENT / LEGISLATION

The Battle For Licensure Acts & Regulation

SIX STATES REMAIN IN LICENSURE LIMBO, NATIONAL ORGANIZATIONS STEP UP TO HELP

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At the start of every new year, there is the opportunity to begin anew. For acupuncturists residing in six different states, 2014 is a new opportunity to continue the fight toward regulation and licensure.

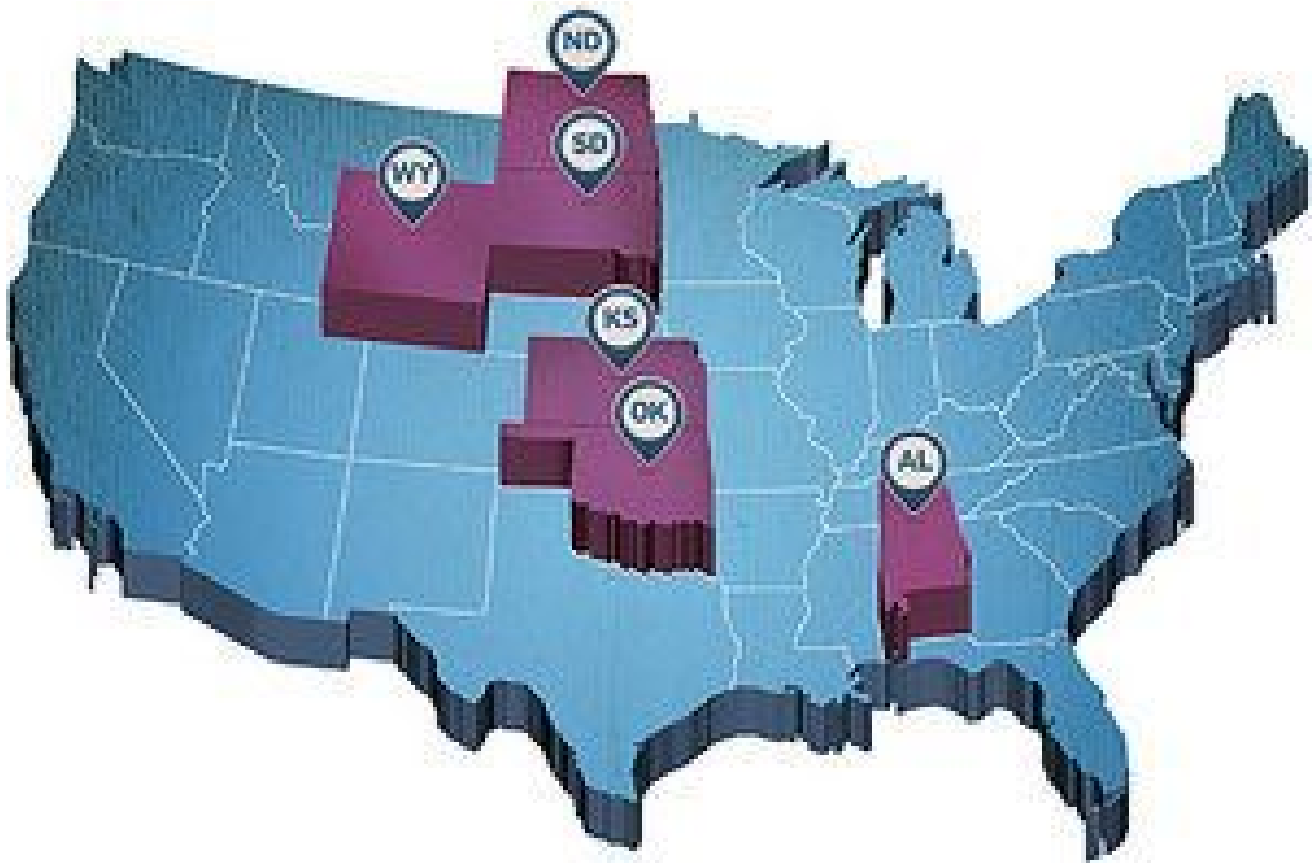
Six states - Alabama, Kansas, North Dakota, Oklahoma, South Dakota and Wyoming remain in the spotlight for the challenges they face in establishing the profession with licensure and regulation. The lack of licensure in these states has created a sense of urgency among national organizations and advocates who believe the profession is in need of a unified competency model for educational and regulatory standards.

Today, acupuncturists are recognized to practice in 44 states as well as D.C. Without these six states on board, many believe the obstacles to move the profession forward will continue to mount.

"Acupuncture licensure is needed in all states. We need both financial support and volunteer assistance from the community to ensure licensure is achieved in all states. Achieving licensure in all states is a necessary next step in ensuring acupuncture is recognized at the federal level," said Michael J. Jabbour, president of AAAOM.

Throughout the past year, achieving these goals did not prove to be an easy task for some of the states. Each is dealing with its own set of issues that deter it from moving the profession ahead and each has its unique set of drawbacks that require time, effort and persistence.

An Uphill Battle



In the past year, NCCAOM have become proactive in raising awareness of licensure issues in an effort to protect against the unsafe practice of acupuncture. By requiring standards that practitioners have to meet such as educational requirements, training requirements and assessments to demonstrate knowledge, skills and abilities the organizations feel the profession will be safeguarded. Without licensure, unqualified individuals can practice and/or qualified practitioners can be prevented from practicing.

According to NCCAOM, licensure will also protect consumers and allow those that practice acupuncture and Oriental medicine in these states to demonstrate they have met certain qualifications. It is also important for the profession to have every state on board with a practice act since both of these national organizations continue to work on receiving federal recognition for the profession.

Mina Larson, deputy director of NCCAOM said her organization has been working to supply state associations and other practitioners information on training and education so that they can showcase the quality and quantity of training to regulatory boards.

"NCCAOM examination and certification process is an important step and prerequisite for almost all states that license acupuncture and we partner with those states to ensure public safety through our certification and examination process," said Larson. "In states that do not have a practice act for acupuncture, we provide information such as letters, fact sheets and testimonies that demonstrate the importance of creating licensure so that those who are not educated and trained properly are prevented from practicing acupuncture."

In the past, NCCAOM has worked closely with practitioners in states such as Kentucky, Delaware, and Mississippi to enact legislation that later became a practice act. Larson said the goal now is to do the same for the six states that remain in limbo.

The goal is to first tackle some surface problems.

"In some of the states, there is still a lot of power from other healthcare practitioners to have acupuncture under the control of MDs and chiropractors and some states still have an antiquated legislature or boards that are apprehensive of acupuncture services, despite the evidence that is presented to them showing the efficacy of acupuncture and the quality of training and education that are required of NCCAOM diplomats," said Larson.

NCCAOM are hoping to help acupuncturists in these six states create legislation that includes a practice act that is customized for their state and the practitioners that practice there.

Larson said they are hoping acupuncturists in these states can look at other similar healthcare practice acts, work with other medical healthcare associations and groups, and find the right legislative sponsor who has key legislative contacts in both parties, as key elements in ensuring that a practice act is implemented.

Here is a look at where each of the six states currently stands.

Finding the way in Wyoming

As of today, acupuncture in Wyoming is not regulated. There are 25 practicing acupuncturists in the state. The last attempt for licensure was made in 2012, when an acupuncture practice act was drafted and introduced by Robert Peterman, an acupuncturist in Cody, WY with input from the Wyoming Acupuncture and Oriental Medicine (WYAOMA).

According to Tony Campbell, WYAOMA public relations volunteer, the bill was put before the state and was shot down by some chiropractors, physical therapists and ultimately the medical board.

"Their reason was that they did not want acupuncture to be the exclusive right and turf of acupuncturists. They wanted PTs and DCs to be able to practice it without any training (or very minimal)," said Campbell.

At this time, the WYAOMA has agreed to introduce the practice act at the next house session.

Michael Jabbour, president of AAAOM said Wyoming also faces a number of other challenges such as the state being soft on legislation, and the current bill requiring 300 hours of training in a state where many acupuncturists and chiropractors are working with less than these minimum hours. Jabbour also noted there may not be a large enough group of supporters for a bill.

Campbell added that the lack of support is mainly due to many acupuncturists in the area not being on same page when it comes to licensure and regulation.

"The feeling of most acupuncturists (especially concentrated in the Jackson area) is that we don't want regulation since it will not get us anywhere. It will not create anymore job opportunities or increased job security for an acupuncturist if licensing laws are passed. It may actually hinder the struggling profession by creating more government, more legislation/regulation and red tape. The whole point of

being in Wyoming is to get away from big government and the micromanagement of our lives," said Campbell.

Keeping Up With Kansas & Oklahoma

In Kansas, currently MD's, DO's, podiatrists are all able to practice acupuncture. No additional training is required by law and physician's assistants may practice acupuncture if authorized by the physician. Acupuncturists are allowed to practice under the supervision of, by order of or referral by a MD, DO, or DC. There are approximately 38 acupuncturists in the state.

In 2011, Senate Bill 195 was introduced and opposed by the Kansas Medical Society due to unclear and broad scope of practice language.

According to AAAOM, the Acupuncture Association of Kansas filed the statutory process (credentialing review) in 2013 as part of the process required by the Health Occupations Credentialing Department within the Kansas Department of Health and Environment. This screening is a mechanism for the Kansas Legislature with regard to health care professionals licensing, certification and credentialing. However, the application was not recommended to move forward to legislation by the Secretary of the Technical Review Committee; thus, legislation has not been introduced this year as a result. This process, is the legal review necessary to determine if the public good is best served by individually recognizing the practice of acupuncture and Oriental medicine by those not licensed to practice medicine and surgery or chiropractic.

There is no standard that specifies the course of study or the number of hours in education must be completed in order to be professionally competent in acupuncture and there is no additional certification required. Jabbar said the current challenge in this state is that the technical and legal review processes required are extensive. Successful completion of that process and the introduction of a licensure act are the top priorities for the state at this time, he noted.

Over in Oklahoma, there are about 29 acupuncturists working in the state at this time.

According to Mark Hovis, president of the Oklahoma Acupuncture Association (OKAA), little effort has been made to get licensure for acupuncture in Oklahoma.

Hovis said several years ago there were a couple of attempts to limit the practice of acupuncture to practitioners that are exclusively NCCAOM certified or certification would be granted to students of privately owned local acupuncture schools. Those efforts were rebuffed at the Oklahoma House of Representatives on the grounds that the proposed laws would exclude many of the well established practicing acupuncturists.

"The main obstacles affecting acupuncturists being able to get licensure in Oklahoma is simply that the state does not require licensure," said Hovis. "With this issue of state licensure, some acupuncturists wish to keep the status quo, some want an exclusive NCCAOM guided state regulated acupuncture trade and some wish to have a two-tier system that allows NCCAOM certified and non-NCCAOM certified practitioners to practice with a state licensure law that requires proof of adequate schooling and with the requirement of so many CEUs for each year of practice."

Currently the OKAA has a certification process that grants OKAA certification to those acupuncturists that prove to have adequate training. This certification will not be needed to practice, but will offer a

form of credentialing to acupuncturists that is accessible to the public.

"I am in favor of the two-tier licensure program," said Hovis.

Frustrations in Alabama

In the state of Alabama, as of now only a medical doctor, osteopath, chiropractor or physician's assistant may practice acupuncture. There are also no specific training requirements to practice acupuncture. There are about 30 chiropractors practicing acupuncture in Alabama and 16 acupuncturists statewide, according to NCCAOM.

There have been legislative attempts as recent as 2012 (also in 1989/90) to introduce bills that would regulate the practice of acupuncture in the state.

According to Sarita Elizabeth Cox, ND, LAc. of Tuscaloosa, Ala. in 2012 the bills drafted by acupuncturists did not make it out of the health committee to be voted into action.

In addition, Cox noted that by utilizing rules and regulations of their own professional boards in Alabama, not via legislative mandate, Medical Doctors (MD), Osteopathic Doctors (DO), Doctors of Chiropractic Medicine (DC) and Physical Therapists (PT) have determined that practicing acupuncture is within their scope of practice in Alabama.

"MDs and DOs have determined that they can practice acupuncture with zero hours of training, while DCs have determined that they can practice acupuncture with 100 hours of training with internally credentialed coursework and exam," said Cox. "Physical Therapists (PTs) have determined that acupuncture and "dry needling" is within their scope of practice in Alabama. According to their board minutes (October 2007) no specific training is required; typically PTs undertake a "dry needling" course with 46 hours of instruction."

National competency training and board certifications routes are offered through professional organizations such as the American Board of Medical Acupuncture and the American Board of Chiropractic Acupuncture, which require 300 hours of approved training and examination.

Some of the most recent efforts by Association for the Advancement of Oriental Medicine in Alabama was SB452, which was assigned to a Senate study committee composed of three senators from the Health Committee during interim. HB541, a bill to regulate the practice of acupuncture in Alabama in the House of Representatives was introduced during the 2013 legislative session did not make it out of committee during the 2013 session.

The bill is currently being amended and should be introduced again in January.

"We hope to re-introduce the Acupuncture and Oriental Medicine bill in both houses in the next legislative session," said Cox.

Cox noted that some of the main obstacles affecting acupuncturists being able to get licensure in the state of Alabama comes down to four major issues:

1. Awareness concerning the educational, state and national standards for acupuncture and Oriental Medicine as well as the historical context of Oriental Medicine as health care in the U.S. among the public in general and the conservative political and conventional healthcare

environment in particular.

2. Involvement from the L.Ac. community, state and national.
3. Professional lobbying power that is required to bring legislative issues to the forefront.
4. Scope of practice issues from the allied (licensed) healthcare community.

"We have a small, but growing number of LAcS that are joining our state association or at least joining the conversations about legislation. Ironically, the most active advocates for licensure besides myself are an MD that practices acupuncture one day a week at our local VA, and a DC/L.Ac. that was associated with the earliest licensure efforts in Maryland. Several out of state L.AcS continue to be very supportive of our efforts," said Cox.

Although licensure in Alabama has a long way to go, Cox has high hopes.

"It is our hope that the legal environment will soon change so that health care practitioners that are fully trained in Oriental Medicine practices," she said.

Filling a need in north Dakota

In North Dakota, there are 12 known acupuncturists that have Master's degrees & have taken the national exam. Most, if not all, are licensed in another state. Four have other integrative licenses as well (2 ND, 2 DC). There are also an unknown number of MD's & DC's that do acupuncture with significantly less training, as per their licensing scope, according to NCCAOM.

According to Lezlie Link, North Dakota chairperson for the North Dakota Board of Integrative Healthcare, there have been three unsuccessful attempts to pass a licensing law in North Dakota prior to 2011. The North Dakota legislature meets every two years and only one acupuncturist has been actively involved in these licensing attempts.

Link said at the time, there were only 1-4 eligible acupuncturists within the state who did not form an official association.

"The major concern of the legislature related to establishing a separate licensing board for so few licensees. This has been an obstacle for all new health care professions in North Dakota," said Link.

Among the major legislatures concerns were: the cost of setting up & maintaining a board (required to be financially self supporting), plus concerns about the ability to objectively self regulate such a small group.

Link said the regulatory board issue was resolved by the 2011 legislature by forming an incubator board for new health care professions: the North Dakota Board of Integrative Health Care she now leads. However, acupuncturists have not yet organized and requested licensure under this board via the legislature, she noted.

"The majority of potential licensees support pursuing licensure in North Dakota, but some incorrectly believe that national licensing will become an option, and so have made no effort to initiate a licensing bill. In North Dakota, licensing of health care workers is a state's rights issue, not federal," she said.

Link added that although the state acupuncture association has not been formed yet, discussions are underway.

"Despite supporting licensing, lack of time to actively participate in a licensing effort is frequently cited by individual acupuncturists," Link said. "The board would like to see holistic, integrative health care professions, such as Masters degree level/nationally tested acupuncturists pursue licensing under the board. Licensing benefits both patients and practitioners. We hope acupuncturists will pursue licensing in the next legislative session, scheduled for January 2015."

South Dakota

Colleen Ragan, DiplAc, LAc, president of the South Dakota Acupuncture and Oriental Medicine Association said acupuncturists in the state made a move toward licensure in 2010 when they put a bill before the legislature that had 30 supporters and sponsors, but it was later defeated in the final hours of that legislative session.

"We were all politically naive and didn't understand the process or the time line of submitting a bill," said Ragan. "The bill was defeated in part I believe, because too many law makers still have no understanding of our medicine and what we do; because our numbers are so small in the state; and because some opinion was we should be under another board's jurisdiction (such as medical and osteo)."

Today, there are about 10 acupuncturists in the state of South Dakota, according to NCCAOM. Ragan said there have been attempts to pursue a relationship with the Medical/Osteo board and the local chiropractic board that could assume responsibility for the group, but have had no success.

"In light of the very few of us that were working on passing a bill, and the extreme economic down turn we all went through in this country, we had to put the effort to rest and maintain our businesses. We lost a few key players who moved to other states and greener more legal pastures and the work fell to a couple of us. We went into personal/business survival mode," said Ragan.

Today, one of the most significant obstacles to regulation in the state, according to Ragan is money. The cost of setting up and maintaining a board could not be paid for by the 10 acupuncturists with NCCAOM certification.

"Money is an obstacle to working the legislators - we cannot pay a lobbyist, but we are investigating ways to raise money for these two obstacles," said Ragan. "Even if we gained licensure, if the cost were divided between the existing practitioners, we would have to move elsewhere as our fees would be exorbitant."

Ragan noted that her group has begun organizing to see where the remaining practitioners stand on pursuing legislation. The four "west river" acupuncturists (SD divides at the Missouri River) have expressed interest in moving forward to begin an education campaign and fundraising.

"We are beginning again by identifying who our resources are, checking out what the national groups can do to help us, and developing a time line that will help us succeed in passing a bill SD acupuncturists can live with and thrive under," Ragan said.

Plans are to put a bill forth in the 2015 legislative session.

What You Can Do

Despite the different obstacles in each state, there are opportunities to get involved.

In order to pass any legislation, whether state or federal participation is key.

"Practitioners in other states can be a huge support by providing these states with information on their practice act, any research that will support licensure laws in that state (efficacy, economic benefits, etc.) demonstrating that there has been benefit for consumer in their state with licensing act, and patient testimonies," said Larson.

You can start by looking up the name of the state representative, state senate and federal congressman on [url=http://www.house.gov]http://www.house.gov[/url], www.senate.gov and www.assembly.ca.gov.

"By the end of 2014, we would like to minimally see viable bills with bipartisan support and forward movement in each of those states. There are very few acupuncturists currently living in those states, support of the national community is needed to help move them forward." Jabbour said.

For more information, www.nccaom.org.

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