



HENRY McMASTER  
ATTORNEY GENERAL

September 15, 2008

The Honorable Vincent A. Sheheen  
Senator, District No. 27  
P. O. Drawer 10  
Camden, South Carolina 29020

Dear Representative Sheheen:

In a letter to this office you questioned whether a licensed medical doctor who has been trained in acupuncture under AMA credits and who has practice acupuncture for many years is now prohibited from performing such procedure because of provisions of S.C. Code Ann. §§40-47-700 et seq., the "Acupuncture Act of South Carolina."

Pursuant to Section 40-47-705(1), acupuncture is defined as

...a form of health care developed from traditional and modern oriental concepts for health care that employs oriental medical techniques, treatment, and adjunctive therapies for the promotion, maintenance, and restoration of health and the prevention of disease. The practice of acupuncture does not include:

- (a) osteopathic medicine and osteopathic manipulative treatment;
- (b) "chiropractic" or "chiropractic practice" as defined in Section 40-9-10; or
- (c) "physical therapy" as defined in Section 40-45-20 or therapies allowed as part of the practice of physical therapy.

Included in the provisions of Section 40-47-720(A) which deals with the licensing of individuals to practice acupuncture are the requirements that

[e]ach applicant for a license to practice acupuncture shall:

- (1) submit a completed application as prescribed by the board<sup>1</sup>;
- (2) submit fees as provided for in Section 40-47-800

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<sup>1</sup>The term "board" is defined by Section 40-47-705(3) as the State Board of Medical Examiners.

- (3) hold an active certification in acupuncture by the National Commission for the Certification of Acupuncturists and Oriental Medicine;
- (4) be of good moral character;
- (5) not have pled guilty or nolo contendere to or been convicted of a felony or crime of moral turpitude.

As to any exceptions to the licensing requirements set forth above, Section 40-47-725 states that

(A)(1) An acupuncturist who is currently approved by the board to practice acupuncture in this State, who has remained in good standing, and who has successfully completed a nationally recognized clean needle technique course approved by the board must receive initial licensure under this article after submitting:

- (a) a completed application as prescribed by the board;
- (b) fees as provided for in Section 40-47-800.

(2) However, a license issued pursuant to subsection (A)(1) is only valid for two years. Thereafter for license renewal, the individual must hold an active certification from the National Commission for the Certification of Acupuncture and Oriental Medicine and satisfy the licensure and renewal requirements prescribed in this article.

(B) An individual who has continuously practiced acupuncture in this State since 1980, who has remained in good standing, must be issued a license and renewal licenses without meeting the requirements of this chapter after submitting:

- (1) a completed application as prescribed by the board; and
- (2) fees as provided for in Section 40-47-800.

Consistent with the above, an individual, including a licensed medical doctor, must be licensed consistent with the requirements of Section 40-47-720(A), which includes the requirement of active certification by the National Commission for the Certification of Acupuncturists and Oriental Medicine, in order to practice acupuncture unless that individual meets the requirements of Section 40-47-725 which carves out certain exceptions for certain acupuncture practitioners. I would note further that as set forth, there is an exception in Section 40-47-705(1) for “osteopathic medicine and osteopathic manipulative treatment”, “chiropractic practice” and “physical therapy”. Each situation would have to be examined on a case by case basis as to whether a particular individual meets the requirements for licensure set forth by Section 40-47-720 or is otherwise exempted from the requirements of being licensed as set forth by the Act.

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If there are any questions, please advise.

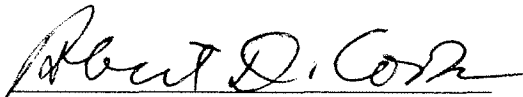
Sincerely,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General