

# 45:2C-2

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2009                    **CHAPTER:** 56

**NJSA:** 45:2C-2                    (Revises statutes regarding acupuncturists; criminalizes unauthorized practice of acupuncture)

**BILL NO:** A1408 (Substituted for S1311)

**SPONSOR(S)** Fisher and Others

**DATE INTRODUCED:** January 8, 2008

**COMMITTEE:**                   **ASSEMBLY:** Regulated Professions  
                                      **SENATE:** Commerce

**AMENDED DURING PASSAGE:**                    No

**DATE OF PASSAGE:**                   **ASSEMBLY:** March 5, 2009  
  **SENATE:** February 23, 2009

**DATE OF APPROVAL:** May 6, 2009

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL (First Reprint of Assembly Committee Substitute)**

**A1408**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 8 of original bill)		Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes
	<b>SENATE:</b>	Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	No

**S1311**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 8 of original bill)		Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes
<b>FLOOR AMENDMENT STATEMENT:</b>		No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>		No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

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**NEWSPAPER ARTICLES:** No

LAW/RWH 9/9/09

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1408**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

ADOPTED FEBRUARY 25, 2008

**Sponsored by:**

**Assemblyman DOUGLAS H. FISHER**  
**District 3 (Salem, Cumberland and Gloucester)**  
**Assemblywoman JOAN M. VOSS**  
**District 38 (Bergen)**  
**Assemblyman PATRICK J. DIEGNAN, JR.**  
**District 18 (Middlesex)**  
**Assemblyman VINCENT PRIETO**  
**District 32 (Bergen and Hudson)**  
**Assemblyman JOSEPH VAS**  
**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Wagner, Senators Sweeney, Gill and Assemblyman Moriarty**

**SYNOPSIS**

Revises statutes regarding acupuncturists; criminalizes unauthorized practice of acupuncture.

**CURRENT VERSION OF TEXT**

As reported by the Senate Commerce Committee on December 11, 2008, with amendments.

(Sponsorship Updated As Of: 3/6/2009)

1 AN ACT concerning acupuncturists, amending <sup>1</sup>**[and]** the title and  
2 body of P.L.1983, c.7 and various parts of the statutory law,<sup>1</sup>  
3 supplementing P.L.1983, c.7 <sup>1</sup>and chapter 21 of Title 2C of the  
4 New Jersey Statutes<sup>1</sup> , and repealing sections 12 and 14 of  
5 P.L.1983, c.7.

6

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

9

10 <sup>1</sup>1. The title of P.L.1983, c.7 is amended to read as follows:

11 AN ACT regulating the practice of acupuncture, providing  
12 standards, qualifications and **[certification]** licensure of  
13 practitioners with respect thereto, amending P.L.1971, c.60,  
14 P.L.1974, c.46 and P.L.1978, c.73 and supplementing Title 45 of  
15 the Revised Statutes.<sup>1</sup>

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

17

18 <sup>1</sup>**[1.]** 2.<sup>1</sup> Section 2 of P.L.1983, c.7 (C.45:2C-2) is amended to  
19 read as follows:

20 2. As used in this act:

21 a. "Acupuncture" means the practice of Oriental medicine  
22 based on traditional Oriental medical theories, including, but not  
23 limited to, the stimulation of a certain point or points on or near the  
24 surface of the body by the insertion of needles to prevent or modify  
25 the perception of pain or to normalize physiological functions,  
26 including pain control, for the treatment of **[certain]** diseases or  
27 dysfunctions of the body and includes the techniques of  
28 electroacupuncture, mechanical stimulation, adjunctive therapies  
29 and moxibustion.

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

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

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

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

36

37 <sup>1</sup>**[2.]** 3.<sup>1</sup> Section 3 of P.L.1983, c.7 (C.45:2C-3) is amended to  
38 read as follows:

39 3. There is created in the Division of Consumer Affairs of the  
40 Department of Law and Public Safety and under the State Board of  
41 Medical Examiners an Acupuncture Examining Board consisting of  
42 nine members, four of whom shall be acupuncturists **[certified]**  
43 licensed in this State and not licensed as physicians and surgeons,

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted December 11, 2008.

1 two members shall be physicians and surgeons licensed in this  
2 State, with at least two years' experience in acupuncture; and  
3 pursuant to the provisions of section 2 of P.L.1971, c.60 (C.45:1-  
4 2.2), two members shall be public members who do not hold a  
5 license [or certificate] as a physician and surgeon or acupuncturist  
6 and one member shall be from a department in the Executive  
7 Branch of the State government. [The four acupuncturists initially  
8 appointed to the board need not be certified in this State, but shall  
9 be certified in another state and shall be deemed to be and shall  
10 become certified acupuncturists in this State immediately upon their  
11 appointments as members of the board.] The members of the board  
12 shall be residents of the State appointed by the Governor for terms  
13 of three years and until the appointment and qualification of their  
14 successors. Of the members initially appointed, three shall hold  
15 office for one year; three shall hold office for two years; and three  
16 shall hold office for three years. Vacancies shall be filled for the  
17 unexpired terms only.

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

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

28

29 <sup>1</sup>[3.] 4.<sup>1</sup> Section 4 of P.L.1983, c.7 (C.45:2C-4) is amended to  
30 read as follows:

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

- 34 a. The name and residence of each applicant;  
35 b. The date of the application;  
36 c. The applicant's place of business;  
37 d. Whether the applicant was rejected or a [certificate] license  
38 was granted and the date of such action.

39 The board shall compile annually a list of [certified] licensed  
40 acupuncturists authorized to practice in this State [and approved  
41 acupuncturists authorized to supervise tutorial programs in this  
42 State]. This list shall be available to the public.

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

44

45 <sup>1</sup>[4.] 5.<sup>1</sup> Section 5 of P.L.1983, c.7 (C.45:2C-5) is amended to  
46 read as follows:

47 5. a. The State Board of Medical Examiners, after consultation

1 with the board, shall establish standards governing the practice of  
2 acupuncture, including but not limited to:

3 (1) [Initial acupuncture treatment shall only be performed on  
4 presentation by the patient of a referral by or diagnosis from a  
5 licensed physician. A diagnosis and preevaluation of the patient  
6 shall be made available to the treating acupuncturist by the referring  
7 or diagnosing physician. In each case an accurate and detailed  
8 clinical record shall be kept by the acupuncturist, which shall  
9 include the referring physician's preevaluation of the patient.]  
10 (Deleted by amendment, P.L. , c. ) (pending before the  
11 Legislature as this bill)

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

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

20 (4) An acupuncturist shall advise each patient as to the  
21 importance of consulting with a licensed physician regarding the  
22 patient's condition, and shall keep on file with the patient's records a  
23 form attesting to the patient's notice of that advice. The form shall  
24 be in duplicate, with one copy to be issued to the patient, and signed  
25 and dated by both the acupuncturist and the patient.

26 <sup>1</sup>(5) An acupuncturist shall maintain medical malpractice  
27 liability insurance coverage, at appropriate amounts as set forth in  
28 regulation.<sup>1</sup>

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

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

32

33 <sup>1</sup>[5.] 6.<sup>1</sup> Section 6 of P.L.1983, c.7 (C.45:2C-6) is amended to  
34 read as follows:

35 6. a. A [certificate] license issued pursuant to this act  
36 authorizes the holder thereof to engage in the practice of  
37 acupuncture and when used in connection therewith to perform or  
38 prescribe the use of tuina, shiatsu, and other forms of <sup>1</sup>[oriental]  
39 Oriental<sup>1</sup> massage, surface stimulation of a certain point or  
40 combination of points on the body, breathing techniques and  
41 exercise to promote health.

42 b. The holder of a license may also utilize adjunctive therapies,  
43 which include, but are not limited to: <sup>1</sup>[oriental] Oriental<sup>1</sup> dietary  
44 therapy; lifestyle and behavioral education; laser stimulation in  
45 accordance with relevant federal law; cupping; thermal methods;  
46 magnets; gua-sha; percutaneous and transcutaneous electrical nerve  
47 stimulation; and, subject to the additional certification and filing

1 requirements set forth in section '[13] 14' of P.L. , c. (C. )  
2 (pending before the Legislature as this bill), herbology. 'Any  
3 adjunctive therapies utilized by the holder of a license shall be  
4 approved by the board.'  
5 (cf: P.L.1983, c.7, s.6)

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

9 7. [No] **'[a.]'** A person who is not [certified] licensed under  
10 this act shall not practice acupuncture, hold himself out as  
11 practicing acupuncture, or use a title or description, including the  
12 following: L.Ac; Licensed Acupuncturist; C. A. [,] ; Certified  
13 Acupuncturist; Acupuncturist; [M. D., C. A.; M. D., Certified  
14 Acupuncturist;] or any other letters or words denoting that the  
15 person so practices acupuncture. A person who is participating in an  
16 approved course of study [,] or school [or tutorial program] in  
17 acupuncture may practice acupuncture under conditions established  
18 by the board.

19 The State Board of Medical Examiners may suspend or revoke a  
20 license to practice medicine and surgery, upon proof to its  
21 satisfaction that the holder thereof practiced acupuncture contrary to  
22 the provisions of this act or employed a person who practiced  
23 acupuncture without [certification] licensure.

24 **'[b. Notwithstanding the provisions of subsection a. of this**  
25 **section, the State Board of Medical Examiners, after consultation**  
26 **with the Acupuncture Examining Board, may, by regulation, denote**  
27 **a title or description indicating that a physician or surgeon practices**  
28 **acupuncture.]'**

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

30  
31 **'[7.] 8.'** Section 8 of P.L.1983, c.7 (C.45:2C-8) is amended to  
32 read as follows:

33 8. Nothing in this act shall be construed to prevent the practice  
34 of acupuncture by a person licensed in New Jersey as a physician  
35 and surgeon or dentist and is in good standing, provided his course  
36 of training has included acupuncture. The course of training in  
37 acupuncture shall be for a minimum of 300 hours and shall include  
38 a clinical training program of not less than 150 hours. 'A person  
39 licensed in New Jersey as a physician and surgeon or dentist, who  
40 practices acupuncture as permitted pursuant to this section, shall be  
41 subject to oversight by the State Board of Medical Examiners or the  
42 New Jersey State Board of Dentistry, as appropriate, and shall not  
43 be subject to oversight by the Acupuncture Examining Board.'

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

45  
46 **'[8.] 9.'** Section 9 of P.L.1983, c.7 (C.45:2C-9) is amended to

1 read as follows:

2 9. **[Each]** Except as provided in section 8 of P.L.1983, c.7  
3 (C.45:2C-8), each person desiring to obtain a [certification] license  
4 to practice acupuncture shall make application therefor to the board  
5 upon such form and in such manner as the board shall prescribe  
6 and shall furnish satisfactory evidence to the board that he:

7 a. Is at least 21 years of age;  
8 b. Is of good moral character; and  
9 c. (1) Has a baccalaureate degree and has successfully  
10 completed a board approved **[two-year]** course of study or a board  
11 approved **[two-year]** program of a school of acupuncture~~;~~ **or** .

12 (2) ~~[has successfully completed a board approved tutorial~~  
13 ~~program in acupuncture or at least three years' experience practicing~~  
14 ~~acupuncture within three years after the enactment of this act, which~~  
15 ~~is recognized by the board; or]~~ (Deleted by amendment,  
16 P.L. , c. ) (pending before the Legislature as this bill)

17 (3) **[is the holder of a license to practice medicine and surgery.]**  
18 (Deleted by amendment, P.L. , c. ) (pending before the  
19 Legislature as this bill)

20 The application shall be accompanied by the fee prescribed by  
21 the board.

22 The board shall evaluate each applicant applying for a  
23 **[certificate] license** to practice acupuncture and make the final  
24 determination regarding each applicant's admission to the  
25 examination and the issuance or denial of a **[certificate] license**.

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

27

28 <sup>1</sup>**[9.] 10.**<sup>1</sup> Section 11 of P.L.1983, c.7 (C.45:2C-11) is amended  
29 to read as follows:

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

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

35

36 <sup>1</sup>**[10.] 11.**<sup>1</sup> Section 13 of P.L.1983, c.7 (C.45:2C-13) is amended  
37 to read as follows:

38 13. a. The board shall establish standards for the approval or  
39 recognition of courses of study~~[,] and schools, [tutorial programs~~  
40 ~~and practical experience in acupuncture,]~~ completion of which will  
41 satisfy the requirements of subsection c. of section 9 of this act.

42 b. **[The board shall approve or recognize training or practical**  
43 **experience acquired by an applicant prior to the effective date of**  
44 **this act, where the training or practical experience meets the**  
45 **standards set by the board.]** (Deleted by amendment, P.L. , c. )



1 (pending before the Legislature as this bill)

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

3

4 <sup>1</sup>~~11.~~ 12. Section 16 of P.L.1983, c.7 (C.45:2C-16) is amended  
5 to read as follows:

6 16. Before practicing acupuncture, an acupuncturist shall post  
7 his ~~certificate~~ license in a conspicuous location in his office. If  
8 an acupuncturist has more than one office, he shall obtain from the  
9 board a duplicate ~~certificate~~ license for each additional office.  
10 Where a ~~certificate~~ license or duplicate is lost or destroyed,  
11 notice of the loss or destruction shall be given to the board  
12 forthwith and the board may issue a copy thereof. An  
13 acupuncturist shall notify the board in writing of any change of  
14 address or location of his office at least ~~5~~ five days prior to the  
15 change, returning therewith his ~~certificate~~ license and any  
16 duplicates, so that the board may either endorse thereon the change  
17 or issue a new ~~certificate~~ license and duplicates as of the same  
18 date as the original ~~certificate~~ license, in lieu of the ~~certificate~~  
19 license and duplicates so surrendered.

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

21

22 <sup>1</sup>~~12.~~ 13. Section 17 of P.L.1983, c.7 (C.45:2C-17) is amended  
23 to read as follows:

24 17. In addition to the provisions of section 8 of P.L.1978, c.73  
25 (C.45:1-21), the board may refuse to grant or may suspend or  
26 revoke a ~~certificate~~ license to practice acupuncture upon proof to  
27 the satisfaction of the board that the holder thereof has:

28 a. Employed ~~uncertified~~ unlicensed persons to practice  
29 acupuncture; or

30 b. Advertised the practice of acupuncture so as to disseminate  
31 false, deceptive or misleading information, whether as an  
32 individual, through a professional service corporation or through a  
33 third party.

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

35

36 <sup>1</sup>~~13.~~ 14. (New section) a. An acupuncturist licensed on or  
37 after the effective date of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill), before employing herbology in his practice,  
39 shall submit to the board proof of current certification in either  
40 Chinese Herbology or Oriental Medicine by the National  
41 Certification Commission for Acupuncture and Oriental Medicine  
42 (NCCAOM), or its successor.

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

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

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

9 (2) The board shall promulgate rules and regulations concerning  
10 the appropriate criteria for approval pursuant to this subsection,  
11 which shall include:

12 (a) professional level training in herbology at a school  
13 accredited by the Accreditation Commission for Acupuncture and  
14 Oriental Medicine (ACAOM);

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

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

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

21

22 <sup>1</sup>[14.] 15.<sup>1</sup>(New section) Any person who is a certified  
23 acupuncturist pursuant to section 9 of P.L.1983, c.7 (C.45:2C-9) on  
24 the effective date of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill) shall be deemed a licensed acupuncturist  
26 under, and subject to the provisions of, P.L.1983, c.7 (C.45:2C-1 et  
27 seq.), as amended and supplemented by P.L. , c. (C. )  
28 (pending before the Legislature as this bill).

29

30 <sup>1</sup>[15.] 16.<sup>1</sup> (New section) A person is guilty of a crime of the  
31 third degree if he does not possess a license to practice acupuncture,  
32 or his license is suspended, revoked or otherwise limited by an  
33 order entered by the Acupuncture Examining Board, and, so  
34 knowing, he:

35 a. engages in that practice;

36 b. exceeds the scope of practice permitted by the board order;

37 c. holds himself out to the public or any person as being  
38 licensed to engage in that practice;

39 d. engages in any activity for which a license is a necessary  
40 prerequisite; or

41 e. practices acupuncture under a false or assumed name or  
42 falsely impersonates another person licensed by the board.

43

44 <sup>1</sup>17. Section 4 of P.L.1998, c.21 (C.39:6A-3.1) is amended to  
45 read as follows:

46 4. As an alternative to the mandatory coverages provided in  
47 sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), any

1 owner or registered owner of an automobile registered or  
2 principally garaged in this State may elect a basic automobile  
3 insurance policy providing the following coverage:

4 a. Personal injury protection coverage, for the payment of  
5 benefits without regard to negligence, liability or fault of any kind,  
6 to the named insured and members of his family residing in his  
7 household, who sustained bodily injury as a result of an accident  
8 while occupying, entering into, alighting from or using an  
9 automobile, or as a pedestrian, caused by an automobile or by an  
10 object propelled by or from an automobile, and to other persons  
11 sustaining bodily injury while occupying, entering into, alighting  
12 from or using the automobile of the named insured, with the  
13 permission of the named insured. "Personal injury protection  
14 coverage" issued pursuant to this section means and includes  
15 payment of medical expense benefits, as provided in the policy and  
16 approved by the commissioner, for the reasonable and necessary  
17 treatment of bodily injury in an amount not to exceed \$15,000 per  
18 person per accident; except that, medical expense benefits shall be  
19 paid in an amount not to exceed \$250,000: (1) for all medically  
20 necessary treatment of permanent or significant brain injury, spinal  
21 cord injury or disfigurement or (2) for medically necessary  
22 treatment of other permanent or significant injuries rendered at a  
23 trauma center or acute care hospital immediately following the  
24 accident and until the patient is stable, no longer requires critical  
25 care and can be safely discharged or transferred to another facility  
26 in the judgment of the attending physician. In the event benefits  
27 paid by an insurer pursuant to this subsection are in excess of  
28 \$75,000 on account of personal injury to any one person in any one  
29 accident covered by a policy issued or renewed prior to January 1,  
30 2004, such excess shall be paid by the insurer and shall be  
31 reimbursable to the insurer from the Unsatisfied Claim and  
32 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-  
33 73.1). Benefits provided under basic coverage shall be in  
34 accordance with a benefit plan provided in the policy and approved  
35 by the commissioner. The policy form, which shall be subject to  
36 the approval of the commissioner, shall set forth the benefits  
37 provided under the policy, including eligible medical treatments,  
38 diagnostic tests and services as well as such other benefits as the  
39 policy may provide. The commissioner shall set forth by regulation  
40 a statement of the basic benefits which shall be included in the  
41 policy. Medical treatments, diagnostic tests, and services provided  
42 by the policy shall be rendered in accordance with commonly  
43 accepted protocols and professional standards and practices which  
44 are commonly accepted as being beneficial for the treatment of the  
45 covered injury. Protocols and professional standards and practices  
46 which are deemed to be commonly accepted pursuant to this section  
47 shall be those recognized by national standard setting organizations,

1 national or state professional organizations of the same discipline as  
2 the treating provider, or those designated or approved by the  
3 commissioner in consultation with the professional licensing boards  
4 in the Division of Consumer Affairs in the Department of Law and  
5 Public Safety. The commissioner, in consultation with the  
6 Commissioner of the Department of Health and Senior Services and  
7 the applicable licensing boards, may reject the use of protocols,  
8 standards and practices or lists of diagnostic tests set by any  
9 organization deemed not to have standing or general recognition by  
10 the provider community or the applicable licensing boards.  
11 Protocols shall be deemed to establish guidelines as to standard  
12 appropriate treatment and diagnostic tests for injuries sustained in  
13 automobile accidents, but the establishment of standard treatment  
14 protocols or protocols for the administration of diagnostic tests shall  
15 not be interpreted in such a manner as to preclude variance from the  
16 standard when warranted by reason of medical necessity. The  
17 policy form may provide for the precertification of certain  
18 procedures, treatments, diagnostic tests, or other services or for the  
19 purchase of durable medical goods, as approved by the  
20 commissioner, provided that the requirement for precertification  
21 shall not be unreasonable, and no precertification requirement shall  
22 apply within ten days of the insured event. The policy may provide  
23 that certain benefits provided by the policy which are in excess of  
24 the basic benefits required by the commissioner to be included in  
25 the policy may be subject to reasonable copayments in addition to  
26 the copayments provided for herein, provided that the copayments  
27 shall not be unreasonable and shall be established in such a manner  
28 as not to serve to encourage underutilization of benefits subject to  
29 the copayments, nor encourage overutilization of benefits. The  
30 policy form shall clearly set forth any limitations on benefits or  
31 exclusions, which may include, but need not be limited to, benefits  
32 which are otherwise compensable under workers' compensation, or  
33 benefits for treatments deemed to be experimental or  
34 investigational, or benefits deducted pursuant to section 6 of  
35 P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the  
36 services of a benefit consultant in establishing the basic benefits  
37 level provided in this subsection, which shall be set forth by  
38 regulation no later than 120 days following the enactment date of  
39 this amendatory and supplementary act. The commissioner shall  
40 not advertise for the consultant as provided in sections 3 and 4 of  
41 P.L.1954, c.48 (C.52:34-8 and 52:34-9).

42 Medical expense benefits payable under this subsection shall not  
43 be assignable, except to a provider of service benefits, in  
44 accordance with policy terms approved by the commissioner, nor  
45 shall they be subject to levy, execution, attachment or other process  
46 for satisfaction of debts. Medical expense benefits payable in  
47 accordance with this subsection may be subject to a deductible and

1 copayments as provided for in the policy, if any. No insurer or  
2 provider providing service benefits to an insured shall have a right  
3 of subrogation for the amount of benefits paid pursuant to any  
4 deductible or copayment under this section.

5 Notwithstanding the provisions of P.L.2003, c.18, physical  
6 therapy treatment shall not be reimbursable as medical expense  
7 benefits pursuant to this subsection unless rendered by a licensed  
8 physical therapist pursuant to a referral from a licensed physician,  
9 dentist, podiatrist or chiropractor within the scope of their  
10 respective practices. Notwithstanding the provisions of  
11 P.L. , c. (C. ) (pending before the Legislature as this bill),  
12 acupuncture treatment shall not be reimbursable as medical expense  
13 benefits pursuant to this subsection unless rendered by a licensed  
14 acupuncturist pursuant to a referral from a licensed physician within  
15 the scope of the physician's practice.

16 b. Liability insurance coverage insuring against loss resulting  
17 from liability imposed by law for property damage sustained by any  
18 person arising out of the ownership, maintenance, operation or use  
19 of an automobile in an amount or limit of \$5,000, exclusive of  
20 interest and costs, for damage to property in any one accident.

21 c. In addition to the aforesaid coverages required to be  
22 provided in a basic automobile insurance policy, optional liability  
23 insurance coverage insuring against loss resulting from liability  
24 imposed by law for bodily injury or death in an amount or limit of  
25 \$10,000, exclusive of interests and costs, on account of injury to, or  
26 death of, one or more persons in any one accident.

27 If a named insured has elected the basic automobile insurance  
28 policy option and an immediate family member or members or  
29 relatives resident in his household have one or more policies with  
30 the coverages provided for in sections 3 and 4 of P.L.1972, c.70  
31 (C.39:6A-3 and 39:6A-4), the provisions of section 12 of P.L.1983,  
32 c.362 (C.39:6A-4.2) shall apply.

33 Every named insured and any other person to whom the basic  
34 automobile insurance policy, with or without the optional \$10,000  
35 liability coverage insuring against loss resulting from liability  
36 imposed by law for bodily injury or death provided for in  
37 subsection c. of this section, applies shall be subject to the tort  
38 option provided in subsection a. of section 8 of P.L.1972, c.70  
39 (C.39:6A-8).

40 No licensed insurance carrier shall refuse to renew the coverage  
41 stipulated by this section of an eligible person as defined in section  
42 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with the  
43 provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or with  
44 the consent of the Commissioner of Banking and Insurance.<sup>1</sup>  
45 (cf: P.L.2003, c.89, s.36)

1       <sup>1</sup>18. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read  
2 as follows:

3       4. Personal injury protection coverage, regardless of fault.

4       Except as provided by section 45 of P.L.2003, c.89 (C.39:6A-  
5 3.3) and section 4 of P.L.1998, c.21 (C.39:6A-3.1), every standard  
6 automobile liability insurance policy issued or renewed on or after  
7 the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall  
8 contain personal injury protection benefits for the payment of  
9 benefits without regard to negligence, liability or fault of any kind,  
10 to the named insured and members of his family residing in his  
11 household who sustain bodily injury as a result of an accident while  
12 occupying, entering into, alighting from or using an automobile, or  
13 as a pedestrian, caused by an automobile or by an object propelled  
14 by or from an automobile, and to other persons sustaining bodily  
15 injury while occupying, entering into, alighting from or using the  
16 automobile of the named insured, with permission of the named  
17 insured.

18       "Personal injury protection coverage" means and includes:

19       a. Payment of medical expense benefits in accordance with a  
20 benefit plan provided in the policy and approved by the  
21 commissioner, for reasonable, necessary, and appropriate treatment  
22 and provision of services to persons sustaining bodily injury, in an  
23 amount not to exceed \$250,000 per person per accident. In the  
24 event benefits paid by an insurer pursuant to this subsection are in  
25 excess of \$75,000 on account of bodily injury to any one person in  
26 any one accident, that excess shall be paid by the insurer and shall  
27 be reimbursable to the insurer from the Unsatisfied Claim and  
28 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-  
29 73.1). The policy form, which shall be subject to the approval of  
30 the commissioner, shall set forth the benefits provided under the  
31 policy, including eligible medical treatments, diagnostic tests and  
32 services as well as such other benefits as the policy may provide.  
33 The commissioner shall set forth by regulation a statement of the  
34 basic benefits which shall be included in the policy. Medical  
35 treatments, diagnostic tests, and services provided by the policy  
36 shall be rendered in accordance with commonly accepted protocols  
37 and professional standards and practices which are commonly  
38 accepted as being beneficial for the treatment of the covered injury.  
39 Protocols and professional standards and practices and lists of valid  
40 diagnostic tests which are deemed to be commonly accepted  
41 pursuant to this section shall be those recognized by national  
42 standard setting organizations, national or state professional  
43 organizations of the same discipline as the treating provider, or  
44 those designated or approved by the commissioner in consultation  
45 with the professional licensing boards in the Division of Consumer  
46 Affairs in the Department of Law and Public Safety. The  
47 commissioner, in consultation with the Commissioner of the

1 Department of Health and Senior Services and the applicable  
2 licensing boards, may reject the use of protocols, standards and  
3 practices or lists of diagnostic tests set by any organization deemed  
4 not to have standing or general recognition by the provider  
5 community or the applicable licensing boards. Protocols shall be  
6 deemed to establish guidelines as to standard appropriate treatment  
7 and diagnostic tests for injuries sustained in automobile accidents,  
8 but the establishment of standard treatment protocols or protocols  
9 for the administration of diagnostic tests shall not be interpreted in  
10 such a manner as to preclude variance from the standard when  
11 warranted by reason of medical necessity. The policy form may  
12 provide for the precertification of certain procedures, treatments,  
13 diagnostic tests, or other services or for the purchase of durable  
14 medical goods, as approved by the commissioner, provided that the  
15 requirement for precertification shall not be unreasonable, and no  
16 precertification requirement shall apply within ten days of the  
17 insured event. The policy may provide that certain benefits  
18 provided by the policy which are in excess of the basic benefits  
19 required by the commissioner to be included in the policy may be  
20 subject to reasonable copayments in addition to the copayments  
21 provided for pursuant to subsection e. of this section, provided that  
22 the copayments shall not be unreasonable and shall be established  
23 in such a manner as not to serve to encourage underutilization of  
24 benefits subject to the copayments, nor encourage overutilization of  
25 benefits. The policy form shall clearly set forth any limitations on  
26 benefits or exclusions, which may include, but need not be limited  
27 to, benefits which are otherwise compensable under workers'  
28 compensation, or benefits for treatments deemed to be experimental  
29 or investigational, or benefits deducted pursuant to section 6 of  
30 P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the  
31 services of a benefit consultant in establishing the basic benefits  
32 level provided in this subsection, which shall be set forth by  
33 regulation no later than 120 days following the enactment date of  
34 P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not  
35 advertise for bids for the consultant as provided in sections 3 and 4  
36 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

37 Notwithstanding the provisions of P.L.2003, c.18, physical  
38 therapy treatment shall not be reimbursable as medical expense  
39 benefits pursuant to this subsection unless rendered by a licensed  
40 physical therapist pursuant to a referral from a licensed physician,  
41 dentist, podiatrist or chiropractor within the scope of their  
42 respective practices. Notwithstanding the provisions of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 acupuncture treatment shall not be reimbursable as medical expense  
45 benefits pursuant to this subsection unless rendered by a licensed  
46 acupuncturist pursuant to a referral from a licensed physician within  
47 the scope of the physician's practice.

1       b. Income continuation benefits. The payment of the loss of  
2 income of an income producer as a result of bodily injury disability,  
3 subject to a maximum weekly payment of \$100. Such sum shall be  
4 payable during the life of the injured person and shall be subject to  
5 an amount or limit of \$5,200, on account of injury to any one  
6 person in any one accident, except that in no case shall income  
7 continuation benefits exceed the net income normally earned during  
8 the period in which the benefits are payable.

9       c. Essential services benefits. Payment of essential services  
10 benefits to an injured person shall be made in reimbursement of  
11 necessary and reasonable expenses incurred for such substitute  
12 essential services ordinarily performed by the injured person for  
13 himself, his family and members of the family residing in the  
14 household, subject to an amount or limit of \$12 per day. Such  
15 benefits shall be payable during the life of the injured person and  
16 shall be subject to an amount or limit of \$4,380, on account of  
17 injury to any one person in any one accident.

18       d. Death benefits. In the event of the death of an income  
19 producer as a result of injuries sustained in an accident entitling  
20 such person to benefits under this section, the maximum amount of  
21 benefits which could have been paid to the income producer, but for  
22 his death, under subsection b. of this section shall be paid to the  
23 surviving spouse, or in the event there is no surviving spouse, then  
24 to the surviving children, and in the event there are no surviving  
25 spouse or surviving children, then to the estate of the income  
26 producer.

27       In the event of the death of one performing essential services as a  
28 result of injuries sustained in an accident entitling such person to  
29 benefits under subsection c. of this section, the maximum amount of  
30 benefits which could have been paid to such person, under  
31 subsection c., shall be paid to the person incurring the expense of  
32 providing such essential services.

33       e. Funeral expenses benefits. All reasonable funeral, burial  
34 and cremation expenses, subject to a maximum benefit of \$1,000,  
35 on account of the death of any one person in any one accident shall  
36 be payable to the decedent's estate.

37       Benefits payable under this section shall:

38       (1) Be subject to any option elected by the policyholder  
39 pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

40       (2) Not be assignable, except to a provider of service benefits  
41 under this section in accordance with policy terms approved by the  
42 commissioner, nor subject to levy, execution, attachment or other  
43 process for satisfaction of debts.

44       Medical expense benefit payments shall be subject to any  
45 deductible and any copayment which may be established as  
46 provided in the policy. Upon the request of the commissioner or  
47 any party to a claim for benefits or payment for services rendered, a



1 provider shall present adequate proof that any deductible or  
2 copayment related to that claim has not been waived or discharged  
3 by the provider.

4 No insurer or health provider providing benefits to an insured  
5 shall have a right of subrogation for the amount of benefits paid  
6 pursuant to any deductible or copayment under this section.<sup>1</sup>  
7 (cf: P.L.2003, c.89, s.37)

8  
9 <sup>1</sup>~~16.~~ 19. Sections 12 and 14 of P.L.1983, c.7 (C.45:2C-12 and  
10 45:2C-14) are repealed.

11  
12 <sup>1</sup>~~17.~~ 20. This act shall take effect on the 180th day next  
13 following enactment.

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.

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SPONSOR'S STATEMENT

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

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

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

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

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

# ASSEMBLY REGULATED PROFESSIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1408

# STATE OF NEW JERSEY

DATED: FEBRUARY 25, 2008

The Assembly Regulated Professions Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1408.

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

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

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

The bill also requires that a physician, surgeon or dentist who wishes to practice acupuncture must complete a course of training of not less than 300 hours, of which 150 hours must be clinical training.

As provided in the bill, the State Board of Medical Examiners, after consultation with the Acupuncture Examining Board, may, by regulation, denote a title or description indicating that a physician or surgeon practices acupuncture.

The bill further allows the Acupuncture Examining Board to establish certification criteria for the use of herbology in the practice of acupuncture, but provides an exemption from these new certification requirements for certain persons currently practicing or studying to practice acupuncture.

The bill also eliminates tutorial programs, in which an acupuncturist may supervise students in acupuncture.

In addition, the bill makes it a crime of the third degree for any person to practice acupuncture without a license or while that license is suspended or revoked.

As reported, Assembly Committee Substitute for Assembly Bill No. 1408 is identical to Senate Bill No. 1311.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1408**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 11, 2008

The Senate Commerce Committee reports favorably and with committee amendments Assembly Committee Substitute for Assembly Bill No. 1408.

This substitute bill, as amended, revises the law regulating the practice of acupuncture. It provides for the licensure of acupuncturists, rather than certification, as is currently the case.

With respect to the scope of practice, the substitute permits consumers to access directly the services of acupuncturists, and eliminates the requirement that acupuncture only be performed with a referral or diagnosis from a licensed physician. Notwithstanding the substitute's allowance for direct access, it additionally stipulates that an acupuncturist shall advise each patient as to the importance of consulting with a licensed physician regarding the patient's condition. Further, with respect to personal injury protection coverage provided under private passenger automobile insurance, a referral from a licensed physician shall be necessary in order for any acupuncture treatment to be reimbursable under such coverage.

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

The substitute requires the State Board of Medical Examiners, after consultation with the Acupuncture Examining Board, to establish standards governing the practice of acupuncture regarding mandatory medical malpractice liability insurance coverage, which an

acupuncturist shall maintain at appropriate amounts as set forth in regulation.

While current law permits a physician and surgeon or dentist to practice acupuncture, the substitute specifies that any such licensed professional shall be in good standing in order to do so. Additionally, the physician and surgeon or dentist shall have completed, as part of his course of professional training, a minimum of 300 hours of acupuncture training, which includes not less than 150 hours of clinical training.

In addition to the acupuncture license, the substitute further allows the Acupuncture Examining Board to establish specialized certification criteria for the use of herbology in the practice of acupuncture. However, there is an exemption from any new herbology certification requirements for persons certified on or before the substitute's effective date to practice acupuncture who employ herbology in their practice, and for any person who is enrolled and graduates, or has graduated, from an accredited school for acupuncture on or before the effective date.

The substitute also eliminates tutorial programs, in which an acupuncturist may supervise students in acupuncture.

Finally, the substitute makes it a crime of the third degree for any person to knowingly practice acupuncture without a license or while that license is suspended, revoked, or otherwise limited. This is similar to the existing criminal statute, section 14 of P.L.1989, c.300 (C.2C:21-20), which makes it a crime of the third degree to knowingly practice medicine and surgery or podiatry without a license or while that license is suspended, revoked, or otherwise limited. A crime of the third degree is punishable by a term of imprisonment of three to 5 years, a fine of up to \$15,000, or both.

This substitute bill, as amended, is identical to the provisions of Senate Bill No. 1311, as amended and reported by the committee.

The committee amendments to the substitute:

- mandate that acupuncturists maintain medical malpractice liability insurance coverage, at appropriate amounts as set forth in regulation;

- require that the Acupuncture Examination Board shall approve the utilization of any adjunctive therapies;

- remove a provision that permitted the creation of a title or description by the State Board of Medical Examiners, after consultation with the Acupuncture Examination Board, to indicate that a physician and surgeon also practices acupuncture;

- expressly indicate that a physician and surgeon or dentist practicing acupuncture shall be subject to oversight by their respective licensing authorities, and not subject to oversight by the Acupuncture Examining Board;

- provide that a referral from a licensed physician shall be necessary in order for acupuncture treatment to be reimbursable as medical expense benefits under the personal injury protection coverage

provided by private passenger automobile insurance; and

- update the title of the substitute, as well as the title of P.L.1983, c.7, the underlying law certifying acupuncturists, to properly reflect the object of the substitute and the law, as updated, to license acupuncturists as well as criminalize certain actions related to the practice of acupuncture.

1 his license is suspended, revoked or otherwise limited by an order  
2 entered by the Acupuncture Examining Board, and, so knowing, he:

- 3 a. engages in that practice;  
4 b. exceeds the scope of practice permitted by the board order;  
5 c. holds himself out to the public or any person as being  
6 licensed to engage in that practice;  
7 d. engages in any activity for which a license is a necessary  
8 prerequisite; or  
9 e. practices acupuncture under a false or assumed name or  
10 falsely impersonates another person licensed by the board.

11  
12 16. Sections 12 and 14 of P.L.1983, c.7 (C.45:2C-12 and 45:26-  
13 14) are repealed.

14  
15 17. This act shall take effect on the 180th day next following  
16 enactment.

17  
18  
19 SPONSOR'S STATEMENT

20  
21 This bill revises the law regulating the practice of acupuncture.  
22 The bill provides for the licensure of acupuncturists, rather than  
23 certification, as is currently the case.

24 This bill permits consumers to access directly the services of  
25 acupuncturists, and eliminates the requirement that acupuncture can  
26 only be performed with a referral or diagnosis from a physician.  
27 The bill stipulates that an acupuncturist shall advise each patient as  
28 to the importance of consulting with a licensed physician regarding  
29 the patient's condition.

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

42 The bill also requires that a physician, surgeon or dentist who  
43 wishes to practice acupuncture must complete a course of training  
44 of not less than 300 hours, of which 150 hours must be clinical  
45 training.

46 As provided in the bill, the State Board of Medical Examiners,  
47 after consultation with the Acupuncture Examining Board, may, by  
48 regulation, denote a title or description indicating that a physician



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1 or surgeon practices acupuncture.

2 The bill further allows the Acupuncture Examining Board to  
3 establish certification criteria for the use of herbology in the  
4 practice of acupuncture, but provides an exemption from these new  
5 certification requirements for certain persons currently practicing or  
6 studying to practice acupuncture.

7 The bill also eliminates tutorial programs, in which an  
8 acupuncturist may supervise students in acupuncture.

9 In addition, the bill makes it a crime of the third degree for any  
10 person to practice acupuncture without a license or while that  
11 license is suspended or revoked.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1311**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 11, 2008

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1311.

This bill, as amended, revises the law regulating the practice of acupuncture. It provides for the licensure of acupuncturists, rather than certification, as is currently the case.

With respect to the scope of practice, the bill permits consumers to access directly the services of acupuncturists, and eliminates the requirement that acupuncture only be performed with a referral or diagnosis from a licensed physician. Notwithstanding the bill's allowance for direct access, it additionally stipulates that an acupuncturist shall advise each patient as to the importance of consulting with a licensed physician regarding the patient's condition. Further, with respect to personal injury protection coverage provided under private passenger automobile insurance, a referral from a licensed physician shall be necessary in order for any acupuncture treatment to be reimbursable under such coverage.

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

The bill requires the State Board of Medical Examiners, after consultation with the Acupuncture Examining Board, to establish standards governing the practice of acupuncture regarding mandatory medical malpractice liability insurance coverage, which an acupuncturist shall maintain at appropriate amounts as set forth in regulation.

While current law permits a physician and surgeon or dentist to practice acupuncture, the bill specifies that any such licensed professional shall be in good standing in order to do so. Additionally, the physician and surgeon or dentist shall have completed, as part of his course of professional training, a minimum of 300 hours of acupuncture training, which includes not less than 150 hours of clinical training.

In addition to the acupuncture license, the bill further allows the Acupuncture Examining Board to establish specialized certification criteria for the use of herbology in the practice of acupuncture. However, there is an exemption from any new herbology certification requirements for persons certified on or before the bill's effective date to practice acupuncture who employ herbology in their practice, and for any person who is enrolled and graduates, or has graduated, from an accredited school for acupuncture on or before the effective date.

The bill also eliminates tutorial programs, in which an acupuncturist may supervise students in acupuncture.

Finally, the bill makes it a crime of the third degree for any person to knowingly practice acupuncture without a license or while that license is suspended, revoked, or otherwise limited. This is similar to the existing criminal statute, section 14 of P.L.1989, c.300 (C.2C:21-20), which makes it a crime of the third degree to knowingly practice medicine and surgery or podiatry without a license or while that license is suspended, revoked, or otherwise limited. A crime of the third degree is punishable by a term of imprisonment of three to 5 years, a fine of up to \$15,000, or both.

This bill, as amended, is identical to the provisions of the Assembly Committee Substitute for Assembly Bill No. 1408, as amended and reported by the committee.

The committee amendments to the bill:

- mandate that acupuncturists maintain medical malpractice liability insurance coverage, at appropriate amounts as set forth in regulation;

- require that the Acupuncture Examination Board shall approve the utilization of any adjunctive therapies;

- remove a provision that permitted the creation of a title or description by the State Board of Medical Examiners, after consultation with the Acupuncture Examination Board, to indicate that a physician and surgeon also practices acupuncture;

- expressly indicate that a physician and surgeon or dentist practicing acupuncture shall be subject to oversight by their respective licensing authorities, and not subject to oversight by the Acupuncture Examining Board;

- provide that a referral from a licensed physician shall be necessary in order for acupuncture treatment to be reimbursable as medical expense benefits under the personal injury protection coverage provided by private passenger automobile insurance; and

- modify the title of the bill, as well as the title of P.L.1983, c.7, the

underlying law certifying acupuncturists, to properly reflect the object of the bill and the law, as updated, to license acupuncturists, as well as supplement and amend various parts of the statutory law.