

WSR 22-12-018

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed May 23, 2022, 9:40 a.m., effective July 1, 2022]

Effective Date of Rule: July 1, 2022.

Purpose: Chapter 246-803 WAC, Acupuncture and Eastern medicine practitioner. The department of health (department) has amended chapter 246-803 WAC to implement the following legislation:

SB 5018 (chapter 87, Laws of 2021): 1. Amending the definition of "acupuncture and Eastern medicine" to include modern acupuncture and Eastern medicine therapeutic treatments, including treatment of substance use and points and protocols for ear acupuncture;

2. Expanding the definition of point injection therapy to include injection of local anesthetics, such as lidocaine and procaine for reduction of pain during point injection therapy;

3. Allowing the use of oxygen and epinephrine for potential emergency purposes; and

4. Establishing the training and education requirements for the use of local anesthetics, oxygen, and epinephrine.

SHB 2378 (chapter 80, Laws of 2020): Changed the statutory authority for osteopathic physician assistants effective July 1, 2022, which necessitated housekeeping changes in these rules to reflect the new statutory reference.

Citation of Rules Affected by this Order: Amending WAC 246-803-010, 246-803-020, 246-803-030, 246-803-040, 246-803-240, and 246-803-300.

Statutory Authority for Adoption: RCW 18.06.160 and 18.06.230.

Other Authority: Chapter 18.06 RCW, SB 5018 (chapter 87, Laws of 2021), and SHB 2378 (chapter 80, Laws of 2020).

Adopted under notice filed as WSR 22-07-091 on March 22, 2022.

A final cost-benefit analysis is available by contacting Vicki Brown, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 6, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 6, Repealed 0.

Date Adopted: May 22, 2022.

Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-3387.3

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

- (1) "Accredited school, college or program" means:
 - (a) Accredited or has candidacy status as a United States postsecondary school, college or program; or
 - (b) Accredited by or has candidacy status with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).
- (2) "Acupuncture needles" means solid filiform instruments intended to pierce the skin in the practice of acupuncture. Acupuncture needles used on a patient must be sterile and disposable, and may only be used once.
- (3) "Acupuncturist or acupuncture and Eastern medicine practitioner" is a person licensed under chapter 18.06 RCW.
- (4) "Acupuncturist or acupuncture and Eastern medicine program" means training in acupuncture or Eastern medicine offered by an academic institution that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230. A program is an established area of study offered on a continuing basis. An acupuncture or acupuncture and Eastern medicine program may be referred to as a program in acupuncture, acupuncture and Eastern medicine, or Eastern medicine.
- (5) "Acupuncture or acupuncture and Eastern medicine school" means an accredited academic institution which has the sole purpose of offering training in acupuncture or acupuncture and Eastern medicine that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230.
- (6) "Approved school" means a school, college or program approved by the secretary of the department of health that meets the requirements of WAC 246-803-500.
- (7) "Credit" means (~~ten~~) 10 classroom contact hours on the quarter system or (~~fifteen~~) 15 classroom contact hours on the semester or trimester system.
- (8) "Department" means the department of health.
- (9) "Hypodermic needle" means a device intended to inject fluids into, or withdraw fluids from, parts of the body below the surface of the skin.
- (10) "Primary health care provider" means an individual licensed under:
 - (a) Chapter 18.36A RCW, Naturopathy;
 - (b) Chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery;
 - (c) (~~Chapter 18.57A RCW, Osteopathic physicians' assistants;~~
 - ~~(d)~~) Chapter 18.71 RCW, Physicians;
 - (~~e~~) (d) Chapter 18.71A RCW, Physician assistants; or
 - (~~f~~) (e) RCW 18.79.050, "Advanced registered nursing practice" defined—Exceptions.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-010, filed 4/8/21,

effective 5/9/21. Statutory Authority: RCW 18.06.160. WSR 20-03-112, § 246-803-010, filed 1/15/20, effective 2/15/20. Statutory Authority: Chapter 18.06 RCW and 2010 c 286. WSR 11-17-105, § 246-803-010, filed 8/22/11, effective 9/22/11.]

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-020 Advertising. (1) A person licensed under this chapter may use the title acupuncturist (Ac), licensed acupuncturist (L.Ac.), acupuncture and Eastern medicine practitioner (AEMP), EAMP, or any derivative thereof in all forms of advertising, professional literature and billing.

(2) An acupuncturist or acupuncture and Eastern medicine practitioner may not use the title "doctor," "Dr.," or "Ph.D." on any advertising or other printed material unless the nature of the degree is clearly stated.

(3) An acupuncturist or acupuncture and Eastern medicine practitioner may not represent that ~~((he or she))~~ they hold~~((s))~~ a degree from an acupuncture or acupuncture and Eastern medicine school other than that degree which ~~((appears on his or her application for licensure))~~ has been awarded to them.

(4) An acupuncturist or acupuncture and Eastern medicine practitioner shall not engage in false, deceptive, or misleading advertising including, but not limited to, the following:

(a) Advertising that misrepresents the potential of acupuncture or Eastern medicine; and

(b) Advertising of any service, technique, or procedure that is outside the scope of practice for an acupuncturist or acupuncture and Eastern medicine practitioner.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-020, filed 4/8/21, effective 5/9/21. Statutory Authority: Chapter 18.06 RCW and 2010 c 286. WSR 11-17-105, § 246-803-020, filed 8/22/11, effective 9/22/11.]

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-030 Acupuncture ~~((or))~~ and Eastern medicine. Acupuncture ~~((or))~~ and Eastern medicine is a health care service using acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders, which includes a variety of traditional and modern acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness, prevent, manage, and reduce pain, and treat substance use disorder. Acupuncture and Eastern medicine includes the following:

(1) ~~((Acupuncture, includes))~~ The use of presterilized, disposable needles, such as filiform needles, and other acupuncture needles, syringes, or lancets to directly and indirectly stimulate meridians and acupuncture points ((and meridians)) including ashi points, motor

points, trigger points, and other nonspecific points throughout the body;

(2) The use of electrical, mechanical, or magnetic devices to stimulate meridians and acupuncture points ((and meridians)) including ashi points, trigger points, and other nonspecific points throughout the body;

(3) Intramuscular needling and dry needling of trigger points and other nonspecific points throughout the body in accordance with acupuncture and Eastern medicine training;

(4) All points and protocols for ear acupuncture including auricular acupuncture, national acupuncture detoxification association protocol, battlefield acupuncture, and the Nogier system;

(5) The use of contact needling and noninsertion tools such as teishin, enshin, or zanshin;

~~((3))~~ (6) Moxibustion;

~~((4))~~ (7) Acupressure;

~~((5))~~ (8) Cupping;

~~((6))~~ (9) Dermal friction technique;

~~((7))~~ (10) Infrared;

~~((8))~~ (11) Sonopuncture;

~~((9))~~ (12) Laserpuncture;

~~((10))~~ (13) Point injection therapy:

(a) ~~((Is defined as meaning))~~ Means the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of acupuncture or Eastern medicine to stimulate meridians, acupuncture points, ashi points, motor points, trigger points, and ((meridians)) other nonspecific points throughout the body. Substances are limited to:

(i) Saline;

(ii) Sterile water;

(iii) Herbs specifically manufactured for injection by means of hypodermic needles;

(iv) Minerals specifically manufactured for injection by means of hypodermic needles;

(v) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; and

(vi) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles.

(b) Also includes injection of local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine and training requirements as defined in WAC 246-803-040.

(c) Used by an acupuncturist or acupuncture and Eastern medicine practitioner who has met the training and education requirements in RCW 18.06.230, may administer oxygen and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety.

(d) For the purposes of this ((section)) subsection, includes trigger points as a subset of acupuncture points and ashi points as recognized in the current practice of acupuncture or Eastern medicine.

~~((e))~~ (e) Does not include injection of controlled substances contained in Schedules I through V of the Uniform Controlled Substances Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

~~((11))~~ (14) Dietary advice and health education based on acupuncture or Eastern medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements.

(a) Health education is educational information directed to the patient that attempts to improve, maintain, promote and safeguard the health care of the patient. Health education consists of educating the patient on how the mind, body and spirit connect in context of imbalances, emotional patterns and tendencies as defined by and treated in acupuncture or Eastern medicine.

(b) Health education does not include mental health counseling;
 ((12)) (15) Breathing, relaxation, and Eastern exercise techniques;

((13)) (16) Qi gong;

((14)) (17) Eastern massage (~~(. Eastern massage means)~~), manual techniques having originated in East Asia involving the manipulation of the soft tissues of the body for therapeutic purposes.

(a) Eastern massage consists of:

(i) Applying fixed or movable pressure;

(ii) Passive, resistive, and assisted stretching of fascial and connective tissue;

(iii) Holding or causing movement of the body; or

(iv) Tapping, compressions or friction.

(b) Eastern massage may be performed with the use of tools common to the practice and aids of superficial heat, cold, water, lubricants, salts, minerals, liniments, poultices, and herbs.

(c) Eastern massage does not include attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force.

((15)) (18) Tui na (~~(. Tui na is)~~), a method of Eastern bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation;

(and)

((16)) (19) Superficial heat and cold therapies.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-030, filed 4/8/21, effective 5/9/21. Statutory Authority: RCW 18.06.160. WSR 20-03-112, § 246-803-030, filed 1/15/20, effective 2/15/20. Statutory Authority: RCW 18.06.230, 18.06.160, and 18.06.010. WSR 17-15-006, § 246-803-030, filed 7/5/17, effective 7/5/17. Statutory Authority: Chapter 18.06 RCW and 2010 c 286. WSR 11-17-105, § 246-803-030, filed 8/22/11, effective 9/22/11.]

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-040 Education and training for point injection therapy. Acupuncturist or acupuncture and Eastern medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy must:

(a) Consist of a minimum total of (~~(twenty-four)~~) 24 contact hours of training in the topics required in this section;

(b) Include at least eight hours of clinical practical experience; and

(c) Be administered by an instructor that meets the requirements of subsection (4) of this section.

(2) A curriculum for a point injection therapy training program must include:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Use of local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine;

(d) Emergency procedures to include the use of oxygen and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety;

~~((d))~~ (e) Point injection therapy techniques and contraindication within the acupuncture or Eastern medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 ~~((10))~~ (13) (a) (i) through (vi).

(3) ~~((Except for the training in the use of intramuscular epinephrine, the))~~ All training must be delivered in person and not through webinar or other online or distance learning method.

(4) An instructor for point injection therapy must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

(5) In addition to point injection therapy meeting the requirements of subsections (1) and (2) of this section, acupuncturists or acupuncture and Eastern medicine practitioners using point injection therapy must complete a minimum of two hours of training specifically in the use of intramuscular epinephrine, local anesthetics and oxygen.

~~((Training in the use of intramuscular epinephrine must be according to RCW 70.54.440(4)).~~

~~((b) This))~~ The training may be taken separately from the training in point injection therapy.

~~((e) Up to))~~ (b) The minimum of two hours of training ~~((in the use of intramuscular epinephrine))~~ count ~~((in))~~ towards meeting the requirement for ~~((twenty-four))~~ 24 hours of contact training as required in subsection (1) (a) of this section.

~~((d))~~ (c) An acupuncturist or acupuncture and Eastern medicine practitioner who holds an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine, local anesthetics, or oxygen does not need to meet the requirements of (a) of this subsection.

(6) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

(7) The requirements of subsections (1) through (6) of this section do not apply to an acupuncturist or acupuncture and Eastern medicine practitioner who has provided point injection therapy prior to ~~((July 1, 2017))~~ June 9, 2016. Acupuncturists or acupuncture and Eastern medicine practitioners using point injection therapy prior to ~~((July 1, 2017))~~ June 9, 2016, must have completed training and education in point injection therapy.

(8) Prior to administering local anesthetic, epinephrine, or oxygen in providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must satisfy the education and training requirements set out in this section.

(9) Any acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-040, filed 4/8/21, effective 5/9/21. Statutory Authority: RCW 18.06.230, 18.06.160, and 18.06.010. WSR 17-15-006, § 246-803-040, filed 7/5/17, effective 7/5/17.]

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-240 Examinations. (1) The examinations administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) are the official examinations for licensure as an acupuncturist or acupuncture and Eastern medicine practitioner.

(2) An applicant for licensure as an acupuncturist or acupuncture and Eastern medicine practitioner must pass the following examinations:

- (a) Foundations of Oriental medicine examination;
- (b) Acupuncture with point location examination;
- (c) Biomedicine examination; and
- (d) Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) clean needle technique course.

(3) If the applicant takes the examinations listed in subsection (2) of this section in a language other than English, they must also take and pass the internet-based test of English as a foreign language ((TOEFL) internet-based (IBT)) (ibTOEFL) examination with an overall score of not less than 89. This is done by obtaining scores on the ((TOEFL-IBT)) ibTOEFL of at least:

- (a) ((24)) Twenty-four on the writing section;
- (b) ((26)) Twenty-six on the speaking section;
- (c) ((21)) Twenty-one on the reading section; and
- (d) ((18)) Eighteen on the listening comprehension section.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-240, filed 4/8/21, effective 5/9/21. Statutory Authority: Chapter 18.06 RCW and 2010 c 286. WSR 11-17-105, § 246-803-240, filed 8/22/11, effective 9/22/11.]

AMENDATORY SECTION (Amending WSR 21-09-008, filed 4/8/21, effective 5/9/21)

WAC 246-803-300 Patient notification of qualifications and scope of practice. Acupuncturists or acupuncture and Eastern medicine practitioners in the state of Washington shall provide to each patient

prior to or at the time of the initial patient visit the qualifications and scope of practice form. The form must include:

(1) The acupuncturist's or acupuncture and Eastern medicine practitioner's education. The degree obtained and the dates and locations of the didactic and clinical training.

(2) License information, including state license number and date of licensure.

(3) A statement that the practice of acupuncture or acupuncture and Eastern medicine in the state of Washington includes the following:

(a) Acupuncture (~~(, including the)~~) and Eastern medicine means a health care service utilizing acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness, prevent, manage, and reduce pain, and treat substance use disorder;

(b) Use of presterilized, disposable needles, such as filiform needles, and other acupuncture needles, syringes, or lancets to directly and indirectly stimulate meridians and acupuncture points (~~and meridians~~) including ashi points, motor points, trigger points, and other nonspecific points throughout the body;

(~~(b)~~) (c) Use of electrical, mechanical, or magnetic devices to stimulate meridians and acupuncture points (~~and meridians~~) including ashi points, motor points, trigger points, and other nonspecific points throughout the body;

(d) Intramuscular needling and dry needling of trigger points and other nonspecific points throughout the body in accordance with acupuncture and Eastern medicine training;

(e) All points and protocols for ear acupuncture including auricular acupuncture, national acupuncture detoxification association protocol, battlefield acupuncture, and the Nogier system;

(f) Use of contact needling and noninsertion tools such as teishin, enshin, or zanshin;

(~~(e)~~) (g) Moxibustion;

(~~(d)~~) (h) Acupressure;

(~~(e)~~) (i) Cupping;

(~~(f)~~) (j) Dermal friction technique;

(~~(g)~~) (k) Infrared;

(~~(h)~~) (l) Sonopuncture;

(~~(i)~~) (m) Laserpuncture;

(~~(j)~~) (n) For the purposes of this section, point injection therapy is defined as meaning the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of acupuncture or Eastern medicine to stimulate meridians, acupuncture points, ashi points, motor points, trigger points, and (~~meridians~~) other nonspecific points throughout the body.

(i) (~~For the purposes of this section,~~) Point injection therapy includes trigger points as a subset of acupuncture points and (~~ashi~~) ashi points as recognized in the current practice of acupuncture and Eastern medicine.

(ii) Point injection therapy does not include injection of controlled substances contained in Scheduled I through V of the Uniform Controlled Substance Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

(iii) Substances that may be injected are limited to:

(A) Saline;

(B) Sterile water;

(C) Herbs specifically manufactured for injection by means of hypodermic needles;

(D) Minerals specifically manufactured for injection by means of hypodermic needles;

(E) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; ~~((and))~~

(F) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles;

(G) Local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine; and

(H) Oxygen and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety, and may only be administered by an acupuncturist or acupuncture and Eastern medicine practitioner using point injection therapy who has met the training and education requirements established pursuant to RCW 18.06.230.

~~((k))~~ (o) Dietary advice and health education based on acupuncture or Eastern medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

~~((l))~~ (p) Breathing, relaxation, and Eastern exercise techniques;

~~((m))~~ (q) Qi gong;

~~((n))~~ (r) Eastern massage and Tui na (which is a method of Eastern bodywork); and

~~((o))~~ (s) Superficial heat and cold therapies.

(4) A statement that side effects of the treatments listed ~~((above))~~ in subsection (3) of this section may include, but are not limited to, the following:

(a) Pain following treatment;

(b) Minor bruising;

(c) Infection;

(d) Needle sickness; and

(e) Broken needle.

(5) A statement that patients must inform the acupuncturist or acupuncture and Eastern medicine practitioner if they have a severe bleeding disorder or pacemaker prior to any treatment.

[Statutory Authority: RCW 18.06.160, chapter 18.06 RCW, 2019 c 308, 2020 c 229 and 2020 c 76. WSR 21-09-008, § 246-803-300, filed 4/8/21, effective 5/9/21. Statutory Authority: RCW 18.06.160. WSR 20-03-112, § 246-803-300, filed 1/15/20, effective 2/15/20. Statutory Authority: Chapter 18.06 RCW and 2010 c 286. WSR 11-17-105, § 246-803-300, filed 8/22/11, effective 9/22/11.]