

# Fiscal Note & Local Impact Statement

123<sup>rd</sup> General Assembly of Ohio

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BILL: H.B. 341 DATE: September 21, 1999  
STATUS: As Introduced SPONSOR: Rep. Schuring  
LOCAL IMPACT STATEMENT REQUIRED: No — Minimal Cost  
CONTENTS: Declares that the practice of acupuncture is not the practice of medicine and establishes standards of practice for persons who practice as acupuncturists.

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## State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- The bill requires the Attorney General to bring an action in a court of competent jurisdiction to enjoin any apparent violation of the provisions contained in this bill. LBO assumes that the number of actions undertaken by the Attorney General would be minimal. This is the only enforcement measure against illegal practice of acupuncture included in the bill.
- The bill explicitly states that it is the General Assembly's intent to supercede the decision of the Ohio Supreme Court in *State v. Rich* (1975), 44 Ohio St. 2d 195, which held that the practice of acupuncture is the practice of medicine.
- The bill will have no fiscal effect on the State Medical Board since acupuncturists under the bill would not be under the rule of the Medical Board.

## Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
<b>Counties</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- As discussed above, when it appears that a person is violating the provisions of this bill, the Attorney General shall bring an action in a court of competent jurisdiction. Most likely, the court of competent jurisdiction will be the county funded Court of Common Pleas.





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## ***Detailed Fiscal Analysis***

In 1975, the Ohio Supreme Court in *State v. Rich* (1975), 44 Ohio St. 2d 195, ruled that the practice of acupuncture is the practice of medicine under section 4731.34 of the Revised Code. This bill would provide for the practice of acupuncture by individuals other than those licensed by the State Medical Board under ORC 4731.34. Additionally, the bill contains language stating that it is the General Assembly's intent that this bill supercedes the court's decision in the *Rich* case.

Under H.B. 341, an individual desiring to practice acupuncture in Ohio must receive designation as a diplomate in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). The only individuals exempted from this requirement are physicians, osteopaths, and podiatrists licensed by the State Medical Board under ORC 4731.34 and individuals in training programs leading to NCCAOM diplomate designation.

The bill requires acupuncturists to practice under the referral or prescription and general supervision of a physician. The bill outlines the activities required by the referring physician.

### **Enforcement and Effects on State Medical Board**

House bill 341 will not have any fiscal effects on the State Medical Board since the Board will not have jurisdiction over the practice of acupuncture. Additionally, there will not be a decrease in revenue to the Board since under current law, only licensed physicians may practice acupuncture without any additional license to do so.

Regarding enforcement, the only provision contained in the bill allows the Attorney General to bring an action in court to enjoin an individual from practicing if there is likely violation of the provisions of this bill. In order to practice legally, an individual would need to maintain current Diplomate status by the NCCAOM. The Medical Board would not have jurisdiction over the acupuncture practices of individuals not licensed as physicians in this state.

### **NCCAOM Certification Process**

In order to be certified in acupuncture by NCCAOM, an individual must be at least 18 years old and satisfy one of the exam prerequisites, which include:

1. Formal education (graduation from a full-time acupuncture program that can document at least 1,725 hours of entry-level education);
2. Apprenticeship (completion of an apprenticeship of at least 4,000 contact hours in a 3- to 6-year period);

3. Professional acupuncture practice (practice at a minimum level of 500 acupuncture patient visits by no fewer than 100 different patients per year for a minimum of 4 years – this prerequisite satisfaction route will be eliminated as of Jan. 1, 2001); or
4. Combination of training and experience.

Other requirements for certification include successful completion of a Clean Needle Technique Course, an agreement to follow the National Code of Ethics, and passage of both portions of the NCCAOM Acupuncture Examination.

According to the NCCAOM Internet site, there are 12 Diplomates in Acupuncture in Ohio (<http://www.nccaom.org/query.htm>). Additionally, 29 states use NCCAOM certification as an integral part of their licensure process. For a list of these states, visit <http://www.nccaom.org/states.htm>.

□ *LBO staff: Jeffrey M. Rosa, Budget/Policy Analyst*

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