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1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL  
SERVICES COMMITTEE BY REQUEST

2

HOUSE BILL NO. 212

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST 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 acupunctur-  
14 ists.

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.

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

22                   (1) is of good moral character;  
23                   (2) is at least 21 years of age;  
24                   (3) either

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

29                   (B) is licensed to practice acupuncture in another

1 state that has acupuncture licensing requirements equivalent to  
2 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. The board may not renew a  
15 license under this chapter 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 unless  
9 the person is also licensed as a physician.

10                           ARTICLE 3. GENERAL PROVISIONS.

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

- 15           (1) secured a license through deceit, fraud, or intentional  
16 misrepresentation;  
17           (2) engaged in deceit, fraud, or intentional misrepresenta-  
18 tion in the course of providing professional services or engaging in  
19 professional activities;  
20           (3) advertised professional services in a false or mislead-  
21 ing manner;  
22           (4) has been convicted of a felony or other crime that  
23 affects the licensee's ability to continue to practice competently and  
24 safely;  
25           (5) intentionally or negligently engaged in or permitted  
26 the performance of patient care by persons under the licensee's super-  
27 vision that does not conform to minimum professional standards regard-  
28 less of whether actual injury to the patient occurred;  
29           (6) failed to comply with this chapter, with a regulation

1 adopted under this chapter, or with an order of the board or the  
2 department;

3 (7) continued to practice after becoming unfit due to  
4 (A) professional incompetence;  
5 (B) failure to keep informed of current professional  
6 practices;

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

9 (D) physical or mental disability; or

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

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

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

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

22 Sec. 08.06.190. DEFINITIONS. In this chapter

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

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

29 (3) "department" means the Department of Commerce and

1 Economic Development;

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

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

9 (31) Board of Acupuncture (AS 08.06.010).

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

11 (a) An acupuncturist licensed under AS 08.06, an audiologist  
12 licensed under AS 08.11, a person licensed in the state as a chiro-  
13 practor under AS 08.20, a dentist under AS 08.36, a medical practi-  
14 tioner or osteopath under AS 08.64, a registered nurse under AS 08.68,  
15 an optometrist under AS 08.72, a registered pharmacist under AS 08.80,  
16 a registered physical therapist or occupational therapist under  
17 AS 08.84, a psychologist under AS 08.86, or a clinical social worker  
18 licensed under AS 08.95, shall use as professional identification  
19 appropriate letters or a title after that person's name which repre-  
20 sents that person's specific field of practice. The letters or title  
21 shall appear on all signs, stationery, or other advertising in which  
22 the person offers or displays personal professional services to the  
23 public. In addition, a person engaged in the practice of medicine or  
24 osteopathy as defined in AS 08.64.380, or a person engaged in any  
25 manner in the healing arts who diagnoses, treats, tests, or counsels  
26 other persons in relation to human health or disease and uses the  
27 letters "M.D." or the title "doctor" or "physician" or another title  
28 that tends to show that the person is willing or qualified to diag-  
29 nose, treat, test, or counsel another person, shall clarify the

1 letters or title by adding the appropriate specialist designation, if  
2 any, such as "dermatologist", "radiologist", "audiologist", "naturo-  
3 path", or the like.

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

5 (24) Board of Acupuncture (AS 08.06.010) -- June 30, 1993.

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

7 Sec. 08.36.114. QUALIFICATIONS FOR ACUPUNCTURE APPLICANTS. An  
8 applicant for a license to perform acupuncture in the regular practice  
9 of dentistry shall be licensed under AS 08.36.100 and shall satisfy  
10 those requirements of experience or education in the practice of  
11 acupuncture as may be adopted by the board.

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

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

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

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

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

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

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

29 Sec. 08.64.180. APPLICATION FOR LICENSE. A person who desires

1 to practice medicine or [,] osteopathy [OR ACUPUNCTURE] in the state  
2 shall apply in writing to the department for a license.

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

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

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

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

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

2 (d) Except to the extent necessary to comply with AS 21.42.365,  
3 a person may not practice or permit unfair discrimination against a  
4 person who provides a service covered under a group disability policy  
5 that extends coverage on an expense incurred basis, or under a group  
6 service or indemnity type contract issued by a nonprofit corporation,  
7 if the service is within the scope of the provider's occupational  
8 license. In this subsection, "provider" means a state licensed physi-  
9 cian, dentist, osteopath, optometrist, acupuncturist, chiropractor,  
10 nurse midwife, advanced nurse practitioner, naturopath, physical  
11 therapist, or occupational 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  
7        licensed under AS 08.55, religious healing practitioners, and sur-  
8        geons;

9        \* Sec. 15. AS 08.64.207 and 08.64.380(1) are repealed.

10       \* Sec. 16. INITIAL APPOINTMENTS. Notwithstanding AS 08.06.010, added  
11       by sec. 2 of this Act, the persons initially appointed as acupuncturist  
12       members of the Board of Acupuncture are not required to hold a license to  
13       practice acupuncture in this state at the time of appointment; however,  
14       they shall be qualified to receive a license under AS 08.06.070, added by  
15       sec. 2 of this Act.