

SB1133



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1133

Introduced 2/5/2019, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

225 ILCS 2/16 new
225 ILCS 2/110

Amends the Acupuncture Practice Act. Provides that no person licensed under the Act may hold himself or herself out as being trained in Chinese herbology without proof of having a specified status or successful completion of a specified examination, with a violation constituting a ground for disciplinary action. Makes conforming changes.

LRB101 06092 JRG 51113 b

A BILL FOR

1 AN ACT concerning regulation.

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 Section 110 and by adding Section 16 as follows:

6 (225 ILCS 2/16 new)

7 Sec. 16. Chinese herbology; practice. No person licensed
8 under this Act may hold himself or herself out as being trained
9 in Chinese herbology without proof of status as a Diplome of
10 Oriental Medicine certified by the National Certification
11 Commission for Acupuncture and Oriental Medicine or a
12 substantially equivalent status that is approved by the
13 Department or proof that he or she has successfully completed
14 the National Certification Commission for Acupuncture and
15 Oriental Medicine Chinese Herbology Examination or a
16 substantially equivalent examination approved by the
17 Department. A violation of this Section is subject to the
18 disciplinary action described in Section 110.

19 (225 ILCS 2/110)

20 (Section scheduled to be repealed on January 1, 2028)

21 Sec. 110. Grounds for disciplinary action.

22 (a) The Department may refuse to issue or to renew, place

1 on probation, suspend, revoke or take other disciplinary or
2 non-disciplinary action as deemed appropriate including the
3 imposition of fines not to exceed \$10,000 for each violation,
4 as the Department may deem proper, with regard to a license for
5 any one or combination of the following causes:

6 (1) Violations of this Act or its rules.

7 (2) Conviction by plea of guilty or nolo contendere,
8 finding of guilt, jury verdict, or entry of judgment or
9 sentencing, including, but not limited to, convictions,
10 preceding sentences of supervision, conditional discharge,
11 or first offender probation, under the laws of any
12 jurisdiction of the United States that is (i) a felony or
13 (ii) a misdemeanor, an essential element of which is
14 dishonesty or that is directly related to the practice of
15 the profession.

16 (3) Making any misrepresentation for the purpose of
17 obtaining a license.

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

20 (5) Failing to provide information within 60 days in
21 response to a written request made by the Department which
22 has been sent by certified or registered mail to the
23 licensee's address of record or by email to the licensee's
24 email address of record.

25 (6) Discipline by another U.S. jurisdiction or foreign
26 nation, if at least one of the grounds for the discipline

1 is the same or substantially equivalent to one set forth in
2 this Section.

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

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

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

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

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

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

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

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

1 (15) The use of any words, abbreviations, figures or
2 letters (such as "Acupuncturist", "Licensed
3 Acupuncturist", "Certified Acupuncturist", "Doctor of
4 Acupuncture and Chinese Medicine", "Doctor of Acupuncture
5 and Oriental Medicine", "Doctor of Acupuncture", "Oriental
6 Medicine Practitioner", "Licensed Oriental Medicine
7 Practitioner", "Oriental Medicine Doctor", "Licensed
8 Oriental Medicine Doctor", "C.A.", "Act.", "Lic. Act.",
9 "Lic. Ac.", "D.Ac.", "DACM", "DAOM", or "O.M.D.") or any
10 designation used by the Accreditation Commission for
11 Acupuncture and Oriental Medicine with the intention of
12 indicating practice as a licensed acupuncturist without a
13 valid license as an acupuncturist issued under this Act.

14 When the name of the licensed acupuncturist is used
15 professionally in oral, written, or printed announcements,
16 professional cards, or publications for the information of
17 the public, the degree title or degree abbreviation shall
18 be added immediately following title and name. When the
19 announcement, professional card, or publication is in
20 writing or in print, the explanatory addition shall be in
21 writing, type, or print not less than 1/2 the size of that
22 used in the name and title. No person other than the holder
23 of a valid existing license under this Act shall use the
24 title and designation of "acupuncturist", either directly
25 or indirectly, in connection with his or her profession or
26 business.

1 (16) Using claims of superior quality of care to entice
2 the public or advertising fee comparisons of available
3 services with those of other persons providing acupuncture
4 services.

5 (17) Advertising of professional services that the
6 offeror of the services is not licensed to render.
7 Advertising of professional services that contains false,
8 fraudulent, deceptive, or misleading material or
9 guarantees of success, statements that play upon the vanity
10 or fears of the public, or statements that promote or
11 produce unfair competition.

12 (18) Having treated ailments other than by the practice
13 of acupuncture as defined in this Act, or having treated
14 ailments of as a licensed acupuncturist pursuant to a
15 referral by written order that provides for management of
16 the patient by a physician or dentist without having
17 notified the physician or dentist who established the
18 diagnosis that the patient is receiving acupuncture
19 treatments.

20 (19) Unethical, unauthorized, or unprofessional
21 conduct as defined by rule.

22 (20) Physical illness, mental illness, or other
23 impairment that results in the inability to practice the
24 profession with reasonable judgment, skill, and safety,
25 including, without limitation, deterioration through the
26 aging process, mental illness, or disability.

1 (21) Violation of the Health Care Worker Self-Referral
2 Act.

3 (22) Failure to refer a patient whose condition should,
4 at the time of evaluation or treatment, be determined to be
5 beyond the scope of practice of the acupuncturist to a
6 licensed physician or dentist.

7 (23) Holding himself or herself out as being trained in
8 Chinese herbology without being able to provide the
9 Department with proof of status as a Diplomat of Oriental
10 Medicine certified by the National Certification
11 Commission for Acupuncture and Oriental Medicine or a
12 substantially equivalent status approved by the Department
13 or proof that he or she has successfully completed the
14 National Certification Commission for Acupuncture and
15 Oriental Medicine Chinese Herbology Examination or a
16 substantially equivalent examination approved by the
17 Department.

18 The entry of an order by a circuit court establishing that
19 any person holding a license under this Act is subject to
20 involuntary admission or judicial admission as provided for in
21 the Mental Health and Developmental Disabilities Code operates
22 as an automatic suspension of that license. That person may
23 have his or her license restored only upon the determination by
24 a circuit court that the patient is no longer subject to
25 involuntary admission or judicial admission and the issuance of
26 an order so finding and discharging the patient and upon the

1 Board's recommendation to the Department that the license be
2 restored. Where the circumstances so indicate, the Board may
3 recommend to the Department that it require an examination
4 prior to restoring a suspended license.

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

12 In enforcing this Section, the Department upon a showing of
13 a possible violation may compel an individual licensed to
14 practice under this Act, or who has applied for licensure under
15 this Act, to submit to a mental or physical examination, or
16 both, as required by and at the expense of the Department. The
17 Department may order the examining physician to present
18 testimony concerning the mental or physical examination of the
19 licensee or applicant. No information shall be excluded by
20 reason of any common law or statutory privilege relating to
21 communications between the licensee or applicant and the
22 examining physician. The examining physicians shall be
23 specifically designated by the Department. The individual to be
24 examined may have, at his or her own expense, another physician
25 of his or her choice present during all aspects of this
26 examination. Failure of an individual to submit to a mental or

1 physical examination, when directed, shall be grounds for
2 suspension of his or her license until the individual submits
3 to the examination if the Department finds, after notice and
4 hearing, that the refusal to submit to the examination was
5 without reasonable cause.

6 If the Department finds an individual unable to practice
7 because of the reasons set forth in this Section, the
8 Department may require that individual to submit to care,
9 counseling, or treatment by physicians approved or designated
10 by the Department, as a condition, term, or restriction for
11 continued, restored, or renewed licensure to practice; or, in
12 lieu of care, counseling, or treatment, the Department may file
13 a complaint to immediately suspend, revoke, or otherwise
14 discipline the license of the individual. An individual whose
15 license was granted, continued, restored, renewed, disciplined
16 or supervised subject to such terms, conditions, or
17 restrictions, and who fails to comply with such terms,
18 conditions, or restrictions, shall be referred to the Secretary
19 for a determination as to whether the individual shall have his
20 or her license suspended immediately, pending a hearing by the
21 Department.

22 In instances in which the Secretary immediately suspends a
23 person's license under this Section, a hearing on that person's
24 license must be convened by the Department within 30 days after
25 the suspension and completed without appreciable delay. The
26 Department and Board shall have the authority to review the

1 subject individual's record of treatment and counseling
2 regarding the impairment to the extent permitted by applicable
3 federal statutes and regulations safeguarding the
4 confidentiality of medical records.

5 An individual licensed under this Act and affected under
6 this Section shall be afforded an opportunity to demonstrate to
7 the Department that he or she can resume practice in compliance
8 with acceptable and prevailing standards under the provisions
9 of his or her license.

10 (Source: P.A. 100-375, eff. 8-25-17.)