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1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

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CS FOR SENATE BILL NO. 134 (L&C) am

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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. EXEMPTION. This chapter does not apply to a
13 person who practices acupuncture under AS 08.36 or AS 08.64.

14 Sec. 08.06.090. PENALTY. A person who violates this chapter or
15 a regulation adopted under this chapter is guilty of a class B misde-
16 meanor.

17 Sec. 08.06.100. REGULATIONS. The department may adopt regula-
18 tions to implement this chapter, including regulations establishing

19 (1) standards for the practice of acupuncture;

20 (2) standards for continuing education and training;

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

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 normalise
27 physiological functions;

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

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

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

8 (31) regulation of acupuncturists under AS 08.06.

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

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

12 (1) collect and record fees;

13 (2) maintain records and files;

14 (3) issue and receive application forms;

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

19 (5) designate dates examinations are to be held and notify
20 applicants;

21 (6) publish notice of examinations and proceedings;

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

23 (8) notify applicants of results of examinations;

24 (9) issue licenses or temporary licenses as authorized by
25 the board or as authorized by the department under AS 08.06 for acu-
26 puncturists, under AS 08.11 for audiologists, under AS 08.45 for
27 naturopaths, or under AS 08.55 for hearing aid dealers;

28 (10) issue duplicate licenses upon submission of a written
29 request by the licensee attesting to loss of or the failure to receive

1 the original and payment by the licensee of a fee established by
2 regulation adopted by the department;

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

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

6 (13) answer routine inquiries;

7 (14) maintain files relating to individual licensees;

8 (15) arrange for printing and advertising;

9 (16) purchase supplies;

10 (17) employ additional help when needed;

11 (18) perform other services that may be requested by the
12 board;

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

16 (20) retain and safeguard the official seal of a board and
17 prepare, sign, and affix a board seal, as appropriate, for licenses
18 approved by a board;

19 (21) issue business licenses under AS 43.70.

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

21 (a) An acupuncturist licensed under AS 08.06, an audiologist
22 licensed under AS 08.11, a person licensed in the state as a chiro-
23 practor under AS 08.20, a dentist under AS 08.36, a medical practi-
24 tioner or osteopath under AS 08.64, a registered nurse under AS 08.68,
25 an optometrist under AS 08.72, a registered pharmacist under AS 08.80,
26 a registered physical therapist or occupational therapist under
27 AS 08.84, a psychologist under AS 08.86, or a clinical social worker
28 licensed under AS 08.95, shall use as professional identification
29 appropriate letters or a title after that person's name which

1 represents that person's specific field of practice. The letters or
2 title shall appear on all signs, stationery, or other advertising in
3 which the person offers or displays personal professional services to
4 the public. In addition, a person engaged in the practice of medicine
5 or osteopathy as defined in AS 08.64.380, or a person engaged in any
6 manner in the healing arts who diagnoses, treats, tests, or counsels
7 other persons in relation to human health or disease and uses the
8 letters "M.D." or the title "doctor" or "physician" or another title
9 that tends to show that the person is willing or qualified to diag-
10 nose, treat, test, or counsel another person, shall clarify the let-
11 ters or title by adding the appropriate specialist designation, if
12 any, such as "dermatologist", "radiologist", "audiologist", "naturo-
13 path", or the like.

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

15 Sec. 08.36.114. QUALIFICATIONS FOR ACUPUNCTURE APPLICANTS. An
16 applicant for a license to perform acupuncture in the regular practice
17 of dentistry shall be licensed under AS 08.36.100 and shall satisfy
18 those requirements of experience or education in the practice of
19 acupuncture as may be adopted by the board.

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

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

24 (1) a physician assistant may examine, diagnose, or treat
25 persons under the supervision, control, and responsibility of either a
26 physician licensed under this chapter or a physician exempted from
27 licensing under AS 08.64.370;

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

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

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

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

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

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

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

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

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

1 AS 08.71; an optometrist licensed under AS 08.72; a pharmacist li-
2 censed under AS 08.80; a physical therapist or occupational therapist
3 licensed under AS 08.84; a physician licensed under AS 08.64; a podia-
4 trist; a psychologist and a psychological associate licensed under
5 AS 08.86; and a hospital as defined in AS 18.20.130, including a
6 governmentally owned or operated hospital; a corporate entity covered
7 under AS 21.88.050(b)(1); and an employee of a health care provider
8 acting within the course and scope of employment;

9 * Sec. 11. AS 21.42 is amended by adding a new section to read:

10 Sec. 21.42.353. COVERAGE FOR COSTS OF ACUPUNCTURE TREATMENT. An
11 insurer authorized under AS 21.09 to offer, issue for delivery, deliv-
12 er, or renew a disability insurance policy in the state, or a hospital
13 or medical service corporation authorized under AS 21.87 to offer or
14 renew a subscriber's contract, may offer coverage for services of an
15 acupuncturist licensed under AS 08.06 if the policy or contract covers
16 acupuncture treatment by a health care provider who is subject to
17 other provisions of AS 08.

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

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

1 of a health care provider acting within the course and scope of em-
2 ployment;

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

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

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

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

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