

Offered: 3/8/89
Referred: Labor and Commerce
and Finance

6-0373E

Original sponsors: Duncan and Rodey

1 IN THE SENATE
2 CS FOR SENATE BILL NO. 134 (HESS)
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 Sec. 08.06.010. PRACTICE OF ACUPUNCTURE WITHOUT LICENSE PROHIB-
18 ITED. A person may not practice acupuncture without a license.
19 Sec. 08.06.020. APPLICATION FOR LICENSE. A person desiring to
20 practice acupuncture shall apply in writing to the department.
21 Sec. 08.06.030. LICENSE TO PRACTICE ACUPUNCTURE. (a) A person
22 is qualified to receive a license to practice acupuncture if the
23 person
24 (1) is of good moral character;
25 (2) is at least 21 years of age;
26 (3) either
27 (A) has completed a course of study consistent with
28 the core curriculum and guidelines of the National Council of
29 Acupuncture Schools and Colleges at a school of acupuncture

1 approved by the department; or

2 (B) is licensed to practice acupuncture in another
3 state that has acupuncture licensing requirements equivalent to
4 those of this state;

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

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

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

11 (b) The department shall issue a license to practice acupuncture
12 to each person who is qualified and who pays the appropriate fee.

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

16 Sec. 08.06.040. RENEWAL OF LICENSE. The department may not
17 renew a license under this chapter unless the applicant

18 (1) demonstrates continued competence as an acupuncturist
19 in a manner established by the department in regulations; and

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

23 Sec. 08.06.050. DISCLOSURE. (a) A person who practices acu-
24 puncture shall disclose that the person's training and practice are in
25 acupuncture

26 (1) to each patient; and

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

29 (b) A person who practices acupuncture without being covered by

1 malpractice insurance shall disclose to each patient that the person
2 does not have the insurance.

3 Sec. 08.06.060. RESTRICTIONS ON PRACTICE OF ACUPUNCTURE. A
4 person who practices acupuncture may not

- 5 (1) give, prescribe, or recommend in the practice a
6 (A) prescription drug;
7 (B) controlled substance;
8 (C) poison;
9 (2) engage in surgery; or
10 (3) use the word "physician" in the person's title unless
11 the person is also licensed as a physician.

12 Sec. 08.06.070. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
13 TIONS. After a hearing, the department may impose a disciplinary
14 sanction on a person licensed under this chapter when the department
15 finds that the licensee

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

1 (6) failed to comply with this chapter, with a regulation
2 adopted under this chapter, or with an order of the 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. 08.06.080. ACUPUNCTURE TREATMENT UNDER HEALTH CARE INSUR-
13 ANCE. A health care insurance policy may offer 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. 08.06.090. EXEMPTION. This chapter does not apply to a
18 person who practices acupuncture under AS 08.36 or AS 08.64.

19 Sec. 08.06.100. 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. 08.06.110. REGULATIONS. The department may adopt regula-
23 tions to implement this chapter, including regulations establishing

24 (1) standards for the practice of acupuncture;

25 (2) standards for continuing education and training;

26 (3) a code of ethics for the practice of acupuncture.

27 Sec. 08.06.190. DEFINITIONS. In this chapter

28 (1) "acupuncture" means a form of healing developed from
29 traditional Chinese medical concepts that uses the stimulation of

1 certain points on or near the surface of the body by the insertion of
2 needles to prevent or modify the perception of pain or to normalize
3 physiological functions;

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

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

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

13 (31) regulation of acupuncturists under AS 08.06.

14 * Sec. 4. AS 08.01.050(a) is amended to read:

15 (a) The department shall perform the following administrative
16 and budgetary services when appropriate:

17 (1) collect and record fees;

18 (2) maintain records and files;

19 (3) issue and receive application forms;

20 (4) notify applicants of acceptance or rejection as deter-
21 mined by the board or as determined by the department under AS 08.06
22 for acupuncturists, under AS 08.11 for audiologists, under AS 08.45
23 for naturopaths, or under AS 08.55 for hearing aid dealers;

24 (5) designate dates examinations are to be held and notify
25 applicants;

26 (6) publish notice of examinations and proceedings;

27 (7) arrange space for holding examinations and proceedings;

28 (8) notify applicants of results of examinations;

29 (9) issue licenses or temporary licenses as authorized by

1 the board or as authorized by the department under AS 08.06 for acu-
2 puncturists, under AS 08.11 for audiologists, under AS 08.45 for
3 naturopaths, or under AS 08.55 for hearing aid dealers;

4 (10) issue duplicate licenses upon submission of a written
5 request by the licensee attesting to loss of or the failure to receive
6 the original and payment by the licensee of a fee established by
7 regulation adopted by the department;

8 (11) notify licensees of renewal dates at least 30 days
9 before the expiration date of their licenses;

10 (12) compile and maintain a current register of licensees;

11 (13) answer routine inquiries;

12 (14) maintain files relating to individual licensees;

13 (15) arrange for printing and advertising;

14 (16) purchase supplies;

15 (17) employ additional help when needed;

16 (18) perform other services that may be requested by the
17 board;

18 (19) provide inspection, enforcement, and investigative
19 services to the boards and for the occupations listed in AS 08.01.010,
20 regarding all licenses issued by or through the department;

21 (20) retain and safeguard the official seal of a board and
22 prepare, sign, and affix a board seal, as appropriate, for licenses
23 approved by a board;

24 (21) issue business licenses under AS 43.70.

25 * Sec. 5. AS 08.02.010(a) is amended to read:

26 (a) An acupuncturist licensed under AS 08.06, an audiologist
27 licensed under AS 08.11, a person licensed in the state as a chiro-
28 practor under AS 08.20, a dentist under AS 08.36, a medical practi-
29 tioner or osteopath under AS 08.64, a registered nurse under AS 08.68,

1 an optometrist under AS 08.72, a registered pharmacist under AS 08.80,
2 a registered physical therapist or occupational therapist under AS 08.
3 84, a psychologist under AS 08.86, or a clinical social worker
4 licensed under AS 08.95, shall use as professional identification
5 appropriate letters or a title after that person's name which repre-
6 sents that person's specific field of practice. The letters or title
7 shall appear on all signs, stationery, or other advertising in which
8 the person offers or displays personal professional services to the
9 public. In addition, a person engaged in the practice of medicine or
10 osteopathy as defined in AS 08.64.380, or a person engaged in any
11 manner in the healing arts who diagnoses, treats, tests, or counsels
12 other persons in relation to human health or disease and uses the
13 letters "M.D." or the title "doctor" or "physician" or another title
14 that tends to show that the person is willing or qualified to diag-
15 nose, treat, test, or counsel another person, shall clarify the let-
16 ters or title by adding the appropriate specialist designation, if
17 any, such as "dermatologist", "radiologist", "audiologist", "naturo-
18 path", or the like.

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

20 Sec. 08.36.114. QUALIFICATIONS FOR ACUPUNCTURE APPLICANTS. An
21 applicant for a license to perform acupuncture in the regular practice
22 of dentistry shall be licensed under AS 08.36.100 and shall satisfy
23 those requirements of experience or education in the practice of
24 acupuncture as may be adopted by the board.

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

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

29 (1) a physician assistant may examine, diagnose, or treat

1 persons under the supervision, control, and responsibility of either a
2 physician licensed under this chapter or a physician exempted from
3 licensing under AS 08.64.370;

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

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

9 (4)] a person who is licensed or authorized under another
10 chapter of this title may engage in a practice that is authorized
11 under that chapter.

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

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

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

17 (1) "health care provider" means an acupuncturist licensed
18 under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor
19 licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
20 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
21 dispensing optician licensed under AS 08.71; a naturopath licensed
22 under AS 08.45; an optometrist licensed under AS 08.72; a pharmacist
23 licensed under AS 08.80; a physical therapist or occupational thera-
24 pist licensed under AS 08.84; a physician licensed under AS 08.64; a
25 podiatrist; a psychologist and a psychological associate licensed
26 under 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)(11); and an employee of a health care provider
29 acting within the course and scope of employment;

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

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

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

15 (d) Except to the extent necessary to comply with AS 21.42.365,
16 a person may not practice or permit unfair discrimination against a
17 person who provides a service covered under a group disability policy
18 that extends coverage on an expense incurred basis, or under a group
19 service or indemnity type contract issued by a nonprofit corporation,
20 if the service is within the scope of the provider's occupational
21 license. In this subsection, "provider" means a state licensed physi-
22 cian, dentist, osteopath, optometrist, acupuncturist, chiropractor,
23 nurse midwife, advanced nurse practitioner, naturopath, physical
24 therapist, or occupational therapist.

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

26 (9) "health care provider" means an acupuncturist licensed
27 under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor
28 licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
29 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a

1 dispensing optician licensed under AS 08.71; an optometrist licensed
2 under AS 08.72; a pharmacist licensed under AS 08.80; a physical
3 therapist or occupational therapist licensed under AS 08.84; a physi-
4 cian licensed under AS 08.64; a podiatrist; a psychologist and a
5 psychological associate licensed under AS 08.86; a hospital as defined
6 in AS 18.20.130, including a governmentally owned or operated hospi-
7 tal; a corporate entity covered under AS 21.88.030(b)(11); an employee
8 of a health care provider acting within the course and scope of em-
9 ployment;

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

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

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

13 (9) "practitioner of the healing arts" includes acupunct-
14 urists, chiropractors, dental hygienists, dentists, health aides,
15 nurses, nurse practitioners, occupational therapists, occupational
16 therapy assistants, optometrists, osteopaths, naturopaths, physical
17 therapists, physical therapy assistants, physicians, physician's
18 assistants, psychiatrists, psychologists, psychological associates,
19 audiologists licensed under AS 08.11, hearing aid dealers licensed
20 under AS 08.55, religious healing practitioners, and surgeons;

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