

ASSEMBLY, No. 1408

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

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District 3 (Salem, Cumberland and Gloucester)

Assemblywoman JOAN M. VOSS

District 38 (Bergen)

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SYNOPSIS

Revises statutes regarding acupuncturists.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning acupuncturists, amending and supplementing
2 P.L.1983, c.7, and repealing section 14 of P.L.1983, c.7.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1983, c.7 (C.45:2C-2) is amended to read as
8 follows:

9 2. As used in this act:

10 a. "Acupuncture" means the practice of Oriental medicine based
11 on traditional Oriental medical theories, primarily the stimulation of
12 a certain point or points on or near the surface of the body by the
13 insertion of needles to prevent or modify the perception of pain or
14 to normalize physiological functions, including pain control, for
15 the treatment of **[certain]** diseases or dysfunctions of the body and
16 includes the techniques of electroacupuncture, mechanical
17 stimulation, adjunctive therapies and moxibustion.

18 b. "Board" means the Acupuncture Examining Board.

19 c. "Electroacupuncture" means the therapeutic use of weak
20 electric currents at acupuncture loci.

21 d. "Moxibustion" means the therapeutic use of thermal stimulus
22 at acupuncture loci by burning artemisia.

23 (cf: P.L.1983, c. 7, s. 2)

24

25 2. Section 3 of P.L.1983, c.7 (C.45:2C-3) is amended to read as
26 follows:

27 3. There is created in the Division of Consumer Affairs of the
28 Department of Law and Public Safety and under the State Board of
29 Medical Examiners an Acupuncture Examining Board consisting of
30 nine members, four of whom shall be acupuncturists **[certified]**
31 licensed in this State and not licensed as physicians and surgeons,
32 two members shall be physicians and surgeons licensed in this
33 State, with at least two years' experience in acupuncture; and
34 pursuant to the provisions of section 2 of P.L.1971, c. 60 (C. 45:1-
35 2.2), two members shall be public members who do not hold a
36 license **[or certificate]** as a physician and surgeon or acupuncturist
37 and one member shall be from a department in the Executive
38 Branch of the State government. The four acupuncturists initially
39 appointed to the board need not be certified in this State, but shall
40 be certified in another state and shall be deemed to be and shall
41 become certified acupuncturists in this State immediately upon
42 their appointments as members of the board. The members of the
43 board shall be residents of the State appointed by the Governor for
44 terms of three years and until the appointment and qualification of
45 their successors. Of the members initially appointed, three shall

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 hold office for one year; three shall hold office for two years; and
2 three shall hold office for three years. Vacancies shall be filled for
3 the unexpired terms only.

4 The board shall organize as soon as possible after the
5 appointment of its members and shall annually elect a chairman and
6 a secretary from among its members. The board shall carry out the
7 responsibilities assigned to it under this act and such other matters
8 as the State Board of Medical Examiners may require. The board
9 shall promulgate such rules and regulations as it deems necessary to
10 effectuate the purposes of this act. All regulations adopted,
11 amended or repealed by the board shall be subject to the review and
12 approval of the State Board of Medical Examiners.

13 (cf: P.L.1984, c. 76, s. 1)

14

15 3. Section 4 of P.L.1983, c.7 (C.45:2C-4) is amended to read as
16 follows:

17 4. The board shall keep a record of its proceedings under this act
18 and a register of all applications for **[certification]** licensure
19 hereunder, which register shall include but not be limited to:

20 a. The name and residence of each applicant;

21 b. The date of the application;

22 c. The applicant's place of business;

23 d. Whether the applicant was rejected or a **[certificate]** license
24 was granted and the date of such action.

25 The board shall compile annually a list of **[certified]** licensed
26 acupuncturists authorized to practice in this State **[and approved**
27 **acupuncturists authorized to supervise tutorial programs in this**
28 **State]**. This list shall be available to the public.

29 (cf: P.L.1983, c.7, s.4)

30

31 4. Section 5 of P.L.1983, c.7 (C.45:2C-5) is amended to read as
32 follows:

33 5. a. The State Board of Medical Examiners, after consultation
34 with the board, shall establish standards governing the practice of
35 acupuncture, including but not limited to:

36 (1) **[Initial acupuncture treatment shall only be performed on**
37 **presentation by the patient of a referral by or diagnosis from a**
38 **licensed physician. A diagnosis and preevaluation of the patient**
39 **shall be made available to the treating acupuncturist by the referring**
40 **or diagnosing physician. In each case an accurate and detailed**
41 **clinical record shall be kept by the acupuncturist, which shall**
42 **include the referring physician's preevaluation of the patient.]**
43 (Deleted by amendment, P.L. , c.)

44 (2) An acupuncturist shall obtain informed written consent from
45 each patient, giving each patient a full explanation of the procedure
46 to be performed and informing each patient of the possible
47 complications which may result therefrom, before performing

1 acupuncture.

2 (3) Only acupuncture devices labeled in accordance with United
3 States Food and Drug Administration guidelines shall be used by
4 acupuncturists.

5 (4) An acupuncturist shall advise each patient as to the
6 importance of consulting with a licensed physician regarding the
7 patient's condition, and shall keep on file with the patient's records a
8 form attesting to the patient's notice of that advice. The form shall
9 be in duplicate, with one copy to be issued to the patient, and signed
10 and dated by both the acupuncturist and the patient.

11 b. The board may employ such personnel as it deems necessary
12 for the administration of this act.

13 (cf: P.L.1983, c.7, s.5)

14

15 5. Section 6 of P.L.1983, c.7 (C.45:2C-6) is amended to read as
16 follows:

17 6. a. A **[certificate]** license issued pursuant to this act
18 authorizes the holder thereof to engage in the practice of
19 acupuncture and when used in connection therewith to perform or
20 prescribe the use of tuina, shiatsu, other forms of oriental massage,
21 surface stimulation of a certain point or combination of points on
22 the body, breathing techniques and exercise to promote health.

23 b. The holder of a license may also utilize adjunctive therapies,
24 which include, but are not limited to: oriental dietary therapy;
25 lifestyle and behavioral education; laser stimulation in accordance
26 with relevant federal law; cupping; thermal methods; magnets; gua-
27 sha; percutaneous and transcutaneous electrical nerve stimulation;
28 and, subject to the additional certification and filing requirements
29 set forth in section 12 of P.L. , c. (C.) (pending before the
30 Legislature as this bill), herbology.

31 (cf: P.L.1983, c.7, s.6)

32

33 6. Section 7 of P.L.1983, c.7 (C.45:2C-7) is amended to read as
34 follows:

35 7. **[No]** A person who is not **[certified]** licensed under this act
36 shall not practice acupuncture, hold himself out as practicing
37 acupuncture, or use a title or description, including the following:
38 L.Ac; Licensed Acupuncturist; C. A. [,] ; Certified Acupuncturist;
39 Acupuncturist; M. D., C. A.; M. D., Certified Acupuncturist; M.D.,
40 L.Ac; M.D., Licensed Acupuncturist, or any other letters or words
41 denoting that the person so practices acupuncture. A person who is
42 participating in an approved course of study **[,]** or school **[or**
43 **tutorial program]** in acupuncture may practice acupuncture under
44 conditions established by the board.

45 The State Board of Medical Examiners may suspend or revoke a
46 license to practice medicine and surgery, upon proof to its
47 satisfaction that the holder thereof practiced acupuncture contrary to

1 the provisions of this act or employed a person who practiced
2 acupuncture without **【certification】** licensure.

3 (cf: P.L.1984, c.76, s.2)

4

5 7. Section 8 of P.L.1983, c.7 (C.45:2C-8) is amended to read as
6 follows:

7 8. Nothing in this act shall be construed to prevent the practice
8 of acupuncture by a person licensed in New Jersey as a physician
9 and surgeon or dentist, provided his course of training has included
10 acupuncture.

11 (cf: P.L.1983, c.7, s.8)

12

13 8. Section 9 of P.L.1983, c.7 (C.45:2C-9) is amended to read as
14 follows:

15 9. Each person desiring to obtain a **【certification】** license to
16 practice acupuncture shall make application therefor to the board
17 upon such form and in such manner as the board shall prescribe
18 and shall furnish satisfactory evidence to the board that he:

19 a. Is at least 21 years of age;

20 b. Is of good moral character; and

21 c. (1) Has a baccalaureate degree and has successfully
22 completed a board approved **【two-year】** course of study or a board
23 approved **【two-year】** program of a school of acupuncture; or

24 (2) **【has successfully completed a board approved tutorial**
25 **program in acupuncture or at least three years' experience practicing**
26 **acupuncture within three years after the enactment of this act, which**
27 **is recognized by the board; or】** (Deleted by amendment,
28 P.L. , c.)

29 (3) is the holder of a license in New Jersey to practice medicine
30 and surgery , provided his course of training included acupuncture.

31 The application shall be accompanied by the fee prescribed by
32 the board.

33 The board shall evaluate each applicant applying for a
34 **【certificate】** license to practice acupuncture and make the final
35 determination regarding each applicant's admission to the
36 examination and the issuance or denial of a **【certificate】** license.

37 (cf: P.L.1984, c.76, s.3)

38

39 9. Section 11 of P.L.1983, c.7 (C.45:2C-11) is amended to read
40 as follows:

41 11. The board shall **【certify】** license each applicant who passes
42 the examination, in accordance with standards fixed by it and who
43 is not disqualified to be **【certified】** licensed pursuant to the
44 provisions of this act or P.L.1978, c. 73 (C. 45:1-14 et seq.).

45 (cf: P.L.1983, c. 7, s. 11)

46

47 10. Section 12 of P.L.1983, c.7 (C.45:2C-12) is amended to read

1 as follows:

2 12. **[Certificates]** Licenses shall be valid for **[2]** two years and
3 shall be renewed biennially. An acupuncturist shall pay a renewal
4 fee to the board on or before July 1 of the year in which his
5 **[certificate]** license expires. If the renewal fee is not paid by that
6 date, the **[certificate]** license shall automatically expire. A
7 **[certificate]** license which has thus expired may, within **[5]** five
8 years of its expiration, be renewed on payment to the board of all
9 past due renewal fees and the delinquency fee. After the **[5 year]**
10 five-year period a **[certificate]** license may be renewed only by
11 complying with the provisions of this act relating to the issuance of
12 a **[certificate]** license.

13 (cf: P.L.1983, c. 7, s. 12)

14

15 11. Section 13 of P.L.1983, c.7 (C.45:2C-13) is amended to read
16 as follows:

17 13. a. The board shall establish standards for the approval or
18 recognition of courses of study, schools, **[tutorial programs]** and
19 practical experience in acupuncture, completion of which will
20 satisfy the requirements of subsection c. of section 9 of this act.

21 b. The board shall approve or recognize training or practical
22 experience acquired by an applicant prior to the effective date of
23 **[this act]** P.L. , c. (C.) (pending before the Legislature as
24 this bill), where the training or practical experience meets the
25 standards set by the board.

26 (cf: P.L.1984, c.76, s.4)

27

28 12. (New section) a. An acupuncturist licensed on or after the
29 effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill), before employing herbology in his practice,
31 shall submit to the board proof of current certification in either
32 Chinese Herbology or Oriental Medicine by the National
33 Certification Commission for Acupuncture and Oriental Medicine
34 (NCCAOM), or its successor.

35 b. (1) The board may, as provided in this subsection, approve
36 the employment of herbology in the practice of acupuncture by the
37 following persons who do not meet the herbology certification
38 requirements of subsection a. of this section:

39 (a) An acupuncturist certified on or before the effective date of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 who employs herbology in his practice; or

42 (b) A person who, on or before the effective date of P.L. , c.
43 (C.) (pending before the Legislature as this bill), is enrolled in
44 and graduates, or has graduated, from a school accredited by the
45 Accreditation Commission for Acupuncture and Oriental Medicine
46 (ACAOM).

47 (2) The board shall promulgate rules and regulations concerning

1 the appropriate criteria for approval pursuant to this subsection,
2 which shall include:

3 (a) professional level training in herbology at a school
4 accredited by the Accreditation Commission for Acupuncture and
5 Oriental Medicine (ACAOM);

6 (b) experience in the professional use of herbology in the
7 acupuncturist's practice; or

8 (c) any other criteria deemed appropriate by the board.

9 (3) Persons seeking approval to employ herbology pursuant to
10 this subsection shall apply to the board within six months after the
11 final adoption of the rules and regulations establishing the criteria.

12

13 13. Section 16 of P.L.1983, c.7 (C.45:2C-16) is amended to read
14 as follows:

15 16. Before practicing acupuncture, an acupuncturist shall post
16 his **【certificate】 license** in a conspicuous location in his office. If
17 an acupuncturist has more than one office, he shall obtain from the
18 board a duplicate **【certificate】 license** for each additional office.
19 Where a **【certificate】 license** or duplicate is lost or destroyed,
20 notice of the loss or destruction shall be given to the board
21 forthwith and the board may issue a copy thereof. An
22 acupuncturist shall notify the board in writing of any change of
23 address or location of his office at least **【5】 five** days prior to the
24 change, returning therewith his **【certificate】 license** and any
25 duplicates, so that the board may either endorse thereon the change
26 or issue a new **【certificate】 license** and duplicates as of the same
27 date as the original **【certificate】 license**, in lieu of the **【certificate】**
28 **license** and duplicates so surrendered.

29 (cf: P.L.1983, c. 7, s. 16)

30

31 14. Section 17 of P.L.1983, c.7 (C.45:2C-17) is amended to read
32 as follows:

33 17. In addition to the provisions of section 8 of P.L.1978, c. 73
34 (C. 45:1-21), the board may refuse to grant or may suspend or
35 revoke a **【certificate】 license** to practice acupuncture upon proof to
36 the satisfaction of the board that the holder thereof has:

37 a. Employed **【uncertified】 unlicensed** persons to practice
38 acupuncture; or

39 b. Advertised the practice of acupuncture so as to disseminate
40 false, deceptive or misleading information, whether as an
41 individual, through a professional service corporation or through a
42 third party.

43 (cf: P.L.1983, c. 7, s. 17)

44

45 15. (New section) Any person who is a certified acupuncturist
46 pursuant to section 9 of P.L.1983, c.7 (C.45:2C-9) on the effective
47 date of P.L. , c. (C.) (pending before the Legislature as this

1 bill) shall be deemed a licensed acupuncturist under, and subject to
2 the provisions of, P.L.1983, c.7 (C.45:2C-1 et seq.), as amended
3 and supplemented by P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5

6 16. Section 14 of P.L.1983, c.7 (C.45:2C-14) is repealed.

7

8 17. This act shall take effect on the 180th day following
9 enactment.

10

11

12

STATEMENT

13

14 This bill revises the law regulating the practice of acupuncture.
15 The bill provides for the licensure of acupuncturists, rather than
16 certification, as is currently the case.

17 This bill permits consumers to access directly the services of
18 acupuncturists, and eliminates the requirement that acupuncture can
19 only be performed with a referral or diagnosis from a physician.
20 The bill stipulates that an acupuncturist shall advise each patient as
21 to the importance of consulting with a licensed physician regarding
22 the patient's condition.

23 The definition of acupuncture is also revised to clarify that
24 acupuncture means the practice of Oriental medicine based on
25 traditional Oriental medical theories that can be utilized for the
26 treatment of diseases or dysfunctions of the body. Furthermore, the
27 bill specifies that acupuncturists may utilize adjunctive therapies,
28 which include, but are not limited to: oriental dietary therapy;
29 lifestyle and behavioral education; laser stimulation in accordance
30 with relevant federal law; cupping; thermal methods; magnets; gua-
31 sha; and percutaneous and transcutaneous electrical nerve
32 stimulation. The bill also authorizes an acupuncturist to perform or
33 prescribe the use of tuina, shiatsu or other forms of oriental massage
34 when engaging in the practice of acupuncture.

35 The bill further allows the Acupuncture Examining Board to
36 establish certification criteria for the use of herbology in the
37 practice of acupuncture, but "grandfathers" certain persons
38 currently practicing or studying acupuncture from these new
39 certification requirements.

40 In addition, the bill eliminates tutorial programs, in which an
41 acupuncturist may supervise students in acupuncture.