



H.B. 341

123rd General Assembly
(As Introduced)

**Reps. Schuring, Van Vyven, Ogg, Hollister, Padgett, Jones, Netzley, Schuler,
Sullivan, Allen**

BILL SUMMARY

- Declares that the practice of acupuncture is not the practice of medicine.
- Prohibits any person, other than a physician, from practicing acupuncture unless the person is designated as a diplomate in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine.
- Establishes standards of practice for persons who practice as acupuncturists.
- Requires the Attorney General to seek an injunction against any person who is violating or threatening to violate the bill's provisions.

CONTENT AND OPERATION

The practice of acupuncture

(secs. 4762.01, 4762.02, and 4762.03)

Under current law, the practice of acupuncture is the practice of medicine and, thus, only individuals authorized by the State Medical Board to practice medicine and surgery may practice acupuncture (see **COMMENT**). The bill declares that acupuncture is not the practice of medicine.

The bill prohibits anyone from engaging in the practice of acupuncture unless the person has been designated as a diplomate in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine and the designation is current and active. The prohibition does not apply to a physician or

person who performs acupuncture as part of a training program leading to a¹

by the insertion and removal of specialized needles, with or without the application of electrical stimulation, for the promotion, maintenance, and restoration of health and the prevention of disease.

Use of titles

The bill permits an individual who practices acupuncture under the bill to use the following titles: "Acupuncturist," "C.A.," "C.Ac.," "Certified Acupuncturist," "Dipl. Ac.," "Licensed Acupuncturist," "National Board Certified in Acupuncture Ac."

(secs. 4762.04, 4762.06, 4762.07, 4762.08, 4762.09, 4762.10, and 4762.11)

--Physician supervision

under the referral or prescription and general supervision of a physician; however, the supervising physician is not required to be registered with a board as an

(1) Prior to acupuncture treatment, perform a medical diagnostic examination with respect to any ailment or condition to be treated by acupuncture;

¹ "Physician" means an individual authorized under the law governing the practice of medicine (secs. 4762.01).

"Moxibustion" is defined as the use of an herbal heat source on one or more points of the body for the purpose of diagnosis, and treatment for the purpose of promotion, maintenance, and restoration of health.

(2) Be personally available for consultation on the premises at which acupuncture is performed or be available by telephone contact, chart review, or other means acceptable to the State Medical Board;

(3) Place conditions and restrictions on the course of treatment if required as a matter of sound medical practice.

--Compliance with standards of the National Certification Commission for Acupuncture and Oriental Medicine. An acupuncturist must comply with the standards of the National Certification Commission for Acupuncture and Oriental Medicine regarding all of the following: professional ethics, commitment to patients, commitment to the profession, and commitment to the public.

--Display of certification. An acupuncturist must conspicuously display at the acupuncturist's primary place of business both of the following:

(1) The certificate or other document received from the National Certification Commission for Acupuncture and Oriental Medicine as evidence that the acupuncturist has been designated by the Commission as a diplomate in acupuncture;

(2) A notice specifying that the practice of acupuncture is disciplined by the Commission and the address and telephone number of the Commission's executive office.

--Advising patients prior to treatment. Prior to treating a patient, an acupuncturist is required to (1) advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and (2) request that the patient sign a form stating that the patient acknowledges that it is the patient's responsibility to return to a physician for any necessary conventional medical treatment. The acupuncturist must sign the form and keep a copy of it with the patient's records. The acupuncturist is not permitted to commence treatment unless the patient signs and dates the form.

--Providing information to patients. When first meeting a patient in person, an acupuncturist must provide in writing the acupuncturist's name, business address and telephone number, and information on acupuncture, including the techniques that are used.

--Use of needles. An acupuncturist is required to use only sterile, single use disposable needles or the equivalent. An acupuncturist is subject to and required to comply with the universal blood and body fluid precautions established in rules adopted by the State Medical Board.

--Record retention. An acupuncturist is required to maintain records for each patient treated. The records must be retained for not less than three years after treatment ends.

Injunctive relief

(sec. 4762.12)

If it appears that a person is violating or threatening to violate any of the bill's provisions, the Attorney General is required to bring an action in a court of competent jurisdiction to enjoin the alleged violation. The court must grant appropriate relief on a showing that the person is violating or threatening to violate any provision of the bill.

COMMENT

The bill states that it is the intent of the General Assembly to supersede the holding of the Ohio Supreme Court in *State v. Rich* (1975), 44 Ohio St.2d 195, that acupuncture constitutes the practice of medicine under Ohio law, and therefore, only a person who holds a certificate to practice medicine or surgery from the State Medical Board may perform it.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-13-99	p. 663

H0341-I.123/rss