

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 1209

Short Title: Acupuncture License Required.

(Public)

Sponsors: Representatives S. Thompson; and Bowman.

Referred to: Commerce.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT REGULATING THE PRACTICE OF ACUPUNCTURE.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 90 of the General Statutes is amended by adding a new
5 Article to read:

6 **“ARTICLE 25.**
7 **“PRACTICE OF ACUPUNCTURE.**

8 **“§ 90-345. Purpose.**

9 It is the purpose of this Article to promote the health, safety and welfare of the
10 people of North Carolina by establishing an orderly system of acupuncture licensing and
11 to provide a valid, effective means of establishing licensing requirements without undue
12 financial burden to the people of North Carolina, through use of a national certifying
13 board which has been established to certify the competency of acupuncturists.

14 **“§ 90-346. Definitions.**

15 As used in this Article, unless the context requires otherwise:

- 16 (1) ‘Acupuncture’ means a form of health care developed from traditional
17 Chinese medical concepts that employs acupuncture diagnosis and
18 treatment, and adjunctive therapies and diagnostic techniques, for the
19 promotion, maintenance and restoration of health and the prevention of
20 disease.
- 21 (2) ‘Board’ means the Acupuncture Licensing Board.
- 22 (3) ‘Practice of acupuncture’ means the insertion of acupuncture needles
23 and the application of moxibustion to specific areas of the human body
24 based upon acupuncture diagnosis as a primary mode of therapy.

1 Adjunctive therapies within the scope of acupuncture may include
2 manual, mechanical, thermal, electrical and electro-magnetic
3 treatment, and the recommendation of herbs, dietary guidelines and
4 therapeutic exercise.

5 **"§ 90-347. Practice of acupuncture without license prohibited.**

6 (a) It is unlawful to practice acupuncture without a license issued pursuant to this
7 Article. This restriction does not apply, however, to a student practicing acupuncture
8 under the direct supervision of a licensed acupuncturist as part of a course of study
9 approved by the Board. It is also unlawful to advertise or otherwise represent oneself as
10 qualified or authorized to practice acupuncture without having the license required by
11 this Article.

12 (b) Violation of subsection (a) is a misdemeanor punishable by imprisonment for
13 up to two years, a fine, or both.

14 **"§ 90-348. Acupuncture Licensing Board.**

15 (a) The Acupuncture Licensing Board shall consist of five members, one
16 appointed by the Governor and four by the General Assembly. The four members
17 appointed by the General Assembly must be licensed to practice acupuncture in this
18 State. The persons initially appointed to those positions need not be licensed at the time
19 of selection, but must meet all the qualifications for a license. The member appointed
20 by the Governor must be a layperson who is not employed in a health care profession.

21 (b) Of the members to be appointed by the General Assembly, two shall be
22 appointed by the Speaker of the House of Representatives and two by the President Pro
23 Tempore of the Senate.

24 (c) The member appointed initially by the Governor shall serve a term ending on
25 June 30, 1990. Two of the members appointed initially by the General Assembly shall
26 be designated to serve terms ending June 30, 1991, and two to serve terms ending June
27 30, 1992. After the initial appointments, all members shall be appointed for terms of
28 three years beginning on July 1. No person may serve more than two consecutive full
29 terms as a member of the Board.

30 (d) At the Board's first meeting each year after the new members have been
31 appointed, the members shall choose one member to chair the Board for the year and
32 another to serve as secretary. No person may chair the Board for more than five
33 consecutive years.

34 (e) The Board shall meet at least once each year within 45 days after the
35 appointment of the new members. The Board shall meet at other times as needed to
36 perform its duties.

37 (f) Members of the Board are entitled to compensation and to reimbursement for
38 travel and subsistence as provided in G.S. 93B-5.

39 **"§ 90-349. Powers and duties of Board.**

40 (a) The Board is authorized to:

41 (1) Issue, suspend and revoke licenses, collect fees, investigate violations
42 of this Article, and otherwise administer the provisions of this Article.

43 (2) Adopt rules to implement the provisions of this Article.

- 1 (3) Establish requirements for and approve schools of acupuncture in this
2 State, the requirements for which shall be at least as stringent as the
3 core curricula standards of the National Council of Acupuncture
4 Schools and Colleges.
- 5 (4) Adopt rules requiring completion of continuing education for license
6 renewal, if the Board determines that such rules are needed to satisfy
7 the purposes of this Article.
- 8 (5) Issue advisory opinions interpreting this Article.
- 9 (6) Sue to enjoin violations of G.S. 90-347. An injunction may be issued
10 even though no person has yet been injured as a result of the
11 unauthorized practice.
- 12 (7) Adopt and use a seal to authenticate official documents of the Board.
- 13 (8) Employ such personnel as may be needed to carry out its functions.

14 (b) The State Auditor shall have audit oversight of the Board pursuant to Article
15 5A of Chapter 147 of the General Statutes.

16 **"§ 90-350. Qualifications for license; renewal.**

17 (a) Except as provided in subsections (b) and (c), to receive a license to practice
18 acupuncture a person must:

- 19 (1) Be currently certified as a Diplomate in Acupuncture by the National
20 Commission for the Certification of Acupuncturists; or
- 21 (2) Have five years clinical experience as a licensed acupuncturist and
22 possess a current license or certificate to practice acupuncture in
23 another jurisdiction which has provisions comparable to this Article.

24 (b) If the Board determines that such action is justified by the number of
25 prospective applicants, it may establish by rule that a license may be issued upon
26 successful completion of an examination administered or approved by the Board after
27 completion of a training program approved by the Board.

28 (c) For 60 days after the appointment of all members of the initial Board, a
29 license also may be issued to a person who has completed at least 500 acupuncture
30 treatments per year for five years in North Carolina before the enactment of this Article,
31 and has completed at least 500 hours of classroom instruction and at least 100 hours of
32 supervised clinical instruction in acupuncture.

33 (d) The license to practice acupuncture must be renewed every two years. To
34 renew a license, a person must continue to meet the requirements for issuance of an
35 initial license. A person whose initial license was based on subsection (a)(2) of this
36 section, however, may be issued a renewal license even though the person no longer has
37 a current license or certificate from another jurisdiction, if the only reason for loss of the
38 license or certificate is a change in residency to North Carolina.

39 **"§ 90-351. Prohibited activities.**

40 The Board may deny, suspend or revoke a license, require remedial education, or
41 issue a letter of reprimand, if a licensed acupuncturist or applicant:

- 42 (1) Engages in false or fraudulent conduct which demonstrates an
43 unfitness to practice acupuncture, including:

- 1 a. Misrepresentation in connection with an application for a
2 license or an investigation by the Board; or
3 b. Attempting to collect fees for services which were not
4 performed; or
5 c. False advertising, including guaranteeing that a cure will result
6 from an acupuncture treatment; or
7 d. Dividing, or agreeing to divide, a fee for acupuncture services
8 with anyone for referring the patient.
9 (2) Fails to exercise proper control over one's practice by:
10 a. Aiding an unlicensed person in practicing acupuncture;
11 b. Delegating professional responsibilities to a person the
12 acupuncturist knows or should know is not qualified to perform;
13 or
14 c. Failing to exercise proper control over unlicensed personnel
15 working with the acupuncturist in the practice.
16 (3) Fails to maintain records in a proper manner, by:
17 a. Failing to keep written records describing the course of
18 treatment for each patient; or
19 b. Refusing to provide to a patient upon request records that have
20 been prepared for or paid for by the patient; or
21 c. Revealing personally identifiable information about a patient,
22 without consent, unless otherwise allowed by law.
23 (4) Fails to exercise proper care for a patient, including:
24 a. Abandoning or neglecting a patient without making reasonable
25 arrangements for the continuation of care; or
26 b. Exercising, or attempting to exercise, undue influence within
27 the acupuncturist/patient relationship by making sexual
28 advances or requests for sexual activity, or making submission
29 to such conduct a condition of treatment.
30 (5) Displays habitual intemperance or substance abuse to such a degree as
31 to interfere with the ability to provide effective treatment.
32 (6) Is convicted or pleads guilty or no contest to any crime which
33 demonstrates an unfitness to practice acupuncture.
34 (7) Negligently fails to practice acupuncture with the level of skill
35 recognized within the profession as acceptable under such
36 circumstances.
37 (8) Willfully violates any provision of this Article or rule of the Board.
38 (9) Has had a license denied, suspended or revoked in another jurisdiction
39 for any reason which would be grounds for such action in this State.

40 **"§ 90-352. Fees.**

41 The Board may charge fees not to exceed:

42 (1) Five hundred dollars (\$500.00) for the issuance of an initial license.

43 (2) Three hundred dollars (\$300.00) for renewal of a license.

44 **"§ 90-353. Use of titles and display of license.**

1 (a) The titles 'Licensed Acupuncturist' and 'Acupuncturist' may be used by, and
2 only by, persons licensed under this Article. Possession of a license under this Article
3 does not by itself entitle a person to identify himself or herself as a doctor or physician.

4 (b) Each person licensed to practice acupuncture shall post the license in a
5 conspicuous location at the person's place of practice."

6 Sec. 2. G.S. 58-260 reads as rewritten:

7 "**§ 58-260. Discrimination forbidden; right to choose services of optometrist,**
8 **podiatrist, ~~dentist or chiropractor.~~ dentist, chiropractor, or acupuncturist.**

9 Discrimination between individuals of the same class in the amount of premiums or
10 rates charged for any policy of insurance covered by this Subchapter, or in the benefits
11 payable thereon, or in any of the terms or conditions of such policy, or in any other
12 manner whatsoever, is prohibited.

13 Whenever any policy of insurance governed by this Chapter provides for payment
14 of or reimbursement for any service which is within the scope of practice of a duly
15 licensed optometrist, or duly licensed podiatrist, or a duly licensed dentist, or duly
16 licensed chiropractor, or a duly licensed acupuncturist, or duly licensed practicing
17 psychologist, the insured or other persons entitled to benefits under such policy shall be
18 entitled to payment of or reimbursement for such services, whether such services be
19 performed by a duly licensed physician or a duly licensed optometrist, or a duly
20 licensed podiatrist, or a duly licensed dentist or a duly licensed chiropractor, or a duly
21 licensed acupuncturist or a duly licensed practicing psychologist, notwithstanding any
22 provision contained in such policy. Whenever any policy of insurance governed by this
23 Chapter provides for certification of disability which is within the scope of practice of a
24 duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a
25 duly licensed dentist, or a duly licensed chiropractor, or a duly licensed acupuncturist,
26 or a duly licensed practicing psychologist, the insured or other persons entitled to
27 benefits under such policy shall be entitled to payment of or reimbursement for such
28 disability whether such disability be certified by a duly licensed physician, or a duly
29 licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly
30 licensed chiropractor, or a duly licensed acupuncturist, or a duly licensed practicing
31 psychologist, notwithstanding any provisions contained in such policy. The
32 policyholder, insured, or beneficiary shall have the right to choose the provider of such
33 services notwithstanding any provision to the contrary in any other statute.

34 For the purposes of this section, a 'duly licensed practicing psychologist' shall be
35 defined to only include a psychologist who is duly licensed or certified in the State of
36 North Carolina and has a doctorate degree in psychology and at least two years clinical
37 experience in a recognized health setting, or has met the standards of the National
38 Register of Health Providers in Psychology."

39 Sec. 3. This act shall become effective October 1, 1989.