



Sen. John J. Cullerton

Filed: 4/27/2004

09300HB2981sam001

LRB093 04086 AMC 50072 a

1 AMENDMENT TO HOUSE BILL 2981

2 AMENDMENT NO. _____. Amend House Bill 2981 by replacing
3 everything after the enacting clause with the following:

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7 (Section scheduled to be repealed on January 1, 2008)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

1 out as being qualified to provide physical therapy or
2 physiotherapy services. An acupuncturist shall refer to a
3 licensed physician or dentist, any patient whose condition
4 should, at the time of evaluation or treatment, be determined
5 to be beyond the scope of practice of the acupuncturist.

6 "Acupuncturist" means a person who practices acupuncture
7 and who is licensed by the Department.

8 "Board" means the Board of Acupuncture.

9 "Dentist" means a person licensed under the Illinois Dental
10 Practice Act.

11 "Department" means the Department of Professional
12 Regulation.

13 "Director" means the Director of Professional Regulation.

14 "Physician" means a person licensed under the Medical
15 Practice Act of 1987.

16 "Referral by written order" for purposes of this Act means
17 a diagnosis, substantiated by signature of a physician or
18 dentist, identifying ~~that~~ a patient's condition and
19 recommending treatment ~~is such that it may be treated~~ by
20 acupuncture as defined in this Act. The diagnosis shall remain
21 in effect until changed by the physician or dentist who may,
22 through express direction in the referral, ~~shall~~ maintain
23 management of the patient.

24 "State" includes:

- 25 (1) the states of the United States of America;
- 26 (2) the District of Columbia; and
- 27 (3) the Commonwealth of Puerto Rico.

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

29 (225 ILCS 2/15)

30 (Section scheduled to be repealed on January 1, 2008)

31 Sec. 15. Who may practice acupuncture. No person licensed
32 under this Act may treat human ailments otherwise than by the
33 practice of acupuncture as defined in this Act, ~~and no person~~

1 ~~licensed under this Act may practice acupuncture on another~~
2 ~~person without having on file a written referral order from a~~
3 ~~physician or dentist licensed in Illinois.~~ A physician or
4 dentist licensed in Illinois may practice acupuncture. A
5 physician or a dentist may refer by written order a patient to
6 an acupuncturist for the practice of acupuncture as defined in
7 this Act and may, through express direction in the referral,
8 maintain management of the patient. Nothing in this Act shall
9 be construed to require a referral of a patient to an
10 acupuncturist for evaluation and treatment based on
11 acupuncture principles and techniques as taught by schools
12 accredited by the Accreditation Commission for Acupuncture and
13 Oriental Medicine or a similar accrediting body approved by the
14 Department. An acupuncturist shall refer to a licensed
15 physician or dentist any patient whose condition should, at the
16 time of evaluation or treatment, be determined to be beyond the
17 scope of practice of the acupuncturist.

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

19 (225 ILCS 2/40)

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

21 Sec. 40. Application for licensure. Applications for
22 original licensure as an acupuncturist shall be made to the
23 Department in writing on forms prescribed by the Department and
24 shall be accompanied by the required fee, which shall not be
25 refundable.

26 Until December 31, 2001, applicants shall submit with the
27 application proof of passing the National Certification
28 Commission for Acupuncture and Oriental Medicine ~~National~~
29 ~~Commission for the Certification of Acupuncturists~~ examination
30 or a substantially equivalent examination approved by the
31 Department or meeting any other qualifications established by
32 the Department.

33 On and after January 1, 2002, the Department shall issue a

1 license to an applicant who submits with the application proof
2 of each of the following:

3 (1) (A) graduation from a school accredited by the
4 Accreditation Commission for Acupuncture and Oriental
5 Medicine ~~National Accreditation Commission for Schools and~~
6 ~~Colleges of Acupuncture and Oriental Medicine~~ or a similar
7 accrediting body approved by the Department; or (B)
8 completion of a comprehensive educational program approved
9 by the Department; and

10 (2) passing the National Certification Commission for
11 Acupuncture and Oriental Medicine ~~National Commission for~~
12 ~~the Certification of Acupuncturists~~ examination or a
13 substantially equivalent examination approved by the
14 Department.

15 An applicant has 3 years from the date of his or her
16 application to complete the application process. If the process
17 has not been completed in 3 years, the application shall be
18 denied, the fee shall be forfeited, and the applicant must
19 reapply and meet the requirements in effect at the time of
20 reapplication.

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

23 (225 ILCS 2/110)

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

25 Sec. 110. Grounds for disciplinary action.

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

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

33 (2) Conviction of any crime under the laws of any U.S.

1 jurisdiction that is (i) a felony, (ii) a misdemeanor, an
2 essential element of which is dishonesty, or (iii) directly
3 related to the practice of the profession.

4 (3) Making any misrepresentation for the purpose of
5 obtaining a license.

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

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

12 (6) Discipline by another U.S. jurisdiction or foreign
13 nation, if at least one of the grounds for the discipline
14 is the same or substantially equivalent to one set forth in
15 this Section.

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

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

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

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

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

27 (12) A pattern of practice or other behavior that
28 demonstrates incapacity or incompetence to practice under
29 this Act.

30 (13) Being named as a perpetrator in an indicated
31 report by the Department of Children and Family Services
32 under the Abused and Neglected Child Reporting Act and upon
33 proof by clear and convincing evidence that the licensee
34 has caused a child to be an abused child or a neglected

1 child as defined in the Abused and Neglected Child
2 Reporting Act.

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

6 (15) The use of any words, abbreviations, figures or
7 letters (such as Acupuncturist, Licensed Acupuncturist,
8 Certified Acupuncturist, C.A., Act., Lic. Act., or Lic.
9 Ac.) with the intention of indicating practice as a
10 licensed acupuncturist without a valid license as an
11 acupuncturist issued under this Act.

12 (16) Using testimonials or claims of superior quality
13 of care to entice the public or advertising fee comparisons
14 of available services with those of other persons providing
15 acupuncture services.

16 (17) Advertising of professional services that the
17 offeror of the services is not licensed to render.
18 Advertising of professional services that contains false,
19 fraudulent, deceptive, or misleading material or
20 guarantees of success, statements that play upon the vanity
21 or fears of the public, or statements that promote or
22 produce unfair competition.

23 (18) Having treated ailments of human beings other than
24 by the practice of acupuncture as defined in this Act, or
25 having treated ailments of human beings as a licensed
26 acupuncturist pursuant to independent of a ~~written~~
27 referral by written order that provides for management of
28 the patient by ~~from~~ a physician or dentist without having
29 notified, ~~or having failed to notify~~ the physician or
30 dentist who established the diagnosis that the patient is
31 receiving acupuncture treatment ~~pursuant to that~~
32 ~~diagnosis.~~

33 (19) Unethical, unauthorized, or unprofessional
34 conduct as defined by rule.

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

5 (21) Violation of the Health Care Worker Self-Referral
6 Act.

7 The entry of an order by a circuit court establishing that
8 any person holding a license under this Act is subject to
9 involuntary admission or judicial admission as provided for in
10 the Mental Health and Developmental Disabilities Code operates
11 as an automatic suspension of that license. That person may
12 have his or her license restored only upon the determination by
13 a circuit court that the patient is no longer subject to
14 involuntary admission or judicial admission and the issuance of
15 an order so finding and discharging the patient and upon the
16 Board's recommendation to the Department that the license be
17 restored. Where the circumstances so indicate, the Board may
18 recommend to the Department that it require an examination
19 prior to restoring a suspended license.

20 The Department may refuse to issue or renew the license of
21 any person who fails to (i) file a return or to pay the tax,
22 penalty or interest shown in a filed return or (ii) pay any
23 final assessment of the tax, penalty, or interest as required
24 by any tax Act administered by the Illinois Department of
25 Revenue, until the time that the requirements of that tax Act
26 are satisfied.

27 In enforcing this Section, the Department or Board upon a
28 showing of a possible violation may compel an individual
29 licensed to practice under this Act, or who has applied for
30 licensure under this Act, to submit to a mental or physical
31 examination, or both, as required by and at the expense of the
32 Department. The Department or Board may order the examining
33 physician to present testimony concerning the mental or
34 physical examination of the licensee or applicant. No

1 information shall be excluded by reason of any common law or
2 statutory privilege relating to communications between the
3 licensee or applicant and the examining physician. The
4 examining physicians shall be specifically designated by the
5 Board or Department. The individual to be examined may have, at
6 his or her own expense, another physician of his or her choice
7 present during all aspects of this examination. Failure of an
8 individual to submit to a mental or physical examination, when
9 directed, shall be grounds for suspension of his or her license
10 until the individual submits to the examination if the
11 Department finds, after notice and hearing, that the refusal to
12 submit to the examination was without reasonable cause.

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

30 In instances in which the Director immediately suspends a
31 person's license under this Section, a hearing on that person's
32 license must be convened by the Department within 15 days after
33 the suspension and completed without appreciable delay. The
34 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 or Board that he or she can resume practice in
8 compliance with acceptable and prevailing standards under the
9 provisions of his or her license.

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."