

Q: May a licensed physician in Ohio practice acupuncture and is the practice in any way restricted?

A: Medical Doctors and Doctors of Osteopathic Medicine in Ohio are authorized to use "alternative medical treatment" by section 4731.227 of the Revised Code. That section of the code defines "alternative medical treatment" as "care that is complementary to or different from conventional medical care but is reasonable when the benefits and risks of the alternative medical treatment and the conventional medical care are compared." There is no explicit limitation on the use of any alternative modality by a licensed physician, though a physician must continue to operate within the standard of care as required in 4731.22(B)(6) of the Revised Code. Section 4731.227 of the Revised Code also contains explicit requirements for informed consent regarding the use of alternative modalities. A physician might also want to consider billing issues when using alternative modalities as 5101:3-13-05 of the Ohio Administrative Code lists acupuncture as a "noncovered service" for purposes of reimbursement in the Medicaid system. Finally, while chapter 4762. of the Revised Code licenses acupuncturists and limits the practice of acupuncture in Ohio to those who hold an acupuncture license from the State Medical Board, section 4762.02(B) specifically exempts licensed physicians from that requirement.

Q: Does an Ohio acupuncture license allow me to practice Chinese herbal medicine or as a Doctor of Oriental Medicine?

A: H.B. 341 of the 123rd General Assembly created licensure for the practice of acupuncture. Acupuncture is defined in Section 4762.01(A) of the Ohio Revised Code (ORC) as “a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the body.” Moxibustion is defined in paragraph (B) of that same section as “the use of an herbal heat source on one or more acupuncture points.” The scope of practice of an Ohio licensed acupuncturist is thus limited. In addition, ORC Section 4762.08 specifically limits the ways in which a licensed acupuncturist may hold himself or herself out to the public. That section states in part that “(t)he person shall not use other titles, initials, or abbreviations in conjunction with the person’s practice of acupuncture, including the title ‘doctor’.”

ORC Section 4731.34 defines the unlicensed practice of medicine. This definition includes language again related to how someone holds themselves out to the public. In addition, the section includes language describing a person who “examines or diagnoses” and who “prescribes, advises, recommends, administers, or dispenses... a drug or medicine, ...or treatment, of whatever nature.” A person needs a medical license or some other license with specific statutory authority to practice in this manner. Unlicensed practice is a felony in Ohio and grounds for discipline for a Board licensee (please see ORC Sections 4731.41 and 4731.99).

Clearly, Ohio has excluded the use of Chinese herbal medicine from the acupuncture scope of practice with the exception of the limited use of moxibustion in conjunction with acupuncture. Furthermore, Chinese herbal medicine is considered the practice of medicine in Ohio and is therefore within the scope of practice of licensed physicians.

Q: May a chiropractor refer patients for acupuncture?

A: No. Section 4762.10(A) of the Revised Code explicitly states an acupuncturist "shall perform acupuncture for a patient only if the patient has received a physician's written referral or prescription for acupuncture." Further, Ohio law makes clear in 4762.01(C) of the Revised Code that "physician" in this context means an MD, DO or DPM licensed by the Medical Board, not a Doctor of Chiropractic.