

1 IN THE SENATE  
2  
3 CS FOR SENATE BILL NO. 405 (HESS)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FIFTEENTH LEGISLATURE - SECOND SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to the practice of acupuncture."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. PURPOSE. The health, safety, and welfare of the people of  
10 the state are best served by the establishment of an orderly system of  
11 licensure for the practice of acupuncture in the state. The rapid develop-  
12 ment of the profession, including the establishment of national standards  
13 for the education and practice of acupuncturists, has resulted in increased  
14 public interest and increased demand for access to qualified acupunc-  
15 turists.  
16 \* Sec. 2. AS 08 is amended by adding a new chapter to read:  
17 CHAPTER 06. ACUPUNCTURE.  
18 ARTICLE 1. BOARD OF ACUPUNCTURE.  
19 Sec. 08.06.010. CREATION AND MEMBERSHIP OF THE BOARD. (a)  
20 There is created the Board of Acupuncture composed of five members.  
21 Three members shall be acupuncturists licensed under this chapter, one  
22 member shall be a physician licensed under AS 08.64, and one shall be  
23 a public member.  
24 (b) Members of the board shall elect a member of the board as  
25 chair. The chair serves for a term of one year.  
26 Sec. 08.06.020. BOARD MEETINGS. The board shall hold at least  
27 two meetings each year. The board may hold additional meetings at the  
28 call of the chair or of a majority of the board members.  
29 Sec. 08.06.030. DUTIES OF THE BOARD. The board shall  
(1) issue licenses to practice acupuncture;

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

3           (3) prepares 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

27                                   (i) a course of study, consistent with the core  
28 curriculum and guidelines of the National Council of Acu-  
29 puncture Schools and Colleges, at a school of acupuncture

- 1 approved by the board; or
- 2 (ii) other training approved by the board; or
- 3 (B) is licensed in another state that has licensing
- 4 requirements approved by the board;
- 5 (4) is qualified for certification by the National Commis-
- 6 sion for the Certification of Acupuncturists as a diplomate in acu-
- 7 puncture;
- 8 (5) does not have a disciplinary proceeding or unresolved
- 9 complaint pending at the time of application; and
- 10 (6) has not had a license to practice acupuncture suspended
- 11 or revoked in this state or in another state, territory, or province.

12 (b) The board shall issue a license to practice acupuncture to

13 each person who is qualified and who pays the appropriate fee.

14 (c) Each person licensed to practice acupuncture under this

15 chapter shall display the license in a conspicuous place where the

16 licensee practices.

17 Sec. 08.06.080. RENEWAL OF LICENSE. A license under this chap-

18 ter may not be renewed unless the applicant

19 (1) demonstrates continued competence as an acupuncturist

20 in a manner established by the board in regulations; and

21 (2) submits proof that the applicant maintains certifica-

22 tion by the National Council for the Certification of Acupuncturists

23 as a diplomate of acupuncture.

24 Sec. 08.06.090. DISCLOSURE. (a) A person who practices acu-

25 puncture shall disclose that the person's training and practice are in

26 acupuncture

27 (1) to each patient; and

28 (2) on all material used in the practice of acupuncture and

29 made available to patients or to the public.

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

4 Sec. 08.06.100. RESTRICTIONS ON PRACTICE OF ACUPUNCTURE. A  
5 person who practices acupuncture may not

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

7 (A) prescription drug;

8 (B) controlled substance;

9 (C) poison;

10 (2) engage in surgery; or

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

12 ARTICLE 3. GENERAL PROVISIONS.

13 Sec. 08.06.120. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-  
14 TIONS. After a hearing, the board may impose a disciplinary sanction  
15 on a person licensed under this chapter when the board finds that the  
16 licensee

17 (1) secured a license through deceit, fraud, or intentional  
18 misrepresentation;

19 (2) engaged in deceit, fraud, or intentional misrepresenta-  
20 tion in the course of providing professional services or engaging in  
21 professional activities;

22 (3) advertised professional services in a false or mislead-  
23 ing manner;

24 (4) has been convicted of a felony or other crime that  
25 affects the licensee's ability to continue to practice competently and  
26 safely;

27 (5) intentionally or negligently engaged in or permitted  
28 the performance of patient care by persons under the licensee's super-  
29 vision that does not conform to minimum professional standards

1 regardless of whether actual injury to the patient occurred;

2 (6) failed to comply with this chapter, with a regulation  
3 adopted under this chapter, or with an order of the board or the  
4 department;

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

6 (A) professional incompetence;

7 (B) failure to keep informed of current professional  
8 practices;

9 (C) addiction or severe dependency on alcohol or other  
10 drugs that impairs the ability to practice safely;

11 (D) physical or mental disability; or

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

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

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

21 Sec. 08.06.150. PENALTY. A person who violates this chapter or  
22 a regulation adopted under this chapter is guilty of a class B misde-  
23 meanor.

24 Sec. 08.06.190. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

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

1 qualified to diagnose, treat, test, or counsel another person, shall  
2 clarify the letters or title by adding the appropriate specialist  
3 designation, if any, such as "dermatologist", "radiologist", "audiolo-  
4 gist", "naturopath", or the like.

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

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

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

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

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

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

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

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

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

26 (4)] a person who is licensed or authorized under another  
27 chapter of this title may engage in a practice that is authorized  
28 under that chapter.

29 \* Sec. 8. AS 08.64.180 is amended to read:

1           Sec. 08.64.180. APPLICATION FOR LICENSE. A person who desires  
2 to practica medicina or [,] osteopathy [OR ACUPUNCTURE] in the state  
3 shall apply in writing to the department for a license.

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

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

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

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

1 acting within the course and scope of employment;

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

3 (d) A person may not practice or permit unfair discrimination  
4 against a person who provides a service covered under a group disabili-  
5 ty policy that extends coverage on an expense incurred basis, or  
6 under a group service or indemnity type contract issued by a nonprofit  
7 corporation, if the service is within the scope of the provider's  
8 occupational license. In this subsection, "provider" means a state  
9 licensed physician, dentist, osteopath, optometrist, acupuncturist,  
10 chiropractor, nurse midwife, naturopath, physical therapist, or occu-  
11 petional therapist.

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

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

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

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

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

29 (9) "practitioner of the healing arts" includes

1     acupuncturists, chiropractors, dental hygienists, dentists, health  
2     aides, nurses, nurse practitioners, occupational therapists, occupa-  
3     tional therapy assistants, optometrists, osteopaths, naturopaths,  
4     physical therapists, physical therapy assistants, physicians, physi-  
5     cian's assistants, psychiatrists, psychologists, psychological associ-  
6     ates, audiologists licensed under AS 08.11, hearing aid dealers li-  
7     censed under AS 08.55, religious healing practitioners, and surgeons;

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