

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
4

As Engrossed: S2/4/03 S2/6/03

A Bill

SENATE BILL 115

5 By: Senators J. Jeffress, T. Smith, Faris, Steele, G. Jeffress, Broadway, Salmon, Wilkinson, Horn,
6 Whitaker, Altes, *Holt, Womack*

7 By: Representatives Bolin, R. Smith, King, Rankin, Judy, Creekmore, *Borhauer, Wood*
8
9

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.
14

Subtitle

15 AN ACT TO RESTRUCTURE THE ARKANSAS STATE
16 BOARD OF ACUPUNCTURE AND RELATED
17 TECHNIQUES.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

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.
31

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, and acupuncture practitioner, ~~and~~*
2 *~~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 of three (3) names per
23 position provided by the 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;

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

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

35 (B) ~~The public members shall be subject to confirmation by~~
36 ~~the Senate.~~

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

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

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

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

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

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

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

19 ~~(2) Of the two (2) additional members appointed pursuant to Acts~~
20 ~~1999, No. 536, one (1) shall be appointed for a two year term and the other~~
21 ~~for a three year term.~~

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

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

25 (5) Vacancies shall be filled by appointment by the Governor for
26 the unexpired term.

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

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

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

33 (1) is Is or has been in the preceding two (2) years on and
34 received a salary as a member of the faculty of a school which is subject to
35 review by the board; or

36 (2) Is the sole proprietor of a school or receives a salary for

1 serving on the board of directors of a school which is subject to review by
 2 the board ~~may not serve on the board.~~

3
 4 SECTION 5. Arkansas Code § 17-102-202 is amended to read as follows:
 5 17-102-202. Board members - Qualifications.

6 (a)(1) Each member of the Arkansas State Board of Acupuncture and
 7 Related Techniques shall be ~~a citizen of the United States,~~ a resident of
 8 this state for at least two (2) years before appointment, and shall, before
 9 entering upon the duties of the office, take the oath prescribed by the
 10 Constitution for state officers and shall file it with the Secretary of State
 11 who shall thereupon issue to each person so appointed a certificate of
 12 appointment.

13 (2) A copy of the certificate of appointment of a board member
 14 shall be filed with the secretary of the board before the member may exercise
 15 the rights of board membership.

16 (b) Each full professional member also shall be a graduate of a
 17 reputable school or institute of acupuncture ~~or~~ and Oriental medicine and ~~be~~
 18 ~~certified by~~ have passed either the National Commission for the Certification
 19 of Acupuncturists exam or the American Academy of Oriental Medicine and
 20 Family Practice exam, or another exam approved by the board.

21
 22 SECTION 6. Arkansas Code § 17-102-204(b)(3), concerning the quorum of
 23 the acupuncture board, is amended to read as follows:

24 (3) ~~Three (3)~~ Four (4) full members shall constitute a quorum at
 25 any meeting of the board.

26
 27 SECTION 7. Arkansas Code § 17-102-205(b), concerning records of the
 28 acupuncture board, is amended to read as follows:

29 (b) The secretary shall also keep a record of the names, addresses,
 30 and license numbers of all acupuncturists ~~licensed~~ certified by the board to
 31 the Secretary of State for licensure, together with a record of license
 32 renewals, suspensions, and revocations.

33
 34 SECTION 8. Arkansas Code § 17-102-206(b), concerning powers and duties
 35 of the acupuncture board, is amended to read as follows:

36 (b) The board is authorized to:

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

3 (2) Sue and be sued;

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

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

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

15 (6) Keep a record of all its proceedings, receipts, and
16 disbursements;

17 (7) Adopt standards for applicants wishing to take the licensing
18 examination and conduct examinations or contract with persons or entities to
19 conduct examinations of applicants;

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

25 (9) Conduct disciplinary proceedings as provided in this
26 chapter.

27
28 SECTION 9. Arkansas Code § 17-102-206, concerning the powers and
29 duties of the acupuncture board, is amended to add an additional subsection
30 to read as follows:

31 (d)(1) The board shall certify to the Secretary of State those
32 applicants for licensure who have met all the criteria applicable to that
33 applicant under either § 17-102-302 or 304.
34

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

1 17-102-207. Licenses issued - Secretary of State.

2 (a) The Secretary of State shall issue, deny and renew licenses under
3 § 17-102-302 and 304.

4 (b) The Arkansas State Board of Acupuncture and Related Techniques
5 shall provide the Secretary of State with a set of specific criteria for
6 granting, denying and renewing each of the types of licenses under § 17-102-
7 302 and 304.

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

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

15
16 SECTION 11. Arkansas Code § 17-102-302 is amended to read as follows:

17 17-102-302. Effect on existing license.

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

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

28 (1)(A) Lived and practiced in this state as of December 31,
29 1996;

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

32 (C) Applies for licensure within thirty (30) days of the
33 effective date of this act; or

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

36 (B) Provides verifiable documentation of completion of an

1 advanced specialty program approved by the board, externship, residency,
 2 internship or board certification in a recognized Oriental medical specialty,
 3 including, but not limited to, Oriental medicine family practice and Oriental
 4 medicine orthopedics;

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

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

10 ~~(b)(c)~~(1)(A) Notwithstanding the requirements set forth in § 17-102-
 11 304, any acupuncturist not validly certified by the National Commission for
 12 the Certification of Acupuncturists as of August 1, 1997, but residing and
 13 practicing acupuncture in this state as of December 31, 1996, shall upon
 14 ~~application to~~ certification by the board to the Secretary of State be issued
 15 a provisional license by the Secretary of State conditioned upon the
 16 acupuncturist's becoming certified by the commission within two (2) years of
 17 August 1, 1997.

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

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

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

31
 32 SECTION 12. Arkansas Code § 17-102-304(b), concerning accreditation of
 33 acupuncture schools and programs, is amended to read as follows:

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

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

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

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

8 (4) Be accredited by the Accreditation Commission for
9 Acupuncture and Oriental Medicine, the Council of Colleges of Acupuncture and
10 Oriental Medicine, or the National Commission for the Certification of
11 Acupuncture and Oriental Medicine; and

12 ~~(4)(5)~~ Confer a certificate, diploma, or degree in acupuncture
13 and related techniques only after personal attendance in classes and clinics.
14

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

17 (d)(1) *The board may charge the following fees:*

18 ~~(1)(A)~~ *Initial application for licensing, a fee not to*
19 *exceed two hundred fifty dollars (\$250);*

20 ~~(2)(B)~~ *Written and practical examination not including the*
21 *cost of the nationally recognized examination, a fee not to exceed three*
22 *hundred fifty dollars (\$350);*

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

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

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

30 ~~(6)(C)~~ *Annual continuing education provider registration,*
31 *a fee not to exceed two hundred dollars (\$200); and*

32 ~~(7)(D)~~ *Any and all fees to cover reasonable and necessary*
33 *administrative expenses.*

34 (2) The board shall remit to the Secretary of State fifty
35 dollars (\$50.00) for each license to be issued, denied, or renewed.
36

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

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

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

11
12 SECTION 15. Arkansas Code § 17-102-305 is amended to read as follows:
13 17-102-305. Examinations.

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

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

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

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

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

34 (A) An examination for national certification acceptable
35 to the board in acupuncture and Oriental medicine;

36 (B) The examination of the American Academy of Oriental

1 Medicine Family Practice; or

2 (C) Another exam approved by the board.

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

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

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

10
11 SECTION 16. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that practitioners who have been
13 servicing patients for many years may be forced to close their practices and
14 many citizens of Arkansas may find themselves without access to the treatment
15 they need to relieve illness and suffering. Therefore, an emergency is
16 declared to exist and this act being immediately necessary for the
17 preservation of the public peace, health and safety shall become effective
18 on:

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

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

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

25
26 */s/ J. Jeffress*
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