



February 12, 1999

SENATE BILL No. 506

DIGEST OF SB 506 (Updated February 11, 1999 10:51 am - DI 88)

Citations Affected: IC 25-2.5.

Synopsis: Acupuncture licensing. Requires acupuncturist licenses to be renewed every two years. Requires acupuncturists to maintain current diplomate status with the National Certification Commission for Acupuncture and Oriental Medicine. Requires acupuncturists to have a written referral or diagnosis from a licensed physician before practicing acupuncture on a patient. Requires the Indiana medical licensing board to establish standards regarding the number of hours of education and experience an individual must possess to receive an acupuncturist license. Makes professing to be an acupuncturist without a license and the unlawful practice of acupuncture a Class B misdemeanor. Allows a licensed acupuncturist to practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a referral or diagnosis from a licensed physician. Allows individuals meeting
(Continued next page)

Effective: July 1, 1999.

Miller, Breaux

January 19, 1999, read first time and referred to Committee on Health and Provider Services.
February 11, 1999, amended, reported favorably — Do Pass.

SB 506—LS 7812/DI 100+



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Digest Continued

certain standards to practice auricular acupuncture on patients for the purpose of treating alcoholism, chemical dependency, or substance abuse without a license.

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SB 506—LS 7812/DI 100+



February 12, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 506

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-2.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1999]:
4 **ARTICLE 2.5. ACUPUNCTURISTS**
5 **Chapter 1. Definitions**
6 **Sec. 1. The definitions in this chapter apply throughout this**
7 **article.**
8 **Sec. 2. "Acupuncture" means a form of health care employing**
9 **traditional and modern Oriental medical concepts, Oriental**
10 **medical diagnosis and treatment, and adjunctive therapies and**
11 **diagnostic techniques for the promotion, maintenance, and**
12 **restoration of health and the prevention of disease.**
13 **Sec. 3. "Board" refers to the medical licensing board.**
14 **Sec. 4. "Bureau" refers to the health professions bureau**
15 **established by IC 25-1-5-3.**

SB 506—LS 7812/DI 100+



1 **Sec. 5. "Practice of acupuncture" means the insertion of**
 2 **acupuncture needles, the application of moxibustion to specific**
 3 **areas of the human body based upon Oriental medical diagnosis as**
 4 **a primary mode of therapy, and other means of applying**
 5 **acupuncture under this chapter.**

6 **Chapter 2. License and Qualifications**

7 **Sec. 1. Except as provided in section 3 of this chapter, to qualify**
 8 **for a license under this article, an individual must satisfy the**
 9 **following requirements:**

10 **(1) Complete an application for licensure in accordance with**
 11 **the rules adopted by the board.**

12 **(2) Pay the fees established by the board.**

13 **(3) Not have been convicted of a crime that has a direct**
 14 **bearing on the applicant's ability to practice competently as**
 15 **determined by the board.**

16 **(4) Not have had disciplinary action taken against the**
 17 **applicant or the applicant's license by the board or by the**
 18 **licensing agency of another state or jurisdiction by reason of**
 19 **the applicant's inability to safely practice acupuncture with**
 20 **the reasons for discipline still being valid as determined by the**
 21 **board or by a national certification agency.**

22 **(5) Show to the satisfaction of the board that the applicant**
 23 **has:**

24 **(A) current active status as a diplomate in acupuncture of**
 25 **the National Certification Commission for Acupuncture**
 26 **and Oriental Medicine;**

27 **(B) successfully completed a three (3) year postsecondary**
 28 **training program or acupuncture college program that:**

29 **(i) is accredited by;**

30 **(ii) is a candidate for accreditation by; or**

31 **(iii) meets the standards of;**

32 **the National Accreditation Commission for Schools and**
 33 **Colleges of Acupuncture and Oriental Medicine; and**

34 **(C) successfully completed a clean needle technique course**
 35 **approved by the National Certification Commission for**
 36 **Acupuncture and Oriental Medicine.**

37 **Sec. 2. Except as provided in section 4 of this chapter, the board**
 38 **shall issue a license to an individual who:**

39 **(1) meets the conditions of section 1 of this chapter; and**

40 **(2) is otherwise qualified for licensure under this article.**

41 **Sec. 3. (a) An applicant may, upon the payment of a fee**
 42 **established by the board, be granted a license if the applicant**

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1 submits satisfactory evidence to the board that the applicant has
 2 been licensed to practice acupuncture in another state or
 3 authorized in another country under qualifications substantially
 4 equivalent to those specified in this chapter for a license to practice
 5 acupuncture.

6 (b) An applicant may, upon the payment of a fee established by
 7 the board, be granted an affiliated professional's license to practice
 8 acupuncture if the applicant submits satisfactory evidence to the
 9 board that the applicant is a:

- 10 (1) chiropractor licensed under IC 25-10;
- 11 (2) dentist licensed under IC 25-14; or
- 12 (3) podiatrist licensed under IC 25-29;

13 with at least three hundred (300) hours of acupuncture training or
 14 equivalent physiological acupuncture training approved by the
 15 board.

16 (c) The board shall:

- 17 (1) compile, at least once every two (2) years, a list of courses
 18 and institutions that provide training approved for the
 19 purpose of qualifying an individual for an affiliated
 20 professional's license under subsection (b); and
- 21 (2) adopt rules that set forth procedures for the case by case
 22 approval of training under subsection (b).

23 **Sec. 4.** The board may refuse to issue a license to an applicant
 24 for licensure if:

- 25 (1) the board determines during the application process that
 26 the applicant committed an act that would have subjected the
 27 applicant to disciplinary sanction under section 1(5) of this
 28 chapter if the applicant had been licensed in Indiana when the
 29 act occurred; or
- 30 (2) the applicant has had a license revoked under IC 25-1-1.1.

31 **Sec. 5.** (a) A license issued by the board expires on the date
 32 established by the bureau under IC 25-1-5-4 in each
 33 even-numbered year.

34 (b) To renew a license, an acupuncturist must:

- 35 (1) pay a renewal fee not later than the expiration date of the
 36 license; and
- 37 (2) submit proof of current active licensure in acupuncture by
 38 the National Certification Commission for Acupuncture and
 39 Oriental Medicine.

40 **Sec. 6.** The board may deny, suspend, or revoke a license,
 41 require remedial education, or issue a letter of reprimand, if an
 42 applicant or licensed acupuncturist does any of the following:



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- 1 (1) Engages in false or fraudulent conduct that demonstrates
 2 an unfitness to practice acupuncture, including:
 3 (A) making a misrepresentation in connection with an
 4 application for a license or an investigation by the board;
 5 (B) attempting to collect fees for services that were not
 6 performed;
 7 (C) false advertising, including guaranteeing that a cure
 8 will result from an acupuncture treatment; or
 9 (D) dividing, or agreeing to divide, a fee for acupuncture
 10 services with another person for referring the patient.
 11 (2) Fails to exercise proper control over the acupuncturist's
 12 practice by:
 13 (A) aiding an unlicensed person in practicing acupuncture;
 14 (B) delegating professional responsibilities to a person the
 15 acupuncturist knows or should know is not qualified to
 16 perform; or
 17 (C) insufficiently supervising unlicensed personnel working
 18 with the acupuncturist in the practice.
 19 (3) Fails to maintain records in a proper manner by:
 20 (A) failing to keep written records describing the course of
 21 treatment for each patient;
 22 (B) refusing to provide upon request patient records that
 23 have been prepared for or paid for by the patient; or
 24 (C) revealing personally identifiable information about a
 25 patient, without the patient's consent, unless otherwise
 26 allowed by law.
 27 (4) Fails to exercise proper care of a patient, including:
 28 (A) abandoning or neglecting a patient without making
 29 reasonable arrangements for the continuation of care; or
 30 (B) exercising or attempting to exercise undue influence
 31 within the relationship between the acupuncturist and the
 32 patient by making sexual advances or requests for sexual
 33 activity or by making submission to sexual conduct a
 34 condition of treatment.
 35 (5) Displays habitual substance abuse or mental impairment
 36 to the degree that it interferes with the ability to provide safe
 37 and effective treatment.
 38 (6) Is convicted, pleads guilty, or pleads no contest to a crime
 39 that demonstrates an unfitness to practice acupuncture.
 40 (7) Fails, in a negligent manner, to practice acupuncture with
 41 the level of skill recognized within the profession as acceptable
 42 under the circumstances.



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(8) Violates willfully any provision of this article or rule of the board.

(9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

Sec. 7. (a) This section may not be construed to prohibit licensed acupuncturists from practicing auricular acupuncture.

(b) An individual who is not an acupuncturist licensed under this article may practice auricular acupuncture for the purpose of treating alcoholism, substance abuse, or chemical dependency if the individual:

(1) provides the board with documentation of successful completion of a board approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training set by the National Acupuncture Detoxification Association;

(2) provides the board with documentation of successful completion of a clean needle technique course;

(3) provides auricular acupuncture services within the context of a state, federal, or board approved alcohol, substance abuse, or chemical dependency program under the supervision of a licensed acupuncturist; and

(4) maintains the ethical standards under this article and under rules adopted by the board.

Chapter 3. Unlawful Practice

Sec. 1. This chapter does not apply to the following:

(1) A health care professional acting within the scope of the health care professional's license, certification, or registration.

(2) A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

Sec. 2. An individual may not use the title "licensed acupuncturist" or "acupuncturist" unless the acupuncturist is licensed under this article.

Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14 to practice acupuncture on a patient unless the

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1 **acupuncturist obtains a:**
2 **(1) written letter of referral;**
3 **(2) written diagnosis of the patient; or**
4 **(3) written documentation relating to the condition for which**
5 **the patient receives acupuncture;**
6 **within the last twelve (12) months from a physician licensed under**
7 **IC 25-22.5.**
8 **(c) An acupuncturist licensed under this article may practice**
9 **auricular acupuncture on a patient for the purpose of treating**
10 **alcoholism, substance abuse, or chemical dependency without a**
11 **written letter of referral or written diagnosis from a physician**
12 **licensed under IC 25-22.5.**
13 **(d) If a licensed acupuncturist practices acupuncture on a**
14 **patient after having obtained a written letter of referral or written**
15 **diagnosis of the patient from a physician licensed under IC 25-22.5**
16 **as described in subsection (b), the physician is immune from civil**
17 **liability relating to the patient or acupuncturist's use of that**
18 **diagnosis or referral except for acts or omissions of the physician**
19 **that amount to gross negligence or willful or wanton misconduct.**
20 **Sec. 4. A person who knowingly or intentionally violates this**
21 **article commits a Class B misdemeanor.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 506, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 13, delete "(a) Except as provided in subsection (b), "board"" and insert ""**Board**"".

Page 1, delete line 15.

Page 2, delete lines 1 through 6.

Page 3, line 21, delete "four" and insert "**three**".

Page 3, line 21, delete "(400)" and insert "**(300)**".

and when so amended that said bill do pass.

(Reference is to SB 506 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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