

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 405

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the practice of acupuncture."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. PURPOSE. The health, safety, and welfare of the people of
9 the state are best served by the establishment of an orderly system of
10 licensure for the practice of acupuncture in the state. The rapid develop-
11 ment of the profession, including the establishment of national standards
12 for the education and practice of acupuncturists, has resulted in increased
13 public interest and increased demand for access to qualified acupunc-
14 turists.

15 * Sec. 2. AS 08 is amended by adding a new chapter to read:

16 CHAPTER 06. ACUPUNCTURE.

17 ARTICLE 1. BOARD OF ACUPUNCTURE.

18 Sec. 08.06.010. CREATION AND MEMBERSHIP OF THE BOARD. (a)

19 There is created the Board of Acupuncture composed of five members.
20 Three members shall be acupuncturists licensed under this chapter, one
21 member shall be a physician licensed under AS 08.64, and one shall be
22 a public member.

23 (b) Members of the board shall elect a member of the board as
24 chair. The chair serves for a term of one year.

25 Sec. 08.06.020. BOARD MEETINGS. The board shall hold at least
26 two meetings each year. The board may hold additional meetings at the
27 call of the chair or of a majority of the board members.

28 Sec. 08.06.030. DUTIES OF THE BOARD. The board shall

29 (1) issue licenses to practice acupuncture;

1 (2) impose disciplinary sanctions as authorized by this
2 chapter;

3 (3) prepare an annual report for submission to the depart-
4 ment and the legislature covering board activities and a summary of
5 all complaints received, disciplinary actions taken, and prosecutions
6 brought under this chapter; and

7 (4) adopt regulations under the Administrative Procedure
8 Act (AS 44.62) necessary to carry out the purposes of this chapter
9 including

10 (A) standards for the practice of acupuncture;

11 (B) standards for continuing education and training;

12 (C) a code of ethics for the the practice of acupunc-
13 ture.

14 ARTICLE 2. LICENSURE AND PRACTICE OF ACUPUNCTURISTS.

15 Sec. 08.06.050. PRACTICE OF ACUPUNCTURE WITHOUT LICENSE PROHIB-
16 ITED. A person may not practice acupuncture without a license.

17 Sec. 08.06.060. APPLICATION FOR LICENSE. A person desiring to
18 practice acupuncture shall apply in writing to the Department of
19 Commerce and Economic Development.

20 Sec. 08.06.070. LICENSE TO PRACTICE ACUPUNCTURE. (a) A person
21 is qualified to receive a license to practice acupuncture if the
22 person

23 (1) is of good moral character;

24 (2) is at least 21 years of age;

25 (3) either

26 (A) has completed a course of study, consistent with
27 the core curriculum and guidelines of the National Council of
28 Acupuncture Schools and Colleges, at a school of acupuncture
29 approved by the board; or

1 (B) is licensed in another state that has licensing
2 requirements equivalent to those of this state;

3 (4) is qualified for certification by the National Council
4 for the Certification of Acupuncturists as a diplomate in acupuncture;

5 (5) does not have a disciplinary proceeding or unresolved
6 complaint pending at the time of application; and

7 (6) has not had a license to practice acupuncture suspended
8 or revoked in this state or in another state, territory, or province.

9 (b) The board shall issue a license to practice acupuncture to
10 each person who is qualified and who pays the appropriate fee.

11 (c) Each person licensed to practice acupuncture under this
12 chapter shall display the license in a conspicuous place where the
13 licensee practices.

14 Sec. 08.06.080. RENEWAL OF LICENSE. A license under this chap-
15 ter may not be renewed unless the applicant

16 (1) demonstrates continued competence as an acupuncturist
17 in a manner established by the board in regulations; and

18 (2) submits proof that the applicant maintains certifica-
19 tion by the National Council for the Certification of Acupuncturists
20 as a diplomate of acupuncture.

21 Sec. 08.06.090. DISCLOSURE. (a) A person who practices acu-
22 puncture shall disclose that the person's training and practice are in
23 acupuncture

24 (1) to each patient; and

25 (2) on all material used in the practice of acupuncture and
26 made available to patients or to the public.

27 (b) A person who practices acupuncture without being covered by
28 malpractice insurance shall disclose to each patient that the person
29 does not have the insurance.

1 **Sec. 08.06.100. RESTRICTIONS ON PRACTICE OF ACUPUNCTURE. A**

2 **person who practices acupuncture may not**

3 (1) **give, prescribe, or recommend in the practice a**

4 (A) **prescription drug;**

5 (B) **controlled substance;**

6 (C) **poison;**

7 (2) **engage in surgery; or**

8 (3) **use the word "physician" in the person's title.**

9 **ARTICLE 3. GENERAL PROVISIONS.**

10 **Sec. 08.06.120. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-**

11 **TIONS. After a hearing, the board may impose a disciplinary sanction**

12 **on a person licensed under this chapter when the board finds that the**

13 **licensee**

14 (1) **secured a license through deceit, fraud, or intentional**
15 **misrepresentation;**

16 (2) **engaged in deceit, fraud, or intentional misrepresenta-**
17 **tion in the course of providing professional services or engaging in**
18 **professional activities;**

19 (3) **advertised professional services in a false or mislead-**
20 **ing manner;**

21 (4) **has been convicted of a felony or other crime that**
22 **affects the licensee's ability to continue to practice competently and**
23 **safely;**

24 (5) **intentionally or negligently engaged in or permitted**
25 **the performance of patient care by persons under the licensee's super-**
26 **vision that does not conform to minimum professional standards regard-**
27 **less of whether actual injury to the patient occurred;**

28 (6) **failed to comply with this chapter, with a regulation**
29 **adopted under this chapter, or with an order of the board or the**

1 department;

2 (7) continued to practice after becoming unfit due to

3 (A) professional incompetence;

4 (B) failure to keep informed of current professional

5 practices;

6 (C) addiction or severe dependency on alcohol or other

7 drugs that impairs the ability to practice safely;

8 (D) physical or mental disability; or

9 (8) engaged in lewd or immoral conduct in connection with
10 the delivery of professional service to patients.

11 Sec. 08.06.130. ACUPUNCTURE TREATMENT UNDER HEALTH CARE INSUR-
12 ANCE. A health care insurance policy shall include coverage for the
13 services of an acupuncturist licensed under this chapter, if the
14 policy covers acupuncture treatment by a health care provider subject
15 to this title.

16 Sec. 08.06.140. EXEMPTION. This chapter does not apply to a
17 person who practices acupuncture under AS 08.36 or AS 08.64.

18 Sec. 08.06.150. PENALTY. A person who violates this chapter or
19 a regulation adopted under this chapter is guilty of a class B misde-
20 meanor.

21 Sec. 08.06.190. DEFINITIONS. In this chapter

22 (1) "acupuncture" means a form of healing developed from
23 traditional Chinese medical concepts that uses the stimulation of
24 certain points on or near the surface of the body by the insertion of
25 needles to prevent or modify the perception of pain or to normalize
26 physiological functions;

27 (2) "board" means the Board of Acupuncture;

28 (3) "department" means the Department of Commerce and
29 Economic Development;

1 (4) "practice of acupuncture" means the insertion of acu-
2 puncture needles and the application of moxibustion to specific areas
3 of the human body based upon acupuncture diagnosis; the practice of
4 acupuncture includes adjunctive therapies involving mechanical, ther-
5 mal, electrical, and electromagnetic treatment and the recommendation
6 of dietary guidelines and therapeutic exercise.

7 * Sec. 3. AS 08.01.010 is amended by adding a new paragraph to read:

8 (28) Board of Acupuncture (AS 08.06.010).

9 * Sec. 4. AS 08.02.010(a) is amended to read:

10 (a) An acupuncturist licensed under AS 08.06, an audiologist
11 licensed under AS 08.11, a person licensed in the state as a chiro-
12 practor under AS 08.20, a dentist under AS 08.36, a medical practi-
13 tioner or osteopath under AS 08.64, a registered nurse under AS 08.68,
14 an optometrist under AS 08.72, a registered pharmacist under AS 08.80,
15 a registered physical therapist or occupational therapist under
16 AS 08.84, or a psychologist under AS 08.86, shall use as professional
17 identification appropriate letters or a title after that person's name
18 which represents that person's specific field of practice. The let-
19 ters or title shall appear on all signs, stationery, or other adver-
20 tising in which the person offers or displays personal professional
21 services to the public. In addition, a person engaged in the practice
22 of medicine or osteopathy as defined in AS 08.64.380, or a person
23 engaged in any manner in the healing arts who diagnoses, treats,
24 tests, or counsels other persons in relation to human health or dis-
25 ease and uses the letters "M.D." or the title "doctor" or "physician"
26 or another title that tends to show that the person is willing or
27 qualified to diagnose, treat, test, or counsel another person, shall
28 clarify the letters or title by adding the appropriate specialist
29 designation, if any, such as "dermatologist", "radiologist",

1 "audiologist", "naturopath", or the like.

2 * Sec. 5. AS 08.03.010(c) is amended by adding a new paragraph to read:

3 (21) Board of Acupuncture (AS 08.06.010) -- June 30, 1992.

4 * Sec. 6. AS 08.36 is amended by adding a new section to read:

5 Sec. 08.36.115. QUALIFICATIONS FOR ACUPUNCTURE APPLICANTS. An
6 applicant for a license to perform acupuncture in the regular practice
7 of dentistry shall satisfy the requirements of AS 08.36.100 and those
8 requirements of experience or education in the practice of acupuncture
9 as may be adopted by the board.

10 * Sec. 7. AS 08.64.170(a) is amended to read:

11 (a) A person may not practice medicine, podiatry, or osteopathy
12 [, OR ACUPUNCTURE] in the state unless the person is licensed under
13 this chapter, except that

14 (1) a physician assistant may examine, diagnose, or treat
15 persons under the supervision, control, and responsibility of either a
16 physician licensed under this chapter or a physician exempted from
17 licensing under AS 08.64.370;

18 (2) a physician-trained mobile intensive care paramedic may
19 render emergency lifesaving service; and

20 (3) [A PERSON LICENSED UNDER AS 08.36 MAY PERFORM ACUPUNC-
21 TURE IN THE REGULAR PRACTICE OF DENTISTRY, SUBJECT TO THE REGULATIONS
22 OF THE BOARD OF DENTAL EXAMINERS; AND

23 (4)] a person who is licensed or authorized under another
24 chapter of this title may engage in a practice that is authorized
25 under that chapter.

26 * Sec. 8. AS 08.64.180 is amended to read:

27 Sec. 08.64.180. APPLICATION FOR LICENSE. A person who desires
28 to practice medicine or [,] osteopathy [OR ACUPUNCTURE] in the state
29 shall apply in writing to the department for a license.

1 * Sec. 9. AS 09.55.560(1) is amended to read:

2 (1) "health care provider" means an acupuncturist licensed
3 under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor
4 licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
5 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
6 dispensing optician licensed under AS 08.71; a naturopath licensed
7 under AS 08.45; an optometrist licensed under AS 08.72; a pharmacist
8 licensed under AS 08.80; a physical therapist or occupational thera-
9 pist licensed under AS 08.84; a physician licensed under AS 08.64; a
10 podiatrist; a psychologist and a psychological associate licensed
11 under AS 08.86; and a hospital as defined in AS 18.20.130, including a
12 governmentally owned or operated hospital; a corporate entity covered
13 under AS 21.88.050(b)(11); and an employee of a health care provider
14 acting within the course and scope of employment;

15 * Sec. 10. AS 18.23.070(3) is amended to read:

16 (3) "health care provider" means an acupuncturist licensed
17 under AS 08.06; a chiropractor licensed under AS 08.20; a dental
18 hygienist licensed under AS 08.32; a dentist licensed under AS 08.36;
19 a nurse licensed under AS 08.68; a dispensing optician licensed under
20 AS 08.71; an optometrist licensed under AS 08.72; a pharmacist li-
21 censed under AS 08.80; a physical therapist or occupational therapist
22 licensed under AS 08.84; a physician licensed under AS 08.64; a podia-
23 trist; a psychologist and a psychological associate licensed under
24 AS 08.86; and a hospital as defined in AS 18.20.130, including a
25 governmentally owned or operated hospital; a corporate entity covered
26 under AS 21.88.050(b)(1); and an employee of a health care provider
27 acting within the course and scope of employment;

28 * Sec. 11. AS 21.36.090(d) is amended to read:

29 (d) A person may not practice or permit unfair discrimination

1 against a person who provides a service covered under a group disabili-
2 ty policy that extends coverage on an expense incurred basis, or
3 under a group service or indemnity type contract issued by a nonprofit
4 corporation, if the service is within the scope of the provider's
5 occupational license. In this subsection, "provider" means a state
6 licensed physician, dentist, osteopath, optometrist, acupuncturist,
7 chiropractor, nurse midwife, naturopath, physical therapist, or
8 occupational therapist.

9 * Sec. 12. AS 21.88.900(9) is amended to read:

10 (9) "health care provider" means an acupuncturist licensed
11 under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor
12 licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
13 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
14 dispensing optician licensed under AS 08.71; an optometrist licensed
15 under AS 08.72; a pharmacist licensed under AS 08.80; a physical
16 therapist or occupational therapist licensed under AS 08.84; a physi-
17 cian licensed under AS 08.64; a podiatrist; a psychologist and a
18 psychological associate licensed under AS 08.86; a hospital as defined
19 in AS 18.20.130, including a governmentally owned or operated hospi-
20 tal; a corporate entity covered under AS 21.88.050(b)(11); an employee
21 of a health care provider acting within the course and scope of em-
22 ployment;

23 * Sec. 13. AS 21.88.900 is amended by adding a new paragraph to read:

24 (18) "acupuncturist" means a person licensed under AS 08.06.

25 * Sec. 14. AS 47.17.070(9) is amended to read:

26 (9) "practitioner of the healing arts" includes acupunct-
27 urists, chiropractors, dental hygienists, dentists, health aides,
28 nurses, nurse practitioners, occupational therapists, occupational
29 therapy assistants, optometrists, osteopaths, naturopaths, physical

1 therapists, physical therapy assistants, physicians, physician's
2 assistants, psychiatrists, psychologists, psychological associates,
3 audiologists licensed under AS 08.11, hearing aid dealers licensed
4 under AS 08.55, religious healing practitioners, and surgeons;

5 * Sec. 15. INITIAL APPOINTMENTS. Notwithstanding AS 08.06.010, added
6 by sec. 2 of this Act, the persons initially appointed as acupuncturist
7 members of the Board of Acupuncture are not required to hold a license to
8 practice acupuncture in this state at the time of appointment; however,
9 they shall be qualified to receive a license under AS 08.06.070, added by
10 sec. 2 of this Act.