



Amy J. Rinehart

*Final Analysis*  
*Legislative Service Commission*

**Sub. S.B. 245**  
127th General Assembly  
(As Passed by the General Assembly)

**Sens. Schuring, D. Miller, Spada**

**Reps. Adams, Batchelder, Combs, DeBose, Evans, Gardner, Goodwin,  
J. Hagan, Hite, J. McGregor, Oelslager, Slesnick, Wachtmann, Yuko**

**Effective date:** \*

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**ACT SUMMARY**

**ACUPUNCTURISTS**

- Requires the State Medical Board to issue certificates to practice as an acupuncturist, rather than certificates of registration, and permits an acupuncturist who holds the Board's certificate to use the title "Licensed Acupuncturist."
- Permits an acupuncturist who has completed an initial supervisory period to perform acupuncture for a patient without receiving a referral or prescription for acupuncture and without being supervised by the patient's physician or chiropractor.
- Provides for an acupuncturist's supervisory period to end one year after receiving an initial certificate to practice, unless the Board takes disciplinary action during that year, in which case the supervision must continue until the acupuncturist completes a full year without disciplinary action.
- Provides for an acupuncturist practicing on the act's effective date to be subject to a supervisory period that ends when the acupuncturist has practiced for one year from the date the initial certificate was granted,

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\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

unless the Board takes disciplinary action during this period, in which case the supervision must continue until the acupuncturist completes a full year without disciplinary action.

- Requires an acupuncturist who has completed the supervisory period to confirm whether a patient has undergone a relevant diagnostic examination by a physician or chiropractor within the past six months and, if the patient has not undergone the examination, to provide the patient with a written recommendation to obtain the examination.
- Requires a student in an acupuncture training program to be supervised by an acupuncturist who has completed the required supervisory period.
- Requires an acupuncturist to have professional liability insurance coverage in an amount that is at least \$500,000.

#### **PHYSICIAN ASSISTANTS**

- Exempts an applicant for a certificate to practice as a physician assistant from the requirement that the applicant hold a master's or higher degree if the applicant meets certain criteria.

#### **OPTOMETRISTS**

- Clarifies a provision of recently enacted Sub. H.B. 149 regarding the conditions under which an optometrist may prescribe the anti-inflammatory drug methylpredisolone.

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### **CONTENT AND OPERATION**

#### **ACUPUNCTURISTS**

##### **License to practice as an acupuncturist**

(R.C. 4762.04 and 4762.08)

The practice of acupuncture is regulated primarily by the State Medical Board.<sup>1</sup> A person seeking to practice as an acupuncturist must apply to the Board.

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<sup>1</sup> Sub. S.B. 33 of the 127th General Assembly established a process whereby a chiropractor may practice acupuncture by obtaining a certificate to practice acupuncture through the State Chiropractic Board.

If the Board determines the applicant is qualified, it issues a certificate to the applicant.

The act changes the name of the certificate issued by the Board to an acupuncturist. In place of a "certificate of registration" as an acupuncturist, the act provides for issuance of a "certificate to practice" as an acupuncturist.<sup>2</sup>

Continuing law permits an acupuncturist who holds a certificate from the Board to use specified titles, initials, and abbreviations. Within the provisions governing this authority, the act includes "Licensed Acupuncturist" and "L. Ac." and eliminates "Registered Acupuncturist," "R. Ac.," "Reg. Ac.," "Certified Acupuncturist," "C.A.," and "C. Ac."

### **Supervisory period**

(R.C. 4762.10(A), (B), and (E)(4) and 4762.11)

Prior law permitted an acupuncturist to perform acupuncture for a patient only if the patient received a written referral or prescription for acupuncture from a physician or chiropractor and practiced under the general supervision of the referring or prescribing physician or chiropractor.

Under the act, the requirement that an acupuncturist practice pursuant to a referral or prescription and under the general supervision of the patient's physician or chiropractor apply to an acupuncturist only during a supervisory period determined as follows:

(1) If an acupuncturist practicing on the act's effective date has been practicing for less than one year and is not subject to disciplinary action, the supervisory period begins on the act's effective date and ends when the acupuncturist has practiced for one year from the date the initial certificate was granted. However, an acupuncturist subject to disciplinary action during this

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<sup>2</sup> Examples of the licensing documents issued by the Board in its regulation of other professions include the following: (1) physicians receive a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, as appropriate, (2) physician assistants receive a certificate to practice as a physician assistant, (3) anesthesiologist assistants receive a certificate of registration as an anesthesiologist assistant, and (4) massage therapists, cosmetic therapists, and other practitioners of limited branches of medicine receive a certificate to practice that corresponds to the limited branch of medicine being practiced (R.C. Chapters 4730., 4731., and 4760.).

period must continue to be supervised until the acupuncturist completes a full year without being subject to disciplinary action (R.C. 4762.10(B)(1)).<sup>3</sup>

(2) An acupuncturist who is granted an initial certificate on or after the act's effective date is subject to a one-year supervisory period beginning on the date the certificate is granted. However, an acupuncturist subject to disciplinary action during that year must continue to be supervised until the acupuncturist completes a full year without being subject to disciplinary action. (R.C. 4762.10(B)(2).)

### **Diagnostic examination**

(R.C. 4762.10(D))

After an acupuncturist's supervisory period has ended, the act requires the acupuncturist to comply with the following provisions regarding the medical or chiropractic diagnostic examination of patients:

**Prior diagnostic examination:** Before treating a patient for a particular condition, the acupuncturist must confirm whether the patient has undergone within the past six months a diagnostic examination that was related to the condition for which the patient is seeking acupuncture and was performed by a physician or chiropractor acting within the physician or chiropractor's scope of practice. Confirmation that the diagnostic examination was performed may be made by obtaining from the patient a signed form stating that the patient has undergone the examination.

**Recommendation to obtain a diagnostic examination:** If the patient does not provide the signed form or the acupuncturist otherwise determines that the patient has not undergone a relevant diagnostic examination within the past six months, the acupuncturist must provide the patient a written recommendation to undergo a diagnostic examination by a physician or chiropractor.

### **Supervision of students**

(R.C. 4762.02(B)(2))

The prohibition of unauthorized practice of acupuncture does not apply to a person who performs acupuncture as a part of a qualified training program in acupuncture.

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<sup>3</sup> The Board has authority under continuing law to limit an acupuncturist's certificate, reprimand the acupuncturist, or place the acupuncturist on probation (R.C. 4762.13).

The act requires that a student in a qualified training program practice under the general supervision of an acupuncturist. The supervising acupuncturist must hold a certificate to practice and not be practicing within the supervisory period described above.

### **Professional liability insurance**

(R.C. 4762.13(B)(23) and 4762.22)

The act requires a licensed acupuncturist to have professional liability insurance coverage in an amount that is not less than \$500,000. If an acupuncturist fails to have adequate coverage, the act requires the Board to take disciplinary action. Disciplinary actions that may be taken include the following: limiting, revoking, or suspending a certificate to practice; refusing to issue a certificate to an applicant; refusing to reinstate a certificate; reprimanding a certificate holder; and placing a certificate holder on probation.

### **Conforming and technical changes**

To correspond with the act's provisions for issuance of certificates to practice rather than certificates of registration as an acupuncturist, conforming changes are included in the following Revised Code sections: 4762.02, 4762.03, 4762.031, 4762.05, 4762.06, 4762.08, 4762.09, 4762.13, 4762.131, 4762.132, 4762.15, 4762.16, and 4762.18.

The act corrects a reference to health insuring corporations in a provision of continuing law that requires health care facilities to report information to the State Medical Board regarding disciplinary actions taken against acupuncturists (R.C. 4762.16(A)).

## **PHYSICIAN ASSISTANTS**

### **Educational requirements for certain physician assistants**

(R.C. 4730.11)

Continuing law establishes educational requirements for eligibility for a certificate to practice as a physician assistant. Effective January 1, 2008, to receive a certificate an applicant must have a master's or higher degree. However, if an applicant presents evidence satisfactory to the Board of holding a current, valid license or other form of authority to practice issued by another jurisdiction, it is not necessary for the applicant to hold a master's or higher degree.

The act permits an applicant to receive an initial certificate and retain or renew without a master's or higher degree the certificate, if the applicant presents

evidence satisfactory to the State Medical Board of (1) holding a degree, other than a master's degree or higher, that is obtained as a result of being enrolled on January 1, 2008, in a program in Ohio that is accredited by the Accreditation Review Commission on Education for the Physician Assistant but did not grant a master's degree or higher to individuals enrolled in the program on that date and (2) completing the program on or before December 31, 2009.

## OPTOMETRISTS

### Conditions for the prescription of certain anti-inflammatories by optometrists

(R.C. 4725.01)

Under recently enacted Sub. H.B. 149, an optometrist may prescribe drugs classified as anti-inflammatories, excluding all oral steroids other than methylpredisolone. Methylpredisolone may be used in an optometrist's practice if it is prescribed under all of the following conditions: (1) for use in allergy cases, (2) for use by an adult, (3) on the basis of a particular episode of illness, and (4) in an amount not exceeding the amount packaged for a single course of therapy. However, the statute could be interpreted as requiring an optometrist to meet these conditions when prescribing any drug that is an anti-inflammatory.

The act clarifies that the conditions listed above apply only to the prescription of methylpredisolone, not to all anti-inflammatories.

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## HISTORY

ACTION	DATE
Introduced	11-01-07
Reported, S. Health, Human Services & Aging	01-31-08
Passed Senate (30-1)	02-05-08
Reported, H. Health	04-29-08
Passed House (96-0)	05-13-08
Senate concurred in House amendments (33-0)	05-14-08

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