

ACT 214

S.B. NO. 665

A Bill for an Act Relating to Acupuncture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER ACUPUNCTURE PRACTITIONERS

§ -1 Declaration of necessity for regulation and control. The legislature hereby finds and declares that the practice of acupuncture is a theory and method for treatment of illness and disability and for strengthening and invigorating the body and as such affects the public health, safety, and welfare, and therefore there is a necessity that individuals practicing acupuncture be subject to regulation and control.

§ -2 Definitions. As used in this chapter:

"Acupuncture practitioner" means a person engaged in the practice of acupuncture.

"Board" means the board of acupuncture.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Earned Degree" means an academically or a clinically obtained degree (not honorary).

"Practice of acupuncture" means stimulation of a certain acupuncture point or points on the human body for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, thermal, or traditional therapeutic means.

§ -3 License required. Except as otherwise provided by law, no person shall practice acupuncture in this State either gratuitously or for pay, or shall offer to so practice, or shall announce themselves either publicly or privately as prepared or qualified to so practice any method of acupuncture without having a valid unrevoked license from the State.

§ -4 Exemptions. (a) Any person licensed under chapters 448, 453, and 460, if certified by their respective boards as qualified to practice acupuncture by reason of formal training in acupuncture shall be exempt from this chapter.

(b) A licensed acupuncturist of another state or country for demonstrations or lectures to be given at acupuncture or medical society meetings or at acupuncture schools shall be exempt from licensing procedures set forth in this chapter.

§ -5 Qualifications for examination. (a) No person shall be licensed to practice acupuncture unless the person has passed an examination and has been found to be possessed of the necessary qualifications as prescribed in the rules adopted by the board pursuant to chapter 91.

(b) Before any applicant shall be eligible for such examination, the applicant shall furnish satisfactory proof to the board that the applicant:

- (1) Has completed a formal program of acupuncture (traditional oriental medicine) and received a certificate or diploma from an institute or private tutorship approved by the board. The training in the science of acupuncture (traditional oriental medicine) shall be for a period of not less than two academic years (not less than six hundred hours) and one clinical year in a clinical internship program supervised by a licensed acupuncturist (not less than twelve months and not less than nine hundred hours) for a total of not less than one thousand five hundred hours.
- (2) Students who have completed not less than two years of a formal course of acupuncture and have received a certificate or diploma from an approved school or a qualified private tutor approved by the board shall be required to complete not less than twelve months (not less than nine hundred hours) of practice of acupuncture on

human subjects in a clinical internship program supervised by a licensed acupuncturist prior to licensure.

- (3) Tutorships which have been approved by the board prior to December 31, 1984 shall be acceptable for examination upon their completion; provided tutorships shall no longer be an accepted status to qualify for examination for acupuncture licensure after June 30, 1987.

(c) Any person who had a valid and current license to practice acupuncture in this State on December 31, 1984, shall be issued a license under this chapter upon application and payment of a license fee not later than December 31, 1985.

(d) Students who started training prior to December 31, 1984 in a school or tutorship program approved by the board prior to December 31, 1984, and who shall complete their training by December 31, 1989:

- (1) Shall not lose their rights of continued education, earned or accumulated credits; and
- (2) For purposes of this chapter their requirements for examination and licensure will be as provided in chapter 436D and chapter 16-72, Hawaii Administrative Rules, as they existed on December 31, 1984, provided that the school or tutorship has not altered its program so as to lower the standards for completion of the program.

§ -6 Board of acupuncture. There shall be a board of acupuncture, the members of which shall be appointed by the governor in accordance with section 26-34, except as provided in this section.

The board shall consist of five persons, two of whom shall be private citizens and three shall be acupuncturists licensed in accordance with this chapter. The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the discharge of their duties. A majority of the board shall constitute a quorum. Each person on the board shall have a two-year term and shall serve not more than two terms, consecutive or otherwise.

§ -7 Powers and duties of the board. The board shall:

- (1) Adopt rules in accordance with chapter 91 to carry out the purposes of this chapter, with special emphasis on the health and safety of the public;
- (2) Develop standards for licensure;
- (3) Prepare, administer and grade examinations, provided that the board may contract with a testing agency to provide such services;
- (4) Issue, renew, suspend, and revoke licenses;
- (5) Register applicants of holders of a license;
- (6) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- (7) Maintain a record of its proceedings; and
- (8) Do all things necessary to carry out the functions, powers, and duties set forth in the chapter.

§ -8 Fees and expenses. No applicant shall be examined under this chapter until the appropriate fees have been paid. The department shall establish the amount for application, examination, license, restoration, and renewal fees by rules adopted pursuant to chapter 91. All fees shall be deposited with the director of finance to the credit of the general fund.

§ -9 Biennial renewal. Every person holding a license under this chapter shall register with the board and pay a biennial fee on or before June 30 of each

odd-numbered year. Failure to pay the biennial fee shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after the expiration upon filing of an application and payment of a restoration fee.

§ -10 Revocation or suspension of licenses. (a) Any license to practice acupuncture under this chapter may be revoked or suspended by the board of acupuncture at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of the license:

- (1) Obtaining a fee on the assurance that a manifestly incurable ailment can be permanently cured;
- (2) The use of false, fraudulent, or deceptive advertising and making untruthful and improbable statements;
- (3) Habitually using any habit forming controlled substance, such as opium or any of its derivatives, morphine, heroin, or cocaine;
- (4) Procuring a license through fraud, misrepresentation or deceit;
- (5) Professional misconduct or gross carelessness or manifest incapacity in the practice of acupuncture; or
- (6) Violating any rules adopted hereunder.

(b) If any license is revoked or suspended by the board for any act or condition listed in this section, the holder of the license shall be notified in writing by the board of the revocation or suspension. Any license to practice may be restored by the board as provided by rule.

§ -11 Hearings. Any proceeding before the board for the revocation or suspension of a license to practice shall be conducted in accordance with chapter 91. The board shall delegate to the department of commerce and consumer affairs the authority to receive, arbitrate, investigate, and prosecute complaints.

§ -12 Penalty. (a) Any person except a person licensed under this chapter who practices, treats, or instructs in any phase of acupuncture without a license or permit issued by the board, or uses any word or title to induce the belief that they are engaged in the practice of any type of acupuncture, shall be guilty of a misdemeanor and subject to a fine of not less than \$50 nor more than \$1,000 for each violation.

(b) Any person, except a licensed acupuncturist, who:

- (1) Practices or attempts to practice acupuncture;
- (2) Buys, sells, or fraudulently obtains any diploma or license to practice acupuncture whether recorded or not;
- (3) Uses the title "acupuncturist", "D.Ac." or "D.O.M." or any word or title to induce the belief that the person is engaged in the practice of acupuncture without complying with this chapter; or
- (4) Violates this chapter;

shall be penalized as provided in subsection (a). The department may also seek all legal and equitable remedies available to it for the enforcement of the provisions of this chapter, including seeking injunctive relief.

§ -13 Use of titles. (a) A licensee who has been awarded a license to practice acupuncture by the board of acupuncture in this State may use the title of "Licensed Acupuncturist" or designation "L.Ac." with the licensee's name in an advertisement for acupuncture or announce or append the designation to the licensee's name.

(b) A licensee who has been awarded an earned doctoral degree may use the designation "Ph.D." in an advertisement for acupuncture or announce or append the designation to the licensee's name if the degree was granted from a university or college recognized and approved by the board in recognition of

accomplishments in the study or practice of acupuncture (traditional oriental medicine).

(c) A licensee who has been awarded an earned doctoral degree from a university or college recognized and approved by the board in the study or practice of acupuncture (traditional oriental medicine), may use the word "Doctor" or the prefix "Dr." providing the word "Acupuncturist" immediately follows the licensee's name.

(d) Other titles, prefixes, or designations shall be permitted under this chapter when authorized by the board or a department of education curriculum.

§ -14 Foreign school curricula and standards. The board of acupuncture shall not recognize and approve an earned doctoral degree from a foreign university or college whose curricula and standards are not equivalent to or higher than institutions in the United States which have been recognized and approved by the board in the study or practice of acupuncture.

§ -15 Any action taken by the board which was established by chapter 436D prior to December 31, 1984 not in contravention of this Act shall remain in full force and effect."

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter (Board of Acupuncture)"

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1985.)