

1 AN ACT concerning the regulation of professions.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Acupuncture Practice Act is amended by
5 changing Sections 10, 15, 40, and 110 as follows:

6 (225 ILCS 2/10)

7 (Section scheduled to be repealed on January 1, 2008)

8 Sec. 10. Definitions. As used in this Act:

9 "Acupuncture" means the evaluation or treatment of persons
10 affected through a method of stimulation of a certain point or
11 points on or immediately below the surface of the body by the
12 insertion of pre-sterilized, single-use, disposable needles,
13 unless medically contraindicated, with or without the
14 application of heat, electronic stimulation, or manual
15 pressure to prevent or modify the perception of pain, to
16 normalize physiological functions, or for the treatment of
17 certain diseases or dysfunctions of the body. Acupuncture does
18 not include radiology, electrosurgery, chiropractic technique,
19 physical therapy, naprapathic technique, use or prescribing of
20 any drugs, medications, herbal preparations, nutritional
21 supplements, serums, or vaccines, or determination of a
22 differential diagnosis. An acupuncturist registered under this
23 Act who is not also licensed as a physical therapist under the
24 Illinois Physical Therapy Act shall not hold himself or herself
25 out as being qualified to provide physical therapy or
26 physiotherapy services. An acupuncturist shall refer to a
27 licensed physician or dentist, any patient whose condition
28 should, at the time of evaluation or treatment, be determined
29 to be beyond the scope of practice of the acupuncturist.

30 "Acupuncturist" means a person who practices acupuncture
31 and who is licensed by the Department.

32 "Board" means the Board of Acupuncture.

1 "Dentist" means a person licensed under the Illinois Dental
2 Practice Act.

3 "Department" means the Department of Professional
4 Regulation.

5 "Director" means the Director of Professional Regulation.

6 "Physician" means a person licensed under the Medical
7 Practice Act of 1987.

8 "Referral by written order" for purposes of this Act means
9 a diagnosis, substantiated by signature of a physician or
10 dentist, identifying ~~that~~ a patient's condition and
11 recommending treatment ~~is such that it may be treated~~ by
12 acupuncture as defined in this Act. The diagnosis shall remain
13 in effect until changed by the physician or dentist who may,
14 through express direction in the referral, ~~shall~~ maintain
15 management of the patient.

16 "State" includes:

- 17 (1) the states of the United States of America;
- 18 (2) the District of Columbia; and
- 19 (3) the Commonwealth of Puerto Rico.

20 (Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

21 (225 ILCS 2/15)

22 (Section scheduled to be repealed on January 1, 2008)

23 Sec. 15. Who may practice acupuncture. No person licensed
24 under this Act may treat human ailments otherwise than by the
25 practice of acupuncture as defined in this Act; ~~and no person~~
26 ~~licensed under this Act may practice acupuncture on another~~
27 ~~person without having on file a written referral order from a~~
28 ~~physician or dentist licensed in Illinois.~~ A physician or
29 dentist licensed in Illinois may practice acupuncture. A
30 physician or a dentist may refer by written order a patient to
31 an acupuncturist for the practice of acupuncture as defined in
32 this Act and may, through express direction in the referral,
33 maintain management of the patient. Nothing in this Act shall
34 be construed to require a referral of a patient to an
35 acupuncturist for evaluation and treatment based on

1 acupuncture principles and techniques as taught by schools
2 accredited by the Accreditation Commission for Acupuncture and
3 Oriental Medicine or a similar accrediting body approved by the
4 Department. An acupuncturist shall refer to a licensed
5 physician or dentist any patient whose condition should, at the
6 time of evaluation or treatment, be determined to be beyond the
7 scope of practice of the acupuncturist.

8 (Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

9 (225 ILCS 2/40)

10 (Section scheduled to be repealed on January 1, 2008)

11 Sec. 40. Application for licensure. Applications for
12 original licensure as an acupuncturist shall be made to the
13 Department in writing on forms prescribed by the Department and
14 shall be accompanied by the required fee, which shall not be
15 refundable.

16 Until December 31, 2001, applicants shall submit with the
17 application proof of passing the National Certification
18 Commission for Acupuncture and Oriental Medicine ~~National~~
19 ~~Commission for the Certification of Acupuncturists~~ examination
20 or a substantially equivalent examination approved by the
21 Department or meeting any other qualifications established by
22 the Department.

23 On and after January 1, 2002, the Department shall issue a
24 license to an applicant who submits with the application proof
25 of each of the following:

26 (1) (A) graduation from a school accredited by the
27 Accreditation Commission for Acupuncture and Oriental
28 Medicine ~~National Accreditation Commission for Schools and~~
29 ~~Colleges of Acupuncture and Oriental Medicine~~ or a similar
30 accrediting body approved by the Department; or (B)
31 completion of a comprehensive educational program approved
32 by the Department; and

33 (2) passing the National Certification Commission for
34 Acupuncture and Oriental Medicine ~~National Commission for~~
35 ~~the Certification of Acupuncturists~~ examination or a

1 substantially equivalent examination approved by the
2 Department.

3 An applicant has 3 years from the date of his or her
4 application to complete the application process. If the process
5 has not been completed in 3 years, the application shall be
6 denied, the fee shall be forfeited, and the applicant must
7 reapply and meet the requirements in effect at the time of
8 reapplication.

9 (Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97; 90-723,
10 eff. 1-1-99.)

11 (225 ILCS 2/110)

12 (Section scheduled to be repealed on January 1, 2008)

13 Sec. 110. Grounds for disciplinary action.

14 (a) The Department may refuse to issue or to renew, place
15 on probation, suspend, revoke or take other disciplinary action
16 as deemed appropriate including the imposition of fines not to
17 exceed \$5,000 for each violation, as the Department may deem
18 proper, with regard to a license for any one or combination of
19 the following causes:

20 (1) Violations of the Act or its rules.

21 (2) Conviction of any crime under the laws of any U.S.
22 jurisdiction that is (i) a felony, (ii) a misdemeanor, an
23 essential element of which is dishonesty, or (iii) directly
24 related to the practice of the profession.

25 (3) Making any misrepresentation for the purpose of
26 obtaining a license.

27 (4) Aiding or assisting another person in violating any
28 provision of this Act or its rules.

29 (5) Failing to provide information within 60 days in
30 response to a written request made by the Department which
31 has been sent by certified or registered mail to the
32 licensee's last known address.

33 (6) Discipline by another U.S. jurisdiction or foreign
34 nation, if at least one of the grounds for the discipline
35 is the same or substantially equivalent to one set forth in

1 this Section.

2 (7) Solicitation of professional services by means
3 other than permitted under this Act.

4 (8) Failure to provide a patient with a copy of his or
5 her record upon the written request of the patient.

6 (9) Gross negligence in the practice of acupuncture.

7 (10) Habitual or excessive use or addiction to alcohol,
8 narcotics, stimulants, or any other chemical agent or drug
9 that results in an acupuncturist's inability to practice
10 with reasonable judgment, skill, or safety.

11 (11) A finding that licensure has been applied for or
12 obtained by fraudulent means.

13 (12) A pattern of practice or other behavior that
14 demonstrates incapacity or incompetence to practice under
15 this Act.

16 (13) Being named as a perpetrator in an indicated
17 report by the Department of Children and Family Services
18 under the Abused and Neglected Child Reporting Act and upon
19 proof by clear and convincing evidence that the licensee
20 has caused a child to be an abused child or a neglected
21 child as defined in the Abused and Neglected Child
22 Reporting Act.

23 (14) Wilfully failing to report an instance of
24 suspected child abuse or neglect as required by the Abused
25 and Neglected Child Reporting Act.

26 (15) The use of any words, abbreviations, figures or
27 letters (such as Acupuncturist, Licensed Acupuncturist,
28 Certified Acupuncturist, C.A., Act., Lic. Act., or Lic.
29 Ac.) with the intention of indicating practice as a
30 licensed acupuncturist without a valid license as an
31 acupuncturist issued under this Act.

32 (16) Using testimonials or claims of superior quality
33 of care to entice the public or advertising fee comparisons
34 of available services with those of other persons providing
35 acupuncture services.

36 (17) Advertising of professional services that the

1 offeror of the services is not licensed to render.
2 Advertising of professional services that contains false,
3 fraudulent, deceptive, or misleading material or
4 guarantees of success, statements that play upon the vanity
5 or fears of the public, or statements that promote or
6 produce unfair competition.

7 (18) Having treated ailments of human beings other than
8 by the practice of acupuncture as defined in this Act, or
9 having treated ailments of human beings as a licensed
10 acupuncturist pursuant to ~~independent of~~ a ~~written~~
11 referral by written order that provides for management of
12 the patient by ~~from~~ a physician or dentist without having
13 notified, ~~or having failed to notify~~ the physician or
14 dentist who established the diagnosis that the patient is
15 receiving acupuncture treatment ~~pursuant to that~~
16 ~~diagnosis.~~

17 (19) Unethical, unauthorized, or unprofessional
18 conduct as defined by rule.

19 (20) Physical illness including but not limited to
20 deterioration through the aging process, mental illness,
21 or disability that results in the inability to practice the
22 profession with reasonable judgment, skill, and safety.

23 (21) Violation of the Health Care Worker Self-Referral
24 Act.

25 The entry of an order by a circuit court establishing that
26 any person holding a license under this Act is subject to
27 involuntary admission or judicial admission as provided for in
28 the Mental Health and Developmental Disabilities Code operates
29 as an automatic suspension of that license. That person may
30 have his or her license restored only upon the determination by
31 a circuit court that the patient is no longer subject to
32 involuntary admission or judicial admission and the issuance of
33 an order so finding and discharging the patient and upon the
34 Board's recommendation to the Department that the license be
35 restored. Where the circumstances so indicate, the Board may
36 recommend to the Department that it require an examination

1 prior to restoring a suspended license.

2 The Department may refuse to issue or renew the license of
3 any person who fails to (i) file a return or to pay the tax,
4 penalty or interest shown in a filed return or (ii) pay any
5 final assessment of the tax, penalty, or interest as required
6 by any tax Act administered by the Illinois Department of
7 Revenue, until the time that the requirements of that tax Act
8 are satisfied.

9 In enforcing this Section, the Department or Board upon a
10 showing of a possible violation may compel an individual
11 licensed to practice under this Act, or who has applied for
12 licensure under this Act, to submit to a mental or physical
13 examination, or both, as required by and at the expense of the
14 Department. The Department or Board may order the examining
15 physician to present testimony concerning the mental or
16 physical examination of the licensee or applicant. No
17 information shall be excluded by reason of any common law or
18 statutory privilege relating to communications between the
19 licensee or applicant and the examining physician. The
20 examining physicians shall be specifically designated by the
21 Board or Department. The individual to be examined may have, at
22 his or her own expense, another physician of his or her choice
23 present during all aspects of this examination. Failure of an
24 individual to submit to a mental or physical examination, when
25 directed, shall be grounds for suspension of his or her license
26 until the individual submits to the examination if the
27 Department finds, after notice and hearing, that the refusal to
28 submit to the examination was without reasonable cause.

29 If the Department or Board finds an individual unable to
30 practice because of the reasons set forth in this Section, the
31 Department or Board may require that individual to submit to
32 care, counseling, or treatment by physicians approved or
33 designated by the Department or Board, as a condition, term, or
34 restriction for continued, reinstated, or renewed licensure to
35 practice; or, in lieu of care, counseling, or treatment, the
36 Department may file, or the Board may recommend to the

1 Department to file, a complaint to immediately suspend, revoke,
2 or otherwise discipline the license of the individual. An
3 individual whose license was granted, continued, reinstated,
4 renewed, disciplined or supervised subject to such terms,
5 conditions, or restrictions, and who fails to comply with such
6 terms, conditions, or restrictions, shall be referred to the
7 Director for a determination as to whether the individual shall
8 have his or her license suspended immediately, pending a
9 hearing by the Department.

10 In instances in which the Director immediately suspends a
11 person's license under this Section, a hearing on that person's
12 license must be convened by the Department within 15 days after
13 the suspension and completed without appreciable delay. The
14 Department and Board shall have the authority to review the
15 subject individual's record of treatment and counseling
16 regarding the impairment to the extent permitted by applicable
17 federal statutes and regulations safeguarding the
18 confidentiality of medical records.

19 An individual licensed under this Act and affected under
20 this Section shall be afforded an opportunity to demonstrate to
21 the Department or Board that he or she can resume practice in
22 compliance with acceptable and prevailing standards under the
23 provisions of his or her license.

24 (Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.