

45:2C-1 to 45:2C-18

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:2C-1 to 45:2C-18 (Acupuncture - regulates practice)

LAWS OF: 1983

CHAPTER: 7

Bill No.: S762

Sponsor(s): McManimon

Date Introduced: Pre-filed

Committee: Assembly: Higher Education and Regulated Professions

Senate: Labor, Industry and Professions

Amended during passage: Yes // Amendments during passage denoted by asterisks. Substituted for A598 (not attached since identical to S762)

Date of Passage: Assembly: Dec. 6, 1982

Senate: Sept. 16, 1982

Date of Approval: Jan. 18, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// No

Following were printed:

Reports: /// No

Hearings: /// No

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1983

901

APPROVED 1-18-83

SENATE, No. 762

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senator McMANIMON

AN Act regulating the practice of acupuncture, providing standards, qualifications and certification of practitioners with respect thereto, amending P. L. 1971, c. 60, P. L. 1974, c. 46 and P. L. 1978, c. 73 and supplementing Title 45 of the Revised Statutes.

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

1. (New section) The purpose of this act is to establish the more effective provision of acupuncture services in this State in order to encourage the use thereof by the [citizens] residents of this State who pursue this form of health care treatment and to protect the public health, safety and welfare.

2. (New section) As used in this act:

a. "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, mechanical stimulation and moxibustion.

b. "Board" means the Acupuncture Examining Board.

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

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

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted June 23, 1982.

1 3. (New section) There is created in the Division of \***Profes-**  
 2 sional Boards]\* \**Consumer Affairs*\* of the Department of Law  
 3 and Public Safety and under the State Board of Medical Examiners  
 4 an Acupuncture Examining Board consisting of nine members,  
 5 four of whom shall be acupuncturists certified in this State and  
 6 not licensed as physicians and surgeons, two members shall be  
 7 physicians and surgeons licensed in this State with at least 2  
 8 years experience in acupuncture; and pursuant to the provisions  
 9 of section 2 of P. L. 1971, c. 60 (C. 45:1-2.2) two members shall  
 10 be public members who do not hold a license or certificate as a  
 11 physician and surgeon or acupuncturist and one member shall be  
 12 from a department in the Executive Branch of the State Govern-  
 13 ment. The four acupuncturists initially appointed to the board  
 14 need not be certified in this State but shall be certified in another  
 15 state and shall become certified in this State as soon as possible  
 16 after their appointments. The members of the board shall be  
 17 \***citizens]**\* \**residents*\* of the State appointed by the Governor  
 18 for terms of 3 years and until the appointment and qualification of  
 19 their successors. Of the members initially appointed three shall  
 20 hold office for 1 year; three shall hold office for 2 years; and three  
 21 shall hold office for 3 years. Vacancies shall be filled for the un-  
 22 expired terms only.

23 The board shall organize as soon as \***may be]**\* \**possible*\* after  
 24 the appointment of its members and shall annually elect a chairman  
 25 and a secretary from among its members. The board shall carry  
 26 out the responsibilities assigned to it under this act and such other  
 27 matters as the State Board of Medical Examiners may require.  
 28 The board shall promulgate such rules and regulations as it deems  
 29 necessary to effectuate the purposes of this act. All regulations  
 30 adopted, amended or repealed by the board shall be subject to the  
 31 review and approval of the State Board of Medical Examiners.

1 4. (New section) The board shall keep a record of its proceedings  
 2 under this act and a register of all applications for certification  
 3 hereunder, which register shall include but not be limited to:

- 4 a. The name and residence of each applicant;
- 5 b. The date of the application;
- 6 c. The applicant's place of business;
- 7 d. Whether the applicant was rejected or a certificate was  
 8 granted and the date of such action.

9 The board shall compile annually a list of certified acupuncturists  
 10 authorized to practice in this State and approved acupuncturists  
 11 authorized to supervise tutorial programs in this State. This list  
 12 shall be available to the public.

1 5. (New section) a. The State Board of Medical Examiners, after  
 2 consultation with the board, shall establish standards governing the  
 3 practice of acupuncture, including but not limited to:

4 (1) Initial acupuncture treatment shall only be performed on  
 5 presentation by the patient of a referral by or diagnosis from a  
 6 licensed physician. A diagnosis and preevaluation of the patient  
 7 shall be made available to the treating acupuncturist by the refer-  
 8 ring *\*or diagnosing\** physician. In each case an accurate and  
 9 detailed clinical record shall be kept by the acupuncturist, which  
 10 shall include the referring physician's preevaluation of the patient.

11 (2) An acupuncturist shall obtain informed written consent from  
 12 each patient, giving each patient a full explanation of the procedure  
 13 to be performed and informing each patient of the possible com-  
 14 plications which may result therefrom before performing  
 15 acupuncture.

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

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

1 6. (New section) A certificate issued pursuant to this act au-  
 2 thORIZES the holder thereof to engage in the practice of acupuncture  
 3 and when used in connection therewith to perform or prescribe the  
 4 use of oriental massage, surface stimulation of a certain point or  
 5 combination of points on the body, breathing techniques and  
 6 exercise to promote health.

1 7. (New section) No person who is not certified under this act  
 2 shall practice acupuncture, hold himself out as practicing acupunc-  
 3 ture, *\*or\** use a title or description, including the following: C. A.,  
 4 Certified Acupuncturist; Acupuncturist; M. D., C. A.; M. D., Cer-  
 5 tified Acupuncturist; \***[M. D., Acupuncturist;]**\* or any other letters  
 6 or words denoting that the person so practices acupuncture. A  
 7 person who is participating in an approved course of study, school  
 8 or tutorial program in acupuncture may practice acupuncture under  
 9 conditions established by the board.

10 The State Board of Medical Examiners may suspend or revoke  
 11 a license to practice medicine and surgery or a registration to  
 12 practice physical therapy upon proof to its satisfaction that the  
 13 holder thereof practiced acupuncture contrary to the provisions of  
 14 this act or employed a person who practiced acupuncture without  
 15 certification.

1 8. (New section) Nothing in this act shall be construed to prevent  
 2 the practice of acupuncture by a person licensed as a physician and

3 surgeon *\*or dentist,\** provided *\*his course of training has included*  
 3A *acupuncture\**.

4 **\*[a.** During a personal appearance before the board or its  
 5 designee the person furnishes documentary evidence of enrollment  
 6 in or successful completion of an approved course of study, school  
 7 or tutorial program in acupuncture or fulfillment of the practical  
 8 experience requirement; or

9 b. The practice of acupuncture occurs while the person is en-  
 10 gaged in the study of acupuncture and is limited to appropriately  
 11 selected patients in an educational or medical research facility  
 12 approved by the State Board of Medical Examiners.]\*

1 9. (New section) Each person desiring to obtain a certification  
 2 to practice acupuncture shall make application therefor to the board  
 3 upon such form and in such manner as the board shall prescribe and  
 4 shall furnish satisfactory evidence to the board that he *\*:\**

5 a. Is at least 21 years of age;

6 **\*[b.** Is a resident of the State;]\*

7 **\*[c.]\*** *\*b.\** Is of good moral character; and

8 **\*[d.]\*** *\*c. (1)\** Has *\*a baccalaureate degree and has\** successfully  
 9 completed **\*[(1) an]\*** *\*a board\** approved *\*two-years\** course of  
 10 study or *\*a board approved 2-year program of a\** school of acu-  
 11 puncture or (2) **\*[an]\*** *\*has successfully completed a board\**  
 12 approved tutorial program in acupuncture or at least 3 years  
 13 experience practicing acupuncture *\*within three years after the*  
 14 *enactment of this act\** which is recognized by the board or (3) is the  
 15 holder of a license to practice medicine and surgery or registration  
 16 to practice physical therapy in this State. The application shall be  
 17 accompanied by the **\*[proper]\*** fee *\*prescribed by the board\**.

18 The board shall evaluate each applicant applying for a certificate  
 19 to practice acupuncture **\*[,]\*** *\*and\** make the final determination  
 20 regarding each applicant's admission to the examination and the  
 21 issuance or denial of a certificate.

1 10. (New section) The board shall administer an examination to  
 2 applicants who comply with section 9 of this act. The examination  
 3 shall be written in the English language and shall test the appli-  
 4 cant's knowledge of the practice of acupuncture, human anatomy,  
 5 modern sterilization techniques, the storage and handling of sterile  
 6 equipment, and such other subjects as the board may require. The  
 7 examination shall include a practical test of the skills required to  
 8 competently practice acupuncture, and demonstrate the applicant's  
 9 ability to meaningfully communicate in English with a patient  
 10 regarding the patient's acupuncture treatment. Examinations shall  
 11 be held within the State at least once a year at a time and place to

12 be designated by the board. If an applicant fails to pass the exam-  
 13 ination, he may be reexamined at the next examination upon pay-  
 14 ment of the reexamination fee.

1 11. (New section) The board shall certify each applicant who  
 2 passes the examination in accordance with standards fixed by it and  
 3 who is not disqualified to be certified pursuant to the provisions of  
 4 this act or P. L. 1978, c. 73 (C. 45:1-14 et seq.).

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

1 13. (New section) a. The board shall establish standards for the  
 2 approval or recognition of courses of study, schools, tutorial pro-  
 3 grams and practical experience in acupuncture, completion of  
 4 which will satisfy the requirements of subsection d. of section 9 of  
 5 this act.

6 b. The board shall approve or recognize training or practical  
 7 experience acquired by an applicant prior to the effective date of  
 8 this act where the training or practical experience meets the  
 9 standards set by the board.

1 14. (New section) A tutorial program in acupuncture shall be pro-  
 2 vided under the supervision of an acupuncturist approved by the  
 3 board. To obtain approval an acupuncturist shall:

4 a. Make application therefor to the board upon such form and  
 5 in such manner as the board shall prescribe, accompanied by pay-  
 6 ment of the prescribed fee;

7 b. Be certified to practice acupuncture in this State;

8 c. Have at least 7 years experience practicing acupuncture.

9 An approved acupuncturist shall supervise no more than two  
 10 students at one time and shall inform the board in writing of the  
 11 names of the students the acupuncturist is supervising and any  
 12 other information the board may require.

13 Approvals shall be granted for 1 year and shall be renewed  
 14 annually. An approved acupuncturist shall pay a \***[\$25.00]**\*  
 15 renewal fee *\*prescribed by the board\** to the board on or before  
 16 July 1 of each year. If the renewal fee is not paid by that date the  
 17 approval shall automatically expire. Approval which has thus

18 expired may, within 1 year of its expiration, be renewed on payment  
 19 to the board of the past due renewal fee and a \***[\$10.00]**\* delin-  
 20 quency fee. After the 1 year period approval may be renewed  
 21 only by complying with the provisions of *this* section \***[14]**\* of  
 22 this act.

23 *\*The provisions of this section shall expire three years after the*  
 24 *enactment of this act.\**

1 15. (New section) The board shall establish standards for the con-  
 2 tinuing education of acupuncturists.

1 16. (New section) Before practicing acupuncture an acupunc-  
 2 turist shall post his certificate in a conspicuous location in his office.  
 3 If an acupuncturist has more than one office, he shall obtain from  
 4 the board a duplicate certificate for each additional office. Where a  
 5 certificate or duplicate is lost or destroyed, notice of the loss or  
 6 destruction shall be given to the board forthwith and the board may  
 7 issue a copy thereof. An acupuncturist shall notify the board in  
 8 writing of any change of address or location of his office at least 5  
 9 days prior to the change, returning therewith his certificate and any  
 10 duplicates so that the board may either endorse thereon the change  
 11 or issue a new certificate and duplicates as of the same date as the  
 12 original certificate in lieu of the certificate and duplicates so sur-  
 13 rendered.

1 17. (New section) In addition to the provisions of section 8 of  
 2 P. L. 1978, c. 73 (C. 45:1-21) the board may refuse to grant or may  
 3 suspend or revoke a certificate to practice acupuncture upon proof  
 4 to the satisfaction of the board that the holder thereof has\*:\*

5 a. Employed uncertified persons to practice acupuncture; or

6 b. Advertised the practice of acupuncture so as to disseminate  
 7 false, deceptive or misleading information, whether as an individual,  
 8 through a professional service corporation or through a third party.

1 18. (New section) For 5 years following enactment of this act the  
 2 board shall submit a report to the Legislature in January of each  
 3 year. The report shall include, but not be limited to, a summary of  
 4 the implementation of this act; the number of acupuncturists  
 5 certified in the preceding year; and a description of all complaints  
 6 received and disciplinary action taken against acupuncturists by  
 7 the board and State Board of Medical Examiners in the preceding  
 8 year. The report may include any legislative bills which the board  
 9 may desire to recommend for adoption by the Legislature.

1 19. Section 1 of P. L. 1971, c. 60 (C. 45:1-2.1) is amended to  
 2 read as follows:

3 1. The provisions of this act shall apply to the following boards  
 4 and commissions: The New Jersey State Board of Certified Public

5 Accountants, the New Jersey State Board of Architects, the State  
 6 Board of Barber Examiners, the Board of Beauty Culture Control,  
 7 the Board of Examiners of Electrical Contractors, the New Jersey  
 8 State Board of Dentistry, the State Board of Mortuary Science of  
 9 New Jersey, the State Board of Professional Engineers and Land  
 10 Surveyors, the State Board of Marriage Counselor Examiners, the  
 11 State Board of Medical Examiners, the New Jersey Board of Nurs-  
 12 ing, the New Jersey State Board of Optometrists, the State Board  
 13 of Examiners of Ophthalmic Dispensers and Ophthalmic Techni-  
 14 cians, the Board of Pharmacy, the State Board of Professional  
 15 Planners, the State Board of Psychological Examiners, the State  
 16 Board of Examiners of Master Plumbers, the New Jersey Real  
 17 Estate Commission, the State Board of Shorthand Reporting, the  
 18 State Board of Veterinary Medical Examiners, [and] the X-ray  
 19 Technician Board of Examiners, *and the Acupuncture Examining*  
 20 *Board.*

1 20. Section 1 of P. L. 1974, c. 46 (C. 45:1-3.1) is amended to read  
 2 as follows:

3 1. The provisions of this act shall apply to the following boards  
 4 and commissions: The New Jersey State Board of Certified Public  
 5 Accountants, the New Jersey State Board of Architects, the State  
 6 Board of Barber Examiners, the Board of Beauty Culture Control,  
 7 the Board of Examiners of Electrical Contractors, the New Jersey  
 8 State Board of Dentistry, the State Board of Mortuary Science of  
 9 New Jersey, the State Board of Professional Engineers and Land  
 10 Surveyors, the State Board of Marriage Counselor Examiners, the  
 11 State Board of Medical Examiners, the New Jersey Board of  
 12 Nursing, the New Jersey State Board of Optometrists, the State  
 13 Board of Examiners of Ophthalmic Dispensers and Ophthalmic  
 14 Technicians, the Board of Pharmacy, the State Board of Profes-  
 15 sional Planners, the State Board of Psychological Examiners, the  
 16 State Board of Examiners of Master Plumbers, the State Board  
 17 of Shorthand Reporting, the State Board of Veterinary Medical  
 18 Examiners, [and] the X-Ray Technician Board of Examiners, *and*  
 19 *the Acupuncture Examining Board.*

1 21. Section 2 of P. L. 1978, c. 73 (C. 45:1-15) is amended to read  
 2 as follows:

3 2. The provisions of this act shall apply to the following boards  
 4 and all professions or occupations regulated by or through such  
 5 boards: the New Jersey State Board of Certified Public Account-  
 6 ants, the New Jersey State Board of Architects, the State Board of  
 7 Barber Examiners, the Board of Beauty Culture Control, the  
 8 Board of Examiners of Electrical Contractors, the New Jersey

9 State Board of Dentistry, the State Board of Mortuary Science of  
10 New Jersey, the State Board of Professional Engineers and Land  
11 Surveyors, the State Board of Marriage Counselor Examiners,  
12 the State Board of Medical Examiners, the New Jersey Board of  
13 Nursing, the New Jersey State Board of Optometrists, the State  
14 Board of Examiners of Ophthalmic Dispensers and Ophthalmic  
15 Technicians, the Board of Pharmacy, the State Board of Profes-  
16 sional Planners, the State Board of Psychological Examiners, the  
17 State Board of Examiners of Master Plumbers, the State Board  
18 of Shorthand Reporting, [and] the State Board of Veterinary  
19 Medical Examiners, *and the Acupuncture Examining Board.*

1 22. This act shall take effect immediately.

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## STATEMENT

Acupuncture comes to us as a gift from what is probably the earth's oldest continuing civilization. It is a traditional form of medicine which has its roots in ancient time at least 5,000 years ago.

Acupuncture therapy has been practiced in Europe since the 17th century when ambassadors to China and the Orient returned home to report on the medical techniques they had observed. In America acupuncture has been practiced since East Asian immigrants came here to work on the railroad system. It is time that acupuncture be made available to the citizens of this State.

The bill was prepared and formulated in consultation with Phil Kaplan, Chairman of the Ad-Hoc Committee for Acupuncture and Traditional Chinese Medicine and Robert F. Lenahan, M. Acu., C. A., representing the International Register of Oriental Medicine, the Acupuncture Association of America and the Occidental Institute of Chinese Studies.

This bill provides that acupuncture shall be practiced by properly qualified and certified acupuncturists. Acupuncture shall only be performed with a referral or diagnosis from a licensed physician.

S 762 (1983)

SENATE LABOR, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO

**SENATE, No. 762**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 28, 1982

This bill provides for the regulation and licensing of acupuncturists and their practice by the Acupuncture Examining Board which would be under the State Board of Medical Examiners. Acupuncturists use mechanical, thermal or electrical stimulation at points on the surface of the body to obtain their healing effect.

The Acupuncture Examining Board would consist of nine members. Four members would be acupuncturists who are not physicians; two would be physicians with at least two years of experience in acupuncture; two would be public members; and one would be a State representative. All regulations adopted or changed by the board would be subject to the review and approval of the State Board of Medical Examiners; the Board of Medical Examiners would also establish the standards governing the practice of acupuncture.

To be eligible for a certificate to practice acupuncture, an applicant must:

- a. Be at least 21 years of age;
- b. Be of good moral character; and
- c. (1) Have a baccalaureate degree and have successfully completed a Board-approved two-year course of study, or (2) have successfully completed a Board-approved tutorial program or at least three years' experience practicing acupuncture which is recognized by the board, or (3) be a physician or physical therapist licensed in this State.
- d. Successfully pass a written examination on the knowledge necessary to practice acupuncture and a practical test of the skills necessary to competently practice acupuncture.

No person can practice or hold himself out to be able to practice acupuncture without a certificate. However, acupuncture students in a course of study or tutorial program may practice acupuncture within these programs. Also, nothing in this bill would prevent the practice of acupuncture by a physician or dentist provided his course of training has included acupuncture.

The standards governing the practice of acupuncture which are to be established by the State Board of Medical Examiners must at least provide that:

- a. Acupuncture can only be performed with a referral or diagnosis from a physician;
- b. An acupuncturist must obtain the informed consent from each patient; and
- c. Acupuncturists can only use devices labeled in accordance with FDA guidelines.

The bill also establishes a tutorial program in acupuncture in which the instructor must be approved by the board, be an acupuncturist with seven years' experience and have no more than two students at any one time. The provisions on tutorial programs will expire three years after the enactment date of this bill.

The provisions of P. L. 1971, c. 60 (N. J. S. A. 45:1-2.1 *et seq.*) concerning public members, department representation, voting majorities, and compensation of members of regulatory boards would apply to this bill. The provisions of P. L. 1974, c. 46 (N. J. S. A. 45:3.1 *et seq.*) which provide that regulatory boards may establish and change charges for examinations, licensure and other services they perform to cover their costs but not to exceed those estimated costs would apply to this bill. Also, the provisions of P. L. 1978, c. 73 (N. J. S. A. 45:1-14 *et seq.*) which established uniform grounds for and disposition of disciplinary actions by the regulatory boards would apply to this bill. However, in addition to the provisions of the Uniform Enforcement Act, the board under this bill could refuse to grant or suspend or revoke a certificate to practice acupuncture if an acupuncturist employs an un-certified person to practice acupuncture or advertises the practice of acupuncture so as to disseminate false, deceptive or misleading information.

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ASSEMBLY HIGHER EDUCATION AND REGULATED  
PROFESSIONS COMMITTEE

STATEMENT TO

**SENATE, No. 762**

[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: NOVEMBER 23, 1982

The Assembly Higher Education and Regulated Professions Committee favorably releases Senate Bill No. 762 (OCR) and endorses the Senate Labor, Industry and Professions Committee statement which reads as follows:

This bill provides for the regulation and licensing of acupuncturists and their practice by the Acupuncture Examining Board which would be under the State Board of Medical Examiners. Acupuncturists use mechanical, thermal or electrical stimulation at points on the surface of the body to obtain their healing effect.

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- c. (1) Have a baccalaureate degree and have successfully completed a Board-approved two-year course of study, or (2) have successfully completed a Board-approved tutorial program or at least three years' experience practicing acupuncture which is recognized by the board, or (3) be a physician or physical therapist licensed in this State.
- d. Successfully pass a written examination on the knowledge necessary to practice acupuncture and a practical test of the skills necessary to completely practice acupuncture.

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