

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 115

4
5 By: Senators J. Jeffress, T. Smith, Faris, Steele, G. Jeffress, Broadway, Salmon, Wilkinson, Horn,
6 Whitaker, Altes
7 By: Representatives Bolin, R. Smith, King, Rankin, Judy

For An Act To Be Entitled

11 AN ACT TO RESTRUCTURE THE ARKANSAS STATE BOARD OF
12 ACUPUNCTURE AND RELATED TECHNIQUES; AND FOR OTHER
13 PURPOSES.

Subtitle

16 AN ACT TO RESTRUCTURE THE ARKANSAS STATE
17 BOARD OF ACUPUNCTURE AND RELATED
18 TECHNIQUES.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. (a) The members of the Arkansas State Board of Acupuncture
24 and Related Techniques serving on the day before the effective date of this
25 act shall cease to be members of the board on the effective date of this act
26 and their successors shall be appointed as provided in Arkansas Code § 17-
27 102-201.

28 (b) No person who was a member of the board on the day before the
29 effective date of this act may be reappointed as a member of the board before
30 January 1, 2005.

32 SECTION 2. Arkansas Code § 17-102-102(2) is amended to read as
33 follows:

34 (2) "Acupuncturist" means a person licensed under this chapter as a
35 doctor ~~of healing arts~~ of oriental medicine to practice acupuncture and
36 related techniques in this state and includes the terms licensed



1 acupuncturist, certified acupuncturist, acupuncture ~~practitioner~~ physician,
2 and Oriental acupuncture practitioner;

3
4 SECTION 3. Arkansas Code § 17-102-103(a)(1), concerning disposition of
5 acupuncture board funds, is amended to read as follows:

6 (a)(1) All fees authorized by this chapter, except those established
7 by the Secretary of State under § 17-102-207, are the property of the
8 Arkansas State Board of Acupuncture and Related Techniques and shall be
9 provided to its treasurer to be disposed of as provided in this chapter.

10
11 SECTION 4. Arkansas Code § 17-102-201 is amended to read as follows:
12 17-102-201. Creation of board - Members - Appointment.

13 (a)(1)(A) There is created the Arkansas State Board of Acupuncture and
14 Related Techniques.

15 (B) The board shall consist of ~~five (5)~~ seven (7) persons
16 appointed by the Governor, subject to confirmation by the Senate, as full
17 members and one (1) person appointed by the Governor, subject to confirmation
18 by the Senate, as an ex officio member.

19 (2)(A) ~~Three (3)~~ Five (5) full members of the board shall be
20 ~~qualified acupuncturists~~ doctors of Oriental medicine licensed in this state
21 and shall:

22 (i) Be appointed from a list provided by the
23 Arkansas Association on Oriental Medicine;

24 (ii) Provide verifiable documentation of completion
25 of an advanced specialty program, externship, residency, internship, or board
26 certification in a recognized Oriental medical specialty, including but not
27 limited to, Oriental medicine family practice and Oriental medicine
28 orthopedics;

29 (iii) Have completed in not more than two (2) years,
30 a minimum of one hundred forty-four (144) hours of education that shall not
31 include advanced training in acupuncture and Oriental medicine.

32 (3)(A) Two (2) full members shall be appointed to represent the
33 public and shall not have practiced acupuncture and related techniques in
34 this or any other jurisdiction nor be retired from or have any financial
35 interest in the occupation regulated.

36 ~~(B) The public members shall be subject to confirmation by~~

1 ~~the Senate.~~

2 ~~(C)~~(B) The public members shall be full voting members but
 3 shall not participate in the grading of examinations.

4 (4)(A) The ex officio member shall be a physician licensed
 5 pursuant to the Arkansas Medical Practices Act, §§ 17-95-201 - 17-95-207, 17-
 6 95-301 - 17-95-305, and 17-95-401 - 17-95-411, and shall be entitled to be
 7 notified of all board meetings and to participate in the deliberations of the
 8 board.

9 (B) However, the ex officio member shall have no vote,
 10 shall not serve as an officer of the board, and shall not be counted to
 11 establish a quorum or a majority necessary to conduct business.

12 (b)(1) The initial full members of the board shall be appointed by the
 13 Governor for staggered terms as follows:

14 (A) ~~One (1)~~ Two (2) member's ~~term~~ terms shall expire after
 15 one (1) year;

16 (B) ~~One (1)~~ Two (2) member's ~~term~~ terms shall expire after
 17 two (2) years; and

18 (C) ~~One (1)~~ Three (3) member's ~~term~~ terms shall expire
 19 after three (3) years.

20 (2) ~~Of the two (2) additional members appointed pursuant to Acts~~
 21 ~~1999, No. 536, one (1) shall be appointed for a two year term and the other~~
 22 ~~for a three year term.~~ If the Governor has not appointed a person to fill a
 23 vacancy on the board within forty-five (45) days of the beginning of the
 24 vacancy, the President Pro Tempore of the Senate shall appoint a properly
 25 qualified person to fill the vacancy.

26 (3) The initial ex officio board member shall be appointed to a
 27 term of three (3) years.

28 (4) Successors shall be appointed for three-year terms.

29 (5) Vacancies shall be filled by appointment by the Governor for
 30 the unexpired term.

31 (6) Board members shall serve until their successors have been
 32 appointed and qualified.

33 (c) The Governor may remove any full member from the board for any
 34 reason that would justify the suspension or revocation of his or her license
 35 to practice acupuncture and related techniques.

36 (d) A person may not serve on the board who:

1
 2 SECTION 8. Arkansas Code § 17-102-206(b), concerning powers and duties
 3 of the acupuncture board, is amended to read as follows:

4 (b) The board is authorized to:

5 (1) Make suitable bylaws for carrying out its duties under the
 6 provisions of this chapter;

7 (2) Sue and be sued;

8 (3) Have an official seal which shall bear the words "Arkansas
 9 State Board of Acupuncture and Related Techniques";

10 (4) Provide a secretary's certificate. The certificate of the
 11 Secretary of the Arkansas State Board of Acupuncture and Related Techniques
 12 under seal shall be accepted in the courts of the state as the best evidence
 13 as to the minutes of the board and shall likewise be accepted in the courts
 14 of the state as the best evidence as to the licensure or nonlicensure of any
 15 person under the requirements of this chapter;

16 (5) Adopt, publish, and, from time to time, revise such rules
 17 and regulations not inconsistent with the law as may be necessary to enable
 18 it to carry into effect the provisions of this chapter;

19 (6) Keep a record of all its proceedings, receipts, and
 20 disbursements;

21 (7) Adopt standards for applicants wishing to take the licensing
 22 examination and conduct examinations or contract with persons or entities to
 23 conduct examinations of applicants;

24 (8) ~~Grant, deny, renew, suspend,~~ Suspend or revoke licenses to
 25 practice acupuncture and related techniques for any cause stated in this
 26 chapter. Except as otherwise provided by this chapter, the board shall have
 27 exclusive jurisdiction to determine who shall be permitted to practice
 28 acupuncture and related techniques in the State of Arkansas; and

29 (9) Conduct disciplinary proceedings as provided in this
 30 chapter.

31
 32 SECTION 9. Arkansas Code § 17-102-206, concerning the powers and
 33 duties of the acupuncture board, is amended to add an additional subsection
 34 to read as follows:

35 (d)(1) The board shall certify to the Secretary of State those
 36 applicants for licensure who have met all the criteria applicable to that

1 applicant under either § 17-102-302 or 304.

2
 3 SECTION 10. Arkansas Code Title 17, Chapter 102, Subchapter 2 is
 4 amended to add an additional section to read as follows:

5 17-102-207. Licenses issued - Secretary of State.

6 (a) The Secretary of State shall issue, deny and renew licenses under
 7 § 17-102-302 and 304.

8 (b) The Arkansas State Board of Acupuncture and Related Techniques
 9 shall provide the Secretary of State with a set of specific criteria for
 10 granting, denying and renewing each of the types of licenses under § 17-102-
 11 302 and 304.

12 (c) Before issuing a license, the Secretary of State shall verify that
 13 certification of an applicant by the board was approved by an affirmative
 14 vote of a majority of the full membership of the board, excluding the ex
 15 officio member.

16 (d) The Secretary of State shall establish fees sufficient to cover
 17 the actual cost of granting, denying and renewing licenses under this
 18 chapter.

19
 20 SECTION 11. Arkansas Code § 17-102-302 is amended to read as follows:
 21 17-102-302. Effect on existing license.

22 (a) Notwithstanding the requirements set forth in § 17-102-304, any
 23 acupuncturist validly certified by the National ~~Commission~~ Commission for the
 24 Certification of Acupuncturists as of August 1, 1997, and residing and
 25 practicing acupuncture in this state as of December 31, 1996, shall upon
 26 ~~application to~~ certification by the Arkansas State Board of Acupuncture and
 27 Related Techniques to the Secretary of State be issued a license without an
 28 examination by the Secretary of State.

29 (b) The Secretary of State, upon certification by the board that the
 30 applicant has met the following criteria, shall issue a license without
 31 examination to an acupuncturist who:

32 (1)(A) Lived and practiced in this state as of December 31,
 33 1996;

34 (B) Applied for licensing under § 3(a) of Act 816 of 1997;
 35 and

36 (C) Applies for licensure within thirty (30) days of the

1 effective date of this act; or

2 (2)(A) Holds a valid license to practice acupuncture or Oriental
3 medicine in another state;

4 (B) Provides verifiable documentation of completion of an
5 advanced specialty program approved by the board, externship, residency,
6 internship or board certification in a recognized Oriental medical specialty,
7 including, but not limited to, Oriental medicine family practice and Oriental
8 medicine orthopedics;

9 (C) Has completed in not more than two (2) years, a
10 minimum of one hundred forty-four (144) hours of education that shall not
11 include advanced training in acupuncture and Oriental medicine; and

12 (D) Applies for licensure within thirty (30) days of the
13 effective date of this act.

14 ~~(b)(c)~~(1)(A) Notwithstanding the requirements set forth in § 17-102-
15 304, any acupuncturist not validly certified by the National Commission for
16 the Certification of Acupuncturists as of August 1, 1997, but residing and
17 practicing acupuncture in this state as of December 31, 1996, shall upon
18 ~~application to certification by the board to the Secretary of State~~ be issued
19 a provisional license by the Secretary of State conditioned upon the
20 acupuncturist's becoming certified by the commission within two (2) years of
21 August 1, 1997.

22 (B) While the license is provisional, the acupuncturist
23 may practice acupuncture and related techniques in this state pursuant to a
24 scope of practice set forth in writing by the board after review of the
25 qualifications, training, and practice experience of the acupuncturist.

26 (2) ~~Upon obtaining~~ If the board receives certification of the
27 acupuncturist by the National Commission for the Certification of
28 Acupuncturists and presenting it to the board, the board shall certify to the
29 Secretary of State that the acupuncturist has met all the required criteria
30 for licensure and the Secretary of State shall ~~be issued~~ issue a
31 nonprovisional license by the board to the acupuncturist.

32 (3) Should certification not be obtained within the two-year
33 period, the board shall immediately communicate that fact to the Secretary of
34 State who shall immediately revoke the provisional license.

35
36 SECTION 12. Arkansas Code § 17-102-304(b), concerning accreditation of

1 acupuncture schools and programs, is amended to read as follows:

2 (b) Prior to approval of an institute of acupuncture and related
 3 techniques, the board shall determine that the institute meets standards of
 4 professional education. These standards shall provide that the institute:

5 (1) Require, as a prerequisite to graduation, a program of study
 6 of at least four (4) academic years;

7 (2) Meet the minimum requirements of a board-approved national
 8 accrediting body;

9 (3) Require participation in a carefully supervised clinical or
 10 internship program that includes at least eight hundred (800) hours of
 11 supervised clinical practice; and

12 (4) Be accredited by the Accreditation Commission for
 13 Acupuncture and Oriental Medicine, the Council of Colleges of Acupuncture and
 14 Oriental Medicine, or the National Commission for the Certification of
 15 Acupuncture and Oriental Medicine; and

16 ~~(4)(5)~~ Confer a certificate, diploma, or degree in acupuncture
 17 and related techniques only after personal attendance in classes and clinics.

18
 19 SECTION 13. Arkansas Code § 17-102-304(d), concerning fees charged by
 20 the acupuncture board, is amended to read as follows:

21 (d) The board may charge the following fees:

22 (1) Initial application for licensing, a fee not to exceed two
 23 hundred fifty dollars (\$250);

24 (2) Written and practical examination not including the cost of
 25 the nationally recognized examination, a fee not to exceed three hundred
 26 fifty dollars (\$350);

27 ~~(3) Biennial licensing renewal, a fee not to exceed four hundred~~
 28 ~~dollars (\$400);~~

29 ~~(4) Late renewal more than thirty (30) days, but not later than~~
 30 ~~one (1) year, after expiration of a license, which late fee is in addition to~~
 31 ~~any other fees, a fee not to exceed one hundred dollars (\$100);~~

32 ~~(5) Reciprocal licensing, a fee not to exceed seven hundred~~
 33 ~~fifty dollars (\$750);~~

34 ~~(6)(3)~~ Annual continuing education provider registration, a fee
 35 not to exceed two hundred dollars (\$200); and

36 ~~(7)(4)~~ Any and all fees to cover reasonable and necessary

1 administrative expenses.

2

3 SECTION 14. Arkansas Code § 17-102-304(e)(1)(B), concerning
 4 acupuncture applicants who pass the required examination, is amended to read
 5 as follows:

6 (B)(i) Should the applicant pass the examination, no part
 7 of the fee shall be returned, and the ~~applicant shall be issued~~ board shall
 8 certify to the Secretary of State that the applicant has passed the
 9 examination.

10 (ii) On receipt of the certification, the Secretary
 11 of State shall issue to the applicant a license to practice acupuncture and
 12 related techniques in accordance with this chapter.

13

14 SECTION 15. Arkansas Code § 17-102-305 is amended to read as follows:
 15 17-102-305. Examinations.

16 (a) Examinations shall be given in English and in writing and shall
 17 include, but not be limited to, the following subjects in Oriental medicine:

- 18 (1) Anatomy and physiology;
- 19 (2) Pathology;
- 20 (3) Diagnosis;
- 21 (4) Hygiene, sanitation, and sterilization techniques;
- 22 (5) Acupuncture and related principles, practices, and
- 23 techniques; ~~and~~
- 24 (6) Chinese herbal medicine; and
- 25 (7) Oriental medicine techniques.

26 (b)(1) The Arkansas State Board of Acupuncture and Related Techniques
 27 shall hold an examination at least once each calendar year, and all
 28 applicants shall be notified in writing of the date and time of all
 29 examinations.

30 (2) The board may utilize a nationally recognized examination if
 31 it deems the national exam is sufficient to qualify a practitioner for
 32 licensure in this state.

33 (3) An applicant shall be deemed to have passed the required
 34 examination in acupuncture and Oriental medicine if the applicant provides
 35 verifiable documentation of having passed:

36 (A) An examination for national certification acceptable

1 to the board in acupuncture and Oriental medicine;

2 (B) The examination of the American Academy of Oriental
3 Medicine Family Practice; or

4 (C) Another exam approved by the board.

5 (c) The board shall certify to the Secretary of State who shall issue
6 a license to every applicant whose application has been filed with and
7 approved by the board and who has paid the required fees and who either:

8 (1) Has passed the board’s examination with a score on each
9 subject of not less than seventy percent (70%); or

10 (2) Has achieved a passing score on a board-approved nationally
11 recognized examination.

12
13 SECTION 16. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that practitioners who have been
15 servicing patients for many years may be forced to close their practices and
16 many citizens of Arkansas may find themselves without access to the treatment
17 they need to relieve illness and suffering. Therefore, an emergency is
18 declared to exist and this act being immediately necessary for the
19 preservation of the public peace, health and safety shall become effective
20 on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor, it
23 shall become effective on the expiration of the period of time during which
24 the Governor may veto the bill; or

25 (3) If the bill is vetoed by the Governor and the veto is overridden,
26 it shall become effective on the date the last house overrides the veto.