

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.

SENATE ENROLLED ACT No. 506

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

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

SECTION 1. IC 25-2.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 2.5. ACUPUNCTURISTS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Acupuncture" means a form of health care employing traditional and modern Oriental medical concepts, Oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques for the promotion, maintenance, and restoration of health and the prevention of disease.

Sec. 3. "Board" refers to the medical licensing board.

Sec. 4. "Bureau" refers to the health professions bureau established by IC 25-1-5-3.

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

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acupuncture under this chapter.

Chapter 2. License and Qualifications

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

- (1) Complete an application for licensure in accordance with the rules adopted by the board.
- (2) Pay the fees established by the board.
- (3) Not have been convicted of a crime that has a direct bearing on the applicant's ability to practice competently as determined by the board.
- (4) Not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of another state or jurisdiction by reason of the applicant's inability to safely practice acupuncture with the reasons for discipline still being valid as determined by the board or by a national certification agency.
- (5) Show to the satisfaction of the board that the applicant has:

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

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

- (i) is accredited by;
- (ii) is a candidate for accreditation by; or
- (iii) meets the standards of;

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

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

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

- (1) meets the conditions of section 1 of this chapter; and
- (2) is otherwise qualified for licensure under this article.

Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country under qualifications substantially equivalent to those specified in this chapter for a license to practice

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acupuncture.

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

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

with at least two hundred (200) hours of acupuncture training or equivalent physiological acupuncture training approved by the board.

(c) The board shall:

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

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

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

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

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

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

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

- (1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:**
 - (A) making a misrepresentation in connection with an application for a license or an investigation by the board;**



- (B) attempting to collect fees for services that were not performed;
 - (C) false advertising, including guaranteeing that a cure will result from an acupuncture treatment; or
 - (D) dividing, or agreeing to divide, a fee for acupuncture services with another person for referring the patient.
- (2) Fails to exercise proper control over the acupuncturist's practice by:
- (A) aiding an unlicensed person in practicing acupuncture;
 - (B) delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or
 - (C) insufficiently supervising unlicensed personnel working with the acupuncturist in the practice.
- (3) Fails to maintain records in a proper manner by:
- (A) failing to keep written records describing the course of treatment for each patient;
 - (B) refusing to provide upon request patient records that have been prepared for or paid for by the patient; or
 - (C) revealing personally identifiable information about a patient, without the patient's consent, unless otherwise allowed by law.
- (4) Fails to exercise proper care of a patient, including:
- (A) abandoning or neglecting a patient without making reasonable arrangements for the continuation of care; or
 - (B) exercising or attempting to exercise undue influence within the relationship between the acupuncturist and the patient by making sexual advances or requests for sexual activity or by making submission to sexual conduct a condition of treatment.
- (5) Displays habitual substance abuse or mental impairment to the degree that it interferes with the ability to provide safe and effective treatment.
- (6) Is convicted, pleads guilty, or pleads no contest to a crime that demonstrates an unfitness to practice acupuncture.
- (7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.
- (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,

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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 acupuncturist obtains a:

- (1) written letter of referral;**
- (2) written diagnosis of the patient; or**
- (3) written documentation relating to the condition for which**



the patient receives acupuncture;
within the twelve (12) months immediately preceding the date of
acupuncture treatment.

(c) An acupuncturist licensed under this article may practice
auricular acupuncture on a patient for the purpose of treating
alcoholism, substance abuse, or chemical dependency without a
written letter of referral or written diagnosis from a physician
licensed under IC 25-22.5.

(d) If a licensed acupuncturist practices acupuncture on a
patient after having obtained a written letter of referral or written
diagnosis of the patient from a physician licensed under IC 25-22.5
as described in subsection (b), the physician is immune from civil
liability relating to the patient's or acupuncturist's use of that
diagnosis or referral except for acts or omissions of the physician
that amount to gross negligence or willful or wanton misconduct.

Sec. 4. A person who knowingly or intentionally violates this
article commits a Class B misdemeanor.

SECTION 2. [EFFECTIVE JULY 1, 1999] (a) As used in this
SECTION, "committee" refers to the acupuncture advisory
committee established in subsection (b).

(b) The acupuncture advisory committee is established.

(c) The members of the committee shall:

- (1) be appointed by the governor; and
- (2) include the following members:

- (A) One (1) chiropractor licensed under IC 25-10.
- (B) One (1) podiatrist licensed under IC 25-29.
- (C) One (1) dentist licensed under IC 25-14.
- (D) One (1) acupuncturist.
- (E) One (1) member of the American Academy of Medical
Acupuncturists who is licensed as a physician under
IC 25-22.5.

(d) The governor shall appoint one (1) of the members under
subsection (c)(2) as chair of the committee.

(e) The committee shall meet upon the call of the chair.

(f) The committee:

- (1) is an advisory committee to the medical licensing board
under IC 25-22.5-2; and
- (2) shall make recommendations to the medical licensing
board regarding the practice of acupuncture.

All recommendations made under this subsection must be in the
form of potential rules under which acupuncturists may be licensed
in Indiana.



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(g) After receiving recommendations under subsection (f), the medical licensing board shall consider adopting the recommendations as rules under IC 4-22-2.

(h) This SECTION expires June 30, 2001.

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