

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1255 Session of
1998

INTRODUCED BY RHOADES, AFFLERBACH, STOUT, LEMMOND, SCHWARTZ,
O'PAKE, PUNT, TOMLINSON, GERLACH, DELP, MELLOW, WILLIAMS,
GREENLEAF, CONTI, KASUNIC AND KUKOVICH, JANUARY 26, 1998

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 26, 1998

AN ACT

1 Providing for the licensure of acupuncturists; making an
2 appropriation; and making repeals.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Acupuncture
7 Licensure Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Acupuncture." The stimulation of points and areas of the
13 body, including, but not limited to, the insertion of needles to
14 prevent or alleviate the perception of pain or to normalize
15 physiological functions.

16 "Acupuncture Congress." The Pennsylvania Acupuncture
17 Congress.

1 "Acupuncturist." An individual licensed to practice
2 acupuncture by the State Board of Acupuncture. This act does not
3 restrict licensed health care professionals from using the terms
4 "acupuncture" or "acupuncturist" if acupuncture is regulated by
5 their boards.

6 "Board." The State Board of Acupuncture created in section
7 3.

8 "Commissioner." The Commissioner of Professional and
9 Occupational Affairs in the Department of State.
10 Section 3. Regulation of practice of acupuncture.

11 (a) Acupuncture board.--There shall be a State Board of
12 Acupuncture. The Governor shall appoint seven members to the
13 board. Four members shall be acupuncturists licensed to practice
14 in this Commonwealth with at least three years' experience in
15 this Commonwealth, except that those first appointed shall be
16 qualified to receive licensure under the terms of this act, one
17 director from the Bureau of Consumer Protection in the Office of
18 the Attorney General, one physician qualified to practice
19 acupuncture and one representative from the public at large. The
20 members' terms at first will be staggered at intervals of one,
21 two and three years, with following terms of three years. The
22 board will meet at least once every three months.

23 (b) Licensure required.--Except as provided in subsection
24 (h), an individual shall be licensed by the board to practice
25 acupuncture in this Commonwealth. An individual shall renew his
26 license every two years with the board.

27 (c) Training required.--The board shall promulgate
28 regulations requiring the proper training of individuals before
29 they may be licensed to practice acupuncture in this
30 Commonwealth. The standard of acupuncture licensure shall be

1 completion of a board-accepted, nationally recognized
2 examination or certification process. Acupuncture training and
3 passage of a board-approved examination or board-certification
4 process shall be the entry-level qualification for all
5 individuals licensed as acupuncturists by the board. The
6 national examination shall be prepared and administered by a
7 qualified and board-approved professional testing and board-
8 certification organization in the manner required for written
9 examinations by section 812.1 of the act of April 9, 1929
10 (P.L.177, No.175), known as The Administrative Code of 1929. The
11 board may promulgate such other regulations as are deemed proper
12 and necessary regarding the practice of acupuncture. All
13 acupuncturists registered under the act of February 14, 1986
14 (P.L.2, No.2), known as the Acupuncture Registration Act, during
15 the period 90 days prior to the passage of this act shall be
16 qualified for licensure.

17 (d) Supplemental techniques.--The practice of acupuncture
18 shall also encompass, as regulated by the board, the use of
19 traditional and modern oriental therapeutics, including, but not
20 limited to, heat therapy, electrical and laser stimulation,
21 acupressure and other forms of massage, herbal therapy, the
22 therapeutic use of foods and supplements and lifestyle
23 counseling. This act does not restrict the use of these
24 supplemental techniques strictly to acupuncturists. These
25 supplemental techniques may be for use within the general domain
26 or for use by licensed health professionals, according to State
27 law and regulation.

28 (e) Patient advice and consent.--The acupuncturist shall
29 advise the patient that acupuncture therapeutics is not a
30 substitute for conventional medical diagnosis and treatment. The

1 patient shall sign a form, along with the acupuncturist, stating
2 that the patient realizes it is his responsibility to seek
3 conventional medical diagnosis and treatment. A copy of this
4 statement shall be kept in the patient's file at the
5 acupuncturist's office.

6 (f) Reciprocity.--The conditions for reciprocity between
7 states and other countries shall be set by regulations
8 promulgated by the board.

9 (g) Acupuncture needling exemptions.--The board shall, by
10 regulation, allow certain exceptions for specified individuals
11 to use and administer acupuncture needling in schools, by
12 teachers of acupuncture at seminars and trainings, in board-
13 approved chemical dependency treatment programs and in board-
14 approved apprenticeship programs that meet or exceed the
15 standards of recognized national programs.

16 (h) Section not applicable to other licensed health care
17 practitioners.--This act shall not apply to other licensed
18 health care practitioners in regard to the performance of
19 acupuncture within their scope of practice as decided by State
20 law. The State boards of these licensees who perform acupuncture
21 shall determine the proper education or demonstrated experience
22 in the performance of acupuncture. Only individuals licensed by
23 the board and the other health boards involved and regulated by
24 the laws of this Commonwealth may be referred to as
25 acupuncturists.

26 (i) Liability insurance.--The board shall set a minimum
27 mandatory requirement for medical liability insurance for all
28 licensees, with the initial minimal level to be set at \$50,000
29 for each occurrence and a \$50,000 annual aggregate, and with the
30 board to be apprised of awards within this Commonwealth so as to

1 adjust the level accordingly to provide protection for the
2 public.

3 (j) Acupuncture Congress.--The board shall establish the
4 Pennsylvania Acupuncture Congress. The Acupuncture Congress
5 shall meet once every three years to suggest guidelines and
6 priorities for the board. All acupuncturists licensed by the
7 board shall have an equal vote at the Acupuncture Congress and
8 by mail. The Acupuncture Congress shall issue a report once
9 every three years to the Governor and to the General Assembly
10 about the health and welfare of the people and environs of this
11 Commonwealth from the diagnostic framework and perspective of
12 acupuncture and oriental medicine.

13 Section 4. Fees.

14 The board may charge a reasonable fee fixed by the board by
15 regulation for all licenses, renewals and examinations
16 authorized by this act or the regulations promulgated under
17 section 3. Fees shall be determined to provide all operating
18 expenses of the board.

19 Section 5. Penalties.

20 (a) Licensure.--Except as provided for in section 3(b) and
21 (h), it shall be unlawful for an individual to practice
22 acupuncture in this Commonwealth unless the individual is
23 licensed as an acupuncturist by the appropriate board as defined
24 in section 3(b) and (h). An individual willfully violating the
25 provisions of this act commits a misdemeanor of the third
26 degree.

27 (b) Injunction.--The unlawful practice of acupuncture as
28 defined may be enjoined by the courts on petition of the board
29 or by the commissioner. In any such proceeding, it shall not be
30 necessary to show that any person is individually injured by the

1 actions complained of. If the respondent is found guilty of the
2 unlawful practice of acupuncture, the court shall enjoin him
3 from so practicing unless he has been duly licensed. Procedure
4 in such cases shall be the same as in any other injunction suit.
5 The remedy of injunction shall be in addition to criminal
6 prosecution and punishment.

7 (c) Advertising.--No person licensed by this act may solicit
8 for patronage or advertise for patronage by any means whatever
9 which is misleading, fraudulent, deceptive or dishonest. The
10 board may file an injunction as defined in subsection (b) should
11 it rule that such has taken place.

12 Section 6. Disposition of certain moneys.

13 All fees, charges and fines collected under the provisions of
14 this act shall be appropriated pursuant to the provisions of
15 section 907 of the act of October 15, 1975 (P.L.390, No.111),
16 known as the Health Care Services Malpractice Act.

17 Section 7. Appropriation.

18 The sum of \$75,000, or as much thereof as may be necessary,
19 is hereby appropriated from the Professional Licensure
20 Augmentation Account in the General Fund to the Bureau of
21 Professional and Occupational Affairs in the Department of State
22 for the establishment and operation of the State Board of
23 Acupuncture. The appropriation granted shall be repaid by the
24 board within ten years of the beginning of issuance of licenses
25 by the board.

26 Section 8. Repeals.

27 All sections of the act of February 14, 1986 (P.L.2, No.2),
28 known as the Acupuncture Registration Act, that relate to
29 nonphysician acupuncturists are repealed. Also, all regulations
30 related to this act that deal with nonphysician acupuncturists

1 are repealed.

2 Section 9. Effective date.

3 This act shall take effect in 90 days.