

ASSEMBLY, No. 1694

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman DOUGLAS H. FISHER
District 3 (Salem, Cumberland and Gloucester)
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District 38 (Bergen)

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SYNOPSIS

Revises statutes regarding acupuncturists.

CURRENT VERSION OF TEXT

As reported by the Assembly Regulated Professions and Independent Authorities Committee with technical review.



1 AN ACT concerning acupuncturists, amending and supplementing
2 P.L.1983, c.7, and repealing section 14 of P.L.1983, c.7.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1983, c.7 (C.45:2C-2) is amended to read as
8 follows:

9 2. As used in this act:

10 a. "Acupuncture" means the practice of Oriental medicine based
11 on traditional Oriental medical theories, primarily the stimulation of
12 a certain point or points on or near the surface of the body by the
13 insertion of needles to prevent or modify the perception of pain or
14 to normalize physiological functions, including pain control, for
15 the treatment of **[certain]** diseases or dysfunctions of the body and
16 includes the techniques of electroacupuncture, mechanical
17 stimulation, adjunctive therapies and moxibustion.

18 b. "Board" means the Acupuncture Examining Board.

19 c. "Electroacupuncture" means the therapeutic use of weak
20 electric currents at acupuncture loci.

21 d. "Moxibustion" means the therapeutic use of thermal stimulus
22 at acupuncture loci by burning artemisia.

23 (cf: P.L.1983, c. 7, s. 2)

24

25 2. Section 3 of P.L.1983, c.7 (C.45:2C-3) is amended to read as
26 follows:

27 3. There is created in the Division of Consumer Affairs of the
28 Department of Law and Public Safety and under the State Board of
29 Medical Examiners an Acupuncture Examining Board consisting of
30 nine members, four of whom shall be acupuncturists **[certified]**
31 licensed in this State and not licensed as physicians and surgeons,
32 two members shall be physicians and surgeons licensed in this
33 State, with at least two years' experience in acupuncture; and
34 pursuant to the provisions of section 2 of P.L.1971, c. 60 (C. 45:1-
35 2.2), two members shall be public members who do not hold a
36 license **[or certificate]** as a physician and surgeon or acupuncturist
37 and one member shall be from a department in the Executive
38 Branch of the State government. The four acupuncturists initially
39 appointed to the board need not be certified in this State, but shall
40 be certified in another state and shall be deemed to be and shall
41 become certified acupuncturists in this State immediately upon
42 their appointments as members of the board. The members of the
43 board shall be residents of the State appointed by the Governor for
44 terms of three years and until the appointment and qualification of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 their successors. Of the members initially appointed, three shall
2 hold office for one year; three shall hold office for two years; and
3 three shall hold office for three years. Vacancies shall be filled for
4 the unexpired terms only.

5 The board shall organize as soon as possible after the
6 appointment of its members and shall annually elect a chairman and
7 a secretary from among its members. The board shall carry out the
8 responsibilities assigned to it under this act and such other matters
9 as the State Board of Medical Examiners may require. The board
10 shall promulgate such rules and regulations as it deems necessary to
11 effectuate the purposes of this act. All regulations adopted,
12 amended or repealed by the board shall be subject to the review and
13 approval of the State Board of Medical Examiners.

14 (cf: P.L.1984, c. 76, s. 1)

15

16 3. Section 4 of P.L.1983, c.7 (C.45:2C-4) is amended to read as
17 follows:

18 4. The board shall keep a record of its proceedings under this act
19 and a register of all applications for **【certification】** licensure
20 hereunder, which register shall include but not be limited to:

21 a. The name and residence of each applicant;

22 b. The date of the application;

23 c. The applicant's place of business;

24 d. Whether the applicant was rejected or a **【certificate】** license
25 was granted and the date of such action.

26 The board shall compile annually a list of **【certified】** licensed
27 acupuncturists authorized to practice in this State **【and approved**
28 acupuncturists authorized to supervise tutorial programs in this
29 State**】**. This list shall be available to the public.

30 (cf: P.L.1983, c.7, s.4)

31

32 4. Section 5 of P.L.1983, c.7 (C.45:2C-5) is amended to read as
33 follows:

34 5. a. The State Board of Medical Examiners, after consultation
35 with the board, shall establish standards governing the practice of
36 acupuncture, including but not limited to:

37 (1) **【Initial acupuncture treatment shall only be performed on**
38 presentation by the patient of a referral by or diagnosis from a
39 licensed physician. A diagnosis and preevaluation of the patient
40 shall be made available to the treating acupuncturist by the referring
41 or diagnosing physician. In each case an accurate and detailed
42 clinical record shall be kept by the acupuncturist, which shall
43 include the referring physician's preevaluation of the patient.**】**

44 (Deleted by amendment, P.L. , c.)

45 (2) An acupuncturist shall obtain informed written consent from
46 each patient, giving each patient a full explanation of the procedure
47 to be performed and informing each patient of the possible

1 complications which may result therefrom, before performing
2 acupuncture.

3 (3) Only acupuncture devices labeled in accordance with United
4 States Food and Drug Administration guidelines shall be used by
5 acupuncturists.

6 (4) An acupuncturist shall advise each patient as to the
7 importance of consulting with a licensed physician regarding the
8 patient's condition, and shall keep on file with the patient's records a
9 form attesting to the patient's notice of that advice. The form shall
10 be in duplicate, with one copy to be issued to the patient, and signed
11 and dated by both the acupuncturist and the patient.

12 b. The board may employ such personnel as it deems necessary
13 for the administration of this act.

14 (cf: P.L.1983, c.7, s.5)

15

16 5. Section 6 of P.L.1983, c.7 (C.45:2C-6) is amended to read as
17 follows:

18 6. a. A **[certificate]** license issued pursuant to this act
19 authorizes the holder thereof to engage in the practice of
20 acupuncture and when used in connection therewith to perform or
21 prescribe the use of tuina, shiatsu, other forms of oriental massage,
22 surface stimulation of a certain point or combination of points on
23 the body, breathing techniques and exercise to promote health.

24 b. The holder of a license may also utilize adjunctive therapies,
25 which include, but are not limited to: oriental dietary therapy;
26 lifestyle and behavioral education; laser stimulation in accordance
27 with relevant federal law; cupping; thermal methods; magnets; gua-
28 sha; percutaneous and transcutaneous electrical nerve stimulation;
29 and, subject to the additional certification and filing requirements
30 set forth in section 12 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), herbology.

32 (cf: P.L.1983, c.7, s.6)

33

34 6. Section 7 of P.L.1983, c.7 (C.45:2C-7) is amended to read as
35 follows:

36 7. **[No]** A person who is not **[certified]** licensed under this act
37 shall not practice acupuncture, hold himself out as practicing
38 acupuncture, or use a title or description, including the following:
39 L.Ac; Licensed Acupuncturist; C. A. [,] ; Certified Acupuncturist;
40 Acupuncturist; M. D., C. A.; M. D., Certified Acupuncturist; M.D.,
41 L.Ac; M.D., Licensed Acupuncturist, or any other letters or words
42 denoting that the person so practices acupuncture. A person who is
43 participating in an approved course of study **[,]** or school **[or**
44 **tutorial program]** in acupuncture may practice acupuncture under
45 conditions established by the board.

46 The State Board of Medical Examiners may suspend or revoke a
47 license to practice medicine and surgery, upon proof to its

1 satisfaction that the holder thereof practiced acupuncture contrary to
2 the provisions of this act or employed a person who practiced
3 acupuncture without **【certification】** licensure.
4 (cf: P.L.1984, c.76, s.2)

5
6 7. Section 8 of P.L.1983, c.7 (C.45:2C-8) is amended to read as
7 follows:

8 8. Nothing in this act shall be construed to prevent the practice
9 of acupuncture by a person licensed in New Jersey as a physician
10 and surgeon or dentist, provided his course of training has included
11 acupuncture.
12 (cf: P.L.1983, c.7, s.8)

13
14 8. Section 9 of P.L.1983, c.7 (C.45:2C-9) is amended to read as
15 follows:

16 9. Each person desiring to obtain a **【certification】** license to
17 practice acupuncture shall make application therefor to the board
18 upon such form and in such manner as the board shall prescribe
19 and shall furnish satisfactory evidence to the board that he:

- 20 a. Is at least 21 years of age;
21 b. Is of good moral character; and
22 c. (1) Has a baccalaureate degree and has successfully
23 completed a board approved **【two-year】** course of study or a board
24 approved **【two-year】** program of a school of acupuncture; or
25 (2) **【has successfully completed a board approved tutorial**
26 **program in acupuncture or at least three years' experience practicing**
27 **acupuncture within three years after the enactment of this act, which**
28 **is recognized by the board; or】** (Deleted by amendment,
29 P.L. , c.)

30 (3) is the holder of a license in New Jersey to practice medicine
31 and surgery , provided his course of training included acupuncture.

32 The application shall be accompanied by the fee prescribed by
33 the board.

34 The board shall evaluate each applicant applying for a
35 **【certificate】** license to practice acupuncture and make the final
36 determination regarding each applicant's admission to the
37 examination and the issuance or denial of a **【certificate】** license.

38 (cf: P.L.1984, c.76, s.3)

39
40 9. Section 11 of P.L.1983, c.7 (C.45:2C-11) is amended to read
41 as follows:

42 11. The board shall **【certify】** license each applicant who passes
43 the examination, in accordance with standards fixed by it and who
44 is not disqualified to be **【certified】** licensed pursuant to the
45 provisions of this act or P.L.1978, c. 73 (C. 45:1-14 et seq.).
46 (cf: P.L.1983, c. 7, s. 11)

1 10. Section 12 of P.L.1983, c.7 (C.45:2C-12) is amended to read
2 as follows:

3 12. **【Certificates】** Licenses shall be valid for **【2】** two years and
4 shall be renewed biennially. An acupuncturist shall pay a renewal
5 fee to the board on or before July 1 of the year in which his
6 **【certificate】** license expires. If the renewal fee is not paid by that
7 date, the **【certificate】** license shall automatically expire. A
8 **【certificate】** license which has thus expired may, within **【5】** five
9 years of its expiration, be renewed on payment to the board of all
10 past due renewal fees and the delinquency fee. After the **【5 year】**
11 five-year period a **【certificate】** license may be renewed only by
12 complying with the provisions of this act relating to the issuance of
13 a **【certificate】** license.

14 (cf: P.L.1983, c. 7, s. 12)

15

16 11. Section 13 of P.L.1983, c.7 (C.45:2C-13) is amended to read
17 as follows:

18 13. a. The board shall establish standards for the approval or
19 recognition of courses of study, schools, **【tutorial programs】** and
20 practical experience in acupuncture, completion of which will
21 satisfy the requirements of subsection c. of section 9 of this act.

22 b. The board shall approve or recognize training or practical
23 experience acquired by an applicant prior to the effective date of
24 **【this act】** P.L. , c. (C.) (pending before the Legislature as
25 this bill), where the training or practical experience meets the
26 standards set by the board.

27 (cf: P.L.1984, c.76, s.4)

28

29 12. (New section) a. An acupuncturist licensed on or after the
30 effective date of P.L. , c. (C.) (pending before the
31 Legislature as this bill), before employing herbology in his practice,
32 shall submit to the board proof of current certification in either
33 Chinese Herbology or Oriental Medicine by the National
34 Certification Commission for Acupuncture and Oriental Medicine
35 (NCCAOM), or its successor.

36 b. (1) The board may, as provided in this subsection, approve
37 the employment of herbology in the practice of acupuncture by the
38 following persons who do not meet the herbology certification
39 requirements of subsection a. of this section:

40 (a) An acupuncturist certified on or before the effective date of
41 P.L. , c. (C.) (pending before the Legislature as this bill),
42 who employs herbology in his practice; or

43 (b) A person who, on or before the effective date of P.L. , c.
44 (C.) (pending before the Legislature as this bill), is enrolled in
45 and graduates, or has graduated, from a school accredited by the
46 Accreditation Commission for Acupuncture and Oriental Medicine
47 (ACAOM).

1 (2) The board shall promulgate rules and regulations concerning
2 the appropriate criteria for approval pursuant to this subsection,
3 which shall include:

4 (a) professional level training in herbology at a school
5 accredited by the Accreditation Commission for Acupuncture and
6 Oriental Medicine (ACAOM);

7 (b) experience in the professional use of herbology in the
8 acupuncturist's practice; or

9 (c) any other criteria deemed appropriate by the board.

10 (3) Persons seeking approval to employ herbology pursuant to
11 this subsection shall apply to the board within six months after the
12 final adoption of the rules and regulations establishing the criteria.

13

14 13. Section 16 of P.L.1983, c.7 (C.45:2C-16) is amended to read
15 as follows:

16 16. Before practicing acupuncture, an acupuncturist shall post
17 his **【certificate】** license in a conspicuous location in his office. If
18 an acupuncturist has more than one office, he shall obtain from the
19 board a duplicate **【certificate】** license for each additional office.
20 Where a **【certificate】** license or duplicate is lost or destroyed,
21 notice of the loss or destruction shall be given to the board
22 forthwith and the board may issue a copy thereof. An
23 acupuncturist shall notify the board in writing of any change of
24 address or location of his office at least **【5】** five days prior to the
25 change, returning therewith his **【certificate】** license and any
26 duplicates, so that the board may either endorse thereon the change
27 or issue a new **【certificate】** license and duplicates as of the same
28 date as the original **【certificate】** license, in lieu of the **【certificate】**
29 license and duplicates so surrendered.

30 (cf: P.L.1983, c. 7, s. 16)

31

32 14. Section 17 of P.L.1983, c.7 (C.45:2C-17) is amended to read
33 as follows:

34 17. In addition to the provisions of section 8 of P.L.1978, c. 73
35 (C. 45:1-21), the board may refuse to grant or may suspend or
36 revoke a **【certificate】** license to practice acupuncture upon proof to
37 the satisfaction of the board that the holder thereof has:

38 a. Employed **【uncertified】** unlicensed persons to practice
39 acupuncture; or

40 b. Advertised the practice of acupuncture so as to disseminate
41 false, deceptive or misleading information, whether as an
42 individual, through a professional service corporation or through a
43 third party.

44 (cf: P.L.1983, c. 7, s. 17)

45

46 15. (New section) Any person who is a certified acupuncturist
47 pursuant to section 9 of P.L.1983, c.7 (C.45:2C-9) on the effective

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1 date of P.L. , c. (C.) (pending before the Legislature as this
2 bill) shall be deemed a licensed acupuncturist under, and subject to
3 the provisions of, P.L.1983, c.7 (C.45:2C-1 et seq.), as amended
4 and supplemented by P.L. , c. (C.) (pending before the
5 Legislature as this bill).

6

7 16. Section 14 of P.L.1983, c.7 (C.45:2C-14) is repealed.

8

9 17. This act shall take effect on the 180th day following
10 enactment.