



Florida State Oriental Medical Association
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April 4, 2020

Pinellas County
Board of County Commissioners
315 Court St # 501
Clearwater, FL 33756

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Commissioner Dave Eggers, 2020 Vice Chair
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Petition from Florida State Oriental Medical Association to revise Pinellas County Board of County Commissioners' Order: Version 3: April 2, 2020: 6:45pm

Dear Honorable Madam Chair Commissioner Gerard and Honorable Commissioners:

FSOMA requests Pinellas County Board of County Commissioners' revises Order as follows:

1. **Remove Acupuncture (Section 5(a)) from list of non-essential businesses;** or
 2. Revise Section 5(a): Acupuncture
delete (unless service is under the care of a medical provider); and,
include (unless service is under the care of a licensed health care practitioner)
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Pinellas County residents and neighboring Floridians rely on essential health services furnished in the County by Licensed Acupuncturists (L.Ac.'s), who provide a variety of medically necessary, non-opioid treatments for chronic and acute pain and other urgent health complaints. Licensed Acupuncturists are primary health care providers under F.S. 457 and licensed health care practitioners under F.S. 456.

"Acupuncture" under the Pinellas County BOCC Order rightfully belongs included in essential services described in Section 6(k): Hospitals, clinics and other healthcare operations, when performed by a qualified health care provider. Licensed Acupuncturists meet the "medical provider" condition described in the Order. Acupuncturist have readied their practices and patients for remote care and delivery of essential services, including screening patients for COVID-19 symptoms, referring patients as needed, providing evaluation and management for existing physical, mental and emotional conditions, providing lifestyle support, and preparing and refilling herbal prescriptions.

Acupuncture services are medically necessary for management of osteoarthritic joint, neck and back pain, migraine/headache pain, nausea, vomiting, support for opioid detox, PTSD and a variety of other physical and mental health concerns. Temporarily suspending patients' access to non-opioid pain relief and pain management increases patients' risk of addiction relapse and fails to provide proper continuity of medically necessary and urgent care.

In 1984, Florida adopted the Acupuncture Practice Act (Chapter 457) which, granted practice autonomy to Licensed Acupuncturists as primary health care providers. Providers under this statute are subject to all regulatory requirements in Chapter 456: Health Professions and Occupations: General Provisions, must maintain malpractice insurance coverage, their clinics are inspected by local health department agencies, and their licensure is regulated by MQA, FBOH, and the Board of Acupuncture.

F.S. 457.102(1) (2) [attached] defines acupuncture/Acupuncturist and all related essential services. Providers understand and follow guidance from the CDC and Florida State/Local Health Departments and continue encouraging everyone to remain “safer-in-place.” Acupuncturists are complying with personal distancing requirements necessary to continue supporting and maintaining patients, while observing both, the spirit and letter of the law. Acupuncturists understand and respect that violations under the Governors’ Executive Order and Local Ordinances are subject to enforcement and discipline.

Licensed Acupuncturists provide essential health services for approx. 2.5% of Floridians¹, especially those seeking non-opioid, safe and effective management of pain and other urgent complaints. Temporarily closing these health care practices and businesses will begin diverting some 450,000 patients into Florida’s already stressed emergency healthcare system.

Acupuncture essential services are deployed across the full spectrum of integrated health care delivery options, including authorized care by the Veterans’ Administration, Medicaid, Workers’ Compensation, State and Federal Employee Plans, PPO’s, Employer Self-Funded Medical Plans and those self-insured.

Presently, MD, DO, DPM and qualified NP, DC, DDS, DVM’s, as well as, L.Ac’s all have scope privileges to provide essential services, including unsupervised, direct-care acupuncture. As written, the Pinellas County Order establishes barriers to care for patients, limits health care providers’ ability to practice to the full extent of their practice scope, and reduces providers’ clinical options for rendering medically necessary, urgent and appropriate care.

Effective March 23, 2020 and for the foreseeable future:

- Licensed Acupuncturists will primarily employ telehealth resources to manage patients’ access to essential services.
- Scheduled office visits are being screened and prioritized based on the guidelines provided by the Florida Governor, CDC and State/Local Health Departments.
- Non-urgent office visits are being postponed “until further notice.”
- All suspected COVID-19 cases are being referred to a higher echelon of care and reported to the local department of health.
- Any decisions to provide in-office services comply with Governor DeSantis’ 20-72 Exec Order issued March 23, 2020 and are subject to any subsequent State or local Orders.

1. Arthur Yin Fan, Steven H. Stumpf, Sarah Faggert Alemi, Amy Matecki. (2018). Distribution of licensed acupuncturists and educational institutions in the United States at the start of 2018 *Complementary Therapies in Medicine*, Issue 41. 12/2018

The Pinellas County Board of County Commissioners' determination that "acupuncture" is a conditionally non-essential service limits patients' statutorily protected access to care and restricts patients' access to medically necessary and allowable care and coverage for acupuncture related telemedicine services.

Your quick action to remove/revise the Pinellas County BOCC determination of "acupuncture" as conditionally non-essential will prevent disruption of patient care and limit confusion about available essential services in the County. Thank you for reconsidering the matter at this critical and unprecedented time.

Respectfully,

Ellen Teeter, Acupuncture Physician
Florida State Oriental Medical Assoc (FSOMA)
Executive Director

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cc: Florida Governor Ron DeSantis
Florida Agency for Healthcare Administration
Florida Board of Acupuncture, Executive Director/Counsel
Rutledge Encenia, PA

Statutory References

The 2019 Florida Statutes: Title XXIX: PUBLIC HEALTH

Chapter 381: PUBLIC HEALTH: GENERAL PROVISIONS

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(d) Access to health care.—

1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.
2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.

3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of s. 456.41.

The 2019 Florida Statutes: Title XXXII: REGULATION OF PROFESSIONS AND OCCUPATIONS

Chapter 456: HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

456.41 Complementary or alternative health care treatments.—

(1) LEGISLATIVE INTENT.—**It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain, injury, deformity, or other physical or mental condition.** It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Complementary or alternative health care treatment” means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b) “Health care practitioner” means any health care practitioner as defined in s. 456.001(4).

History.—s. 1, ch. 2001-116.

The 2019 Florida Statutes: Title XXXII: REGULATION OF PROFESSIONS AND OCCUPATIONS

Chapter 456: HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

456.001 Definitions.—As used in this chapter, the term:

(4) “Health care practitioner” means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part II or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

The 2019 Florida Statutes: Title XXXII: REGULATION OF PROFESSIONS AND OCCUPATIONS

Chapter 457: ACUPUNCTURE

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.

Note.—Former s. 468.322.
