



Alan Van Dyne

Bill Analysis
Legislative Service Commission

Sub. S.B. 245
127th General Assembly
(As Reported by S. Health, Human Services and Aging)

Sens. Schuring, D. Miller

BILL SUMMARY

- 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 has taken disciplinary action during that year, in which case the supervisory period is extended to two years.
- 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.
- Adds another method by which a person may qualify for licensure as an acupuncturist by requiring the Board to accept an applicant who has obtained national certification by studying Oriental medicine.

- Requires an acupuncturist to have professional liability insurance coverage in an amount that is at least \$500,000.

CONTENT AND OPERATION

License to practice as an acupuncturist

(R.C. 4762.04 and 4762.08)

Under current law, the practice of acupuncture is regulated primarily through the State Medical Board.¹ A person seeking to practice as an acupuncturist must apply to the Board, and if the Board determines the applicant is qualified, the Board issues to the applicant a certificate of registration as an acupuncturist.

The bill changes the name of the licensing document issued by the Board to acupuncturists. In place of a "certificate of registration" as an acupuncturist, the bill provides for issuance of a "certificate to practice" as an acupuncturist.²

Existing 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 bill includes "Licensed Acupuncturist" and "L. Ac." and eliminates "Registered Acupuncturist," "R. Ac.," "Reg. Ac.," "Certified Acupuncturist," "C.A.," and "C. Ac."

¹ 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.

² 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.).

Supervisory period

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

Current law permits an acupuncturist to perform acupuncture for a patient only if the patient has received a written referral or prescription for acupuncture from a physician or chiropractor. As specified in the referral or prescription, the acupuncturist must provide reports on the patient's condition or progress and comply with any conditions or restrictions on the course of treatment. Further, the acupuncturist must practice under the general supervision of the referring or prescribing physician or chiropractor; however, they are not required to practice in the same office.

Under the bill, the requirements to practice pursuant to a referral or prescription and under the general supervision of a patient's physician or chiropractor apply to an acupuncturist only during a specified period following receipt of an initial certificate to practice. The length of this period, which the bill refers to as a supervisory period, is determined according to the following:

(1) The supervisory period ends one year after the initial certificate to practice was issued, if the Board has not taken disciplinary action against the acupuncturist.

(2) The supervisory period ends two years after the initial certificate was issued, if during the first year of the acupuncturist's practice the Board issued a final order imposing disciplinary action and the form of discipline imposed allows the acupuncturist to continue practicing.³

Diagnostic examination

(R.C. 4762.10(C))

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

³ The one-year extension of the supervisory period does not apply when the Board imposes disciplinary actions after an acupuncturist's initial year of practice, including disciplinary actions imposed as a result of cases that were pending at the conclusion of that year. The Board, however, has authority under existing law to limit an acupuncturist's certificate, reprimand the acupuncturist, or place the acupuncturist on probation (R.C. 4762.13).

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. The acupuncturist must obtain from the patient a signed form stating that the patient has undergone the examination. 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 to the patient a written recommendation to undergo a diagnostic examination by a physician or chiropractor.

Supervision of students

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

Current law prohibits the unauthorized practice of acupuncture. The prohibition, however, does not apply to a person who performs acupuncture as a part of a qualified training program in acupuncture.

The bill requires that a student in a qualified training program also 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 required by the bill.

National credentials for licensure as an acupuncturist

(R.C. 4762.03(A)(2) and 4762.06(B))

Under current law, an applicant seeking to practice as an acupuncturist must submit evidence satisfactory to the State Medical Board that the applicant has been designated by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) as a diplomate in acupuncture. The applicant's designation must be current and active to receive a certificate from the Board and must be maintained as a condition of renewal of the certificate.

Under the bill, an applicant may qualify for a certificate to practice as an acupuncturist by receiving the NCCAOM's designation as a diplomate in either acupuncture or Oriental medicine. Similarly, maintaining designation as a diplomate in either category qualifies an acupuncturist for renewal of the certificate. (See **COMMENT.**)

Professional liability insurance

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

The bill 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 bill requires the Board to take disciplinary action against the acupuncturist. 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 bill'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 bill corrects a reference to health insuring corporations in a provision of existing 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)).

COMMENT

According to information from the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM),⁴ the organization has established two routes of eligibility to become a diplomate in Oriental medicine. The first is for individuals who are not currently certified by the NCCAOM. The second is for those who currently hold NCCAOM diplomate status in either acupuncture or Chinese herbology.

Route #1: Eligibility requirements for those who are not certified by NCCAOM in either acupuncture or Chinese herbology:

--Pass examinations in (1) foundations of Oriental medicine, (2) biomedicine, (3) acupuncture with point location, and (4) Chinese herbology.

⁴The NCCAOM Candidate Handbook & Application Form, 2008 Edition; <<http://www.nccaom.org/handbooks/HB2008v1.pdf>>, last visited, February 4, 2008.

Procedures are included for accepting applications to sit for the examinations prior to graduation.

--Complete a formal education program that meets the standards of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). Graduates from educational institutions outside the United States must have their transcripts reviewed by the American Association of Collegiate Registrars and Admissions Officers.

Route #2: Eligibility requirements for those who are NCCAOM certified in acupuncture or Chinese herbology:

--Maintain current NCCAOM certification in acupuncture or Chinese herbology, or both (may be in active or inactive status).

--Meet current ACAOM curricular requirements specific to Chinese herbology or acupuncture.

--Pass the Chinese herbology examination or the acupuncture with point location examination, or both.

--Pass the biomedicine examination or demonstrate completion of 45 educational units (one clock hour = one unit) in biomedicine, attained within six years prior to application.

HISTORY

ACTION	DATE
Introduced	11-01-07
Reported, S. Health, Human Services & Aging	01-31-08

S0245-RS-127.doc/ejs