

Acupuncture Licensure Act.

Section 1. (63 P.S. § 1801) Short title

This act shall be known and may be cited as the Acupuncture Licensure Act.

Section 2 (63 P.S. § 1802) Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"ACUPUNCTURE." The stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or alleviate the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

"ACUPUNCTURE EDUCATIONAL PROGRAM." Training and instruction in acupuncture or supplemental acupuncture techniques offered by a degree-granting institution authorized by the Department of Education of the Commonwealth that leads to a master's degree, master's level certificate or diploma or first professional degree, that meets the relevant and appropriate requirements of 22 Pa. Code (relating to education) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries) and that meets or exceeds the standards required for acupuncture or oriental medicine programs established by an accrediting agency recognized by the United States Department of Education.

"ACUPUNCTURIST." An individual licensed to practice acupuncture by the State Board of Medicine or the State Board of Osteopathic Medicine.

"BOARD." The State Board of Medicine and the State Board of Osteopathic Medicine.

"COMMISSIONER." The Commissioner of Professional and Occupational Affairs in the Department of State.

Section 3 (63 P.S. § 1803) Regulation of the practice of acupuncture

- (a) **LICENSURE REQUIRED.**-- Except as provided in subsection (h), an individual, including a physician, shall be licensed with one of the boards before the individual may practice acupuncture in this Commonwealth. Individuals shall renew their licensures biennially with the appropriate board.
- (b) **REGULATIONS TO BE PROMULGATED.**-- The boards shall each promulgate regulations requiring the proper training of individuals, including physicians, before they may be licensed to practice acupuncture in this Commonwealth. Proper training shall include, to the extent determined by the appropriate board, education or demonstrated experience in the practice of acupuncture. If a board requires successful completion of a written, oral or practical examination in order to qualify for licensure under this act, the examination shall be prepared and administered by a qualified and approved professional testing organization in the manner required for written examinations by section 812.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929. The board may promulgate such other regulations as are deemed proper and necessary regarding the practice of acupuncture. If an individual is

licensed to practice acupuncture with one of the boards, the individual shall be considered to have met the requirements to be licensed by the other board.

(c) **Deleted by 2006, Nov. 29, P.L. 1625**, No. 186, § 1, effective in 60 days [Jan. 29, 2007].

(d) **SUPERVISION OF STUDENTS IN ACUPUNCTURE EDUCATIONAL PROGRAMS.**-- Nothing in this act shall prohibit students enrolled in an acupuncture educational program from performing acupuncture or supplemental acupuncture techniques in the course of their instruction, provided that a licensed physician is readily available for consultations and that an acupuncturist is on site and responsible for the direct supervision of students.

(e) **FACULTY IN ACUPUNCTURE EDUCATIONAL PROGRAMS.**-- Nothing in this act shall prohibit faculty teaching in an acupuncture educational program or visiting guest lecturers from performing acupuncture or supplemental acupuncture techniques in the course of student instruction or during professional development seminars, provided that such individuals are licensed as acupuncturists in this Commonwealth or licensed as acupuncturists in another jurisdiction recognized by this Commonwealth and obtain temporary licensure in this Commonwealth.

(f) **SUPPLEMENTAL TECHNIQUES.**-- The practice of acupuncture shall also encompass, as regulated by the board, the use of traditional and modern oriental therapeutics, heat therapy, moxibustion, electrical and low-level laser stimulation, acupressure and other forms of massage, herbal therapy and counseling that shall include the therapeutic use of foods and supplements and lifestyle modifications and any other techniques approved by the board. These supplemental techniques may be for use within the public domain or for use by any other licensed or registered health professionals, according to State law and regulation. None of the supplemental techniques under this subsection shall be a mandated coverage under an insurance policy.

(g) **DISCIPLINARY AND CORRECTIVE MEASURES.**-- Acupuncturists licensed with the State Board of Medicine shall be subject to all disciplinary provisions applicable to medical doctors as set forth in the act of December 20, 1985 (P.L. 457, No. 112), known as the Medical Practice Act of 1985. Acupuncturists licensed with the State Board of Osteopathic Medicine shall be subject to all disciplinary provisions applicable to osteopathic medical doctors as set forth in the act of October 5, 1978 (P.L. 1109, No. 261), known as the Osteopathic Medical Practice Act.

(h) **SECTION NOT APPLICABLE TO DENTISTS, PODIATRISTS AND VETERINARIANS.**-- This section shall not apply to a dentist performing acupuncture in connection with the practice of dentistry, a podiatrist performing acupuncture in connection with the practice of podiatry or a veterinarian performing acupuncture on animals in connection with the practice of veterinary medicine. The State Board of Dentistry with regard to dentists, the State Board of Podiatry with regard to podiatrists and the State Board of Veterinary Medical Examiners with regard to veterinarians shall assure that licensees of that board who perform acupuncture have what that board determines to be the proper education or demonstrated experience in the performance of acupuncture.

Section 3.1 (63 P.S. § 1803.1) Medical diagnosis

- (a) **Treatment without diagnosis.**-- Except as provided in subsection (b), an acupuncturist may treat a person's condition without the condition being diagnosed by a licensed physician, dentist or podiatrist for 60 calendar days from the date of the first treatment.
- (b) **Treatment with diagnosis.**-- An acupuncturist may treat a person's condition beyond 60 calendar days from the date of the first treatment if the person obtained a diagnosis of the treated condition from a licensed physician, dentist or podiatrist.
- (c) **Exception.**— Subsections (a) and (b) shall not apply if a person does not present any symptoms of a condition.

Section 3.2 (63 P.S. § 1803.2) Liability insurance

- (a) **Required coverage.**-- A licensee shall obtain and maintain, to the satisfaction of the board, professional liability insurance coverage in accordance with the provisions of this section.
- (b) **Minimum coverage.**-- A licensee under this act, practicing in this Commonwealth, shall maintain a level of professional liability insurance coverage in the minimum amount of \$ 1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings.
- (c) **Noncompliance.**-- A licensee shall notify the board within 30 days of the licensee's failure to be covered by the required insurance. Failure to notify the board shall be actionable under sections 3 and 5. The license to practice shall automatically be suspended upon failure to be covered by the required insurance and shall not be restored until submission to the board of satisfactory evidence that the licensee has the required professional liability insurance coverage.
- (d) **Evidence of compliance.**-- The board shall accept from a licensee as satisfactory evidence of insurance coverage under this subsection any or all of the following:
 - (1) Self-insurance.
 - (2) Personally purchased professional liability insurance.
 - (3) Professional liability insurance coverage provided by the licensee's employer or any similar type of coverage acceptable to the board.

Section 4 (63 P.S. § 1804) Fees

Each board may charge a reasonable fee, fixed by that board by regulation, for all licenses, renewals and examinations authorized by this act or the regulations promulgated under section 3(b).

Section 5 (63 P.S. § 1805) Penalties

- (a) **LICENSURE.**-- Except as provided for in section 3(e), it shall be unlawful for an individual to practice acupuncture in this Commonwealth unless the individual is licensed as an acupuncturist by one of the boards. An individual willfully violating the provisions of this act shall be guilty of a misdemeanor of the third degree.
- (b) **INJUNCTION.**-- The unlawful practice of acupuncture as defined may be enjoined by the courts on petition of one of the boards or by the commissioner. In any such

proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of acupuncture, the court shall enjoin him from so practicing unless he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy of injunction shall be in addition to criminal prosecution and punishment.

Section 6 (63 P.S. § 1806) Disposition of certain moneys

All fees, charges and fines collected under the provisions of this act shall be appropriated pursuant to the provisions of section 907 of the act of October 15, 1975 (P.L. 390, No. 111), known as the Health Care Services Malpractice Act.

Section 6.1 (63 P.S. § 1806.1) Approval of acupuncture educational programs

The Department of Education of the Commonwealth shall approve any acupuncture educational program that meets the relevant and appropriate requirements of 22 Pa. Code (relating to education) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries) and that meets or exceeds the standards required for acupuncture or oriental medicine programs established by an accrediting agency recognized by the United States Department of Education.