

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 *As Engrossed: S2/4/03 S2/6/03 S2/11/03 H3/14/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

SENATE BILL 115

4

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

7 By: Representatives Bolin, R. Smith, King, Rankin, Judy, Creekmore, Borhauer, Wood, P. Bookout,  
8 Haak, White, *Key, Green*

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10

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## For An Act To Be Entitled

12

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

15

16

## Subtitle

17

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

20

21

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

23

24 SECTION 1. (a) The members of the Arkansas State Board of Acupuncture  
25 and Related Techniques serving on the day before the effective date of this  
26 act shall cease to be members of the board on the effective date of this act  
27 and their successors shall be appointed as provided in Arkansas Code § 17-  
28 102-201.

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

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

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(2) "Acupuncturist" means a person licensed under this chapter as a  
doctor of *healing arts* to practice acupuncture and related techniques in this



1 state and includes the terms licensed *acupuncturist*, *certified acupuncturist*,  
 2 and acupuncture practitioner, ~~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)(a) Be appointed from a list of three (3) names  
 23 per position provided to the Governor by any professional association of  
 24 acupuncture that is qualified under Internal Revenue Code Section (c)(3) or  
 25 (c)(6), as in effect January 1, 2003, and is licensed in Arkansas.

26 (b) The persons whose names are submitted to  
 27 the Governor need not be members of any professional group; and

28 (ii)(a) Provide verifiable documentation of completion of an advanced  
 29 specialty program, externship, residency, internship, or board certification  
 30 in a recognized Oriental specialty.

31 (b) The specialty training shall consist of a  
 32 minimum of one hundred forty-four (144) hours completed in not more than two  
 33 (2) years.

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

1 interest in the occupation regulated.

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

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

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

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

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

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

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

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

22 (2) ~~Of the two (2) additional members appointed pursuant to Acts~~  
23 ~~1999, No. 536, one (1) shall be appointed for a two-year term and the other~~  
24 ~~for a three-year term.~~

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

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

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

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

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

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

36 (1) is Is or has been in the preceding two (2) years on and

1 received a salary or dividends as a member of the faculty of a school which  
 2 is subject to review by the board; or

3 (2) Is the sole proprietor of a school or receives a salary for  
 4 servng on the board of directors of a school which is subject to review by  
 5 the board may not serve on the board.

6  
 7 SECTION 5. Arkansas Code § 17-102-202 is amended to read as follows:  
 8 17-102-202. Board members - Qualifications.

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

16 (2) A copy of the certificate of appointment of a board member  
 17 shall be filed with the secretary of the board before the member may exercise  
 18 the rights of board membership.

19 (b) Each full professional member also shall be a graduate of a  
 20 reputable school or institute of acupuncture ~~or~~ and Oriental medicine and ~~be~~  
 21 ~~certified by~~ have passed either the National Commission for the Certification  
 22 ~~of Acupuncturists~~ National Certification Commission for Acupuncturists and  
 23 Oriental Medicine exam, or another exam approved by the board and with  
 24 standards that equal or exceed the standards of the exam given by the  
 25 National Certification Commission for Acupuncturists and Oriental Medicine.

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

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

30  
 31 SECTION 7. Arkansas Code § 17-102-205(b), concerning records of the  
 32 acupuncture board, is amended to read as follows:

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

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, or revoke licenses to practice*  
25 *acupuncture and related techniques for any cause stated in this chapter.*

26 *Except as otherwise provided by this chapter, the board shall have exclusive*  
27 *jurisdiction to determine who shall be permitted to practice acupuncture and*  
28 *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 (2) No person holding a current license as of the effective date  
 3 of this subsection (d) may be required by the Secretary of State to show  
 4 proof of certification or to be recertified.

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

7 17-102-207. Licenses issued - Secretary of State.

8 (a) The Secretary of State shall issue, deny and renew licenses under  
 9 § 17-102-302 and 304.

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

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

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

20  
 21 SECTION 11. Arkansas Code § 17-102-302 is amended to read as follows:  
 22 17-102-302. Effect on existing license.

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

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

34 (1)(A) Lived and practiced in this state as of December 31,  
 35 1996;

36 (B) Applied for licensing under § 3(a) of Act 816 of 1997;

1 (C) Applies for licensure within thirty (30) days of the  
2 effective date of this act; and

3 (D)(i) Provides verifiable documentation of completion of  
4 an advanced specialty program, externship, residency, internship, or board  
5 certification in a recognized Oriental medical specialty.

6 (ii) The specialty shall consist of a minimum of one  
7 hundred forty-four (144) hours of education completed in not more than two  
8 (2) years; or

9 (2)(A) Holds a valid license to practice acupuncture or Oriental  
10 medicine in another state with comparable licensure standards as determined  
11 by the board;

12 (B)(i) Provides verifiable documentation of completion of  
13 an advanced specialty program, externship, residency, internship, or board  
14 certification in a recognized Oriental medical specialty.

15 (ii) The specialty shall consist of a minimum of one  
16 hundred forty-four (144) hours of education completed in not more than two  
17 (2) years; and

18 (C) Applies for licensure within thirty (30) days of the  
19 effective date of this act.

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

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

32 (2) ~~Upon obtaining~~ If the board receives certification of the  
33 acupuncturist by the National Certification Commission for Acupuncturists and  
34 Oriental Medicine and presenting it to the board, the board shall certify to  
35 the Secretary of State that the acupuncturist has met all the required  
36 criteria for licensure and the Secretary of State shall be issued issue a

1 nonprovisional license ~~by the board~~ to the acupuncturist.

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

5  
6 SECTION 12. Arkansas Code § 17-102-304(b), concerning accreditation of  
7 acupuncture schools and programs, is amended to read as follows:

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

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

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

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

18 (4) Be accredited by the Accreditation Commission for  
19 Acupuncture and Oriental Medicine, the Council of Colleges of Acupuncture and  
20 Oriental Medicine, or the National Certification Commission for Acupunctures  
21 and Oriental Medicine; and

22 ~~(4)(5)~~ Confer a certificate, diploma, or degree in acupuncture and  
23 related techniques only after personal attendance in classes and clinics.

24  
25 SECTION 13. Arkansas Code § 17-102-304(d), concerning fees charged by  
26 the acupuncture board, is amended to read as follows:

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

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

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

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

35 ~~(4)~~ *Late renewal more than thirty (30) days, but not later than*  
36 *one (1) year, after expiration of a license, which late fee is in addition to*



1 ~~any other fees, a fee not to exceed one hundred dollars (\$100);~~

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

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

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

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

10  
 11 SECTION 14. Arkansas Code § 17-102-304(e)(1)(B), concerning  
 12 acupuncture applicants who pass the required examination, is amended to read  
 13 as follows:

14 (B)(i) Should the applicant pass the examination, no part  
 15 of the fee shall be returned, and the ~~applicant shall be issued~~ board shall  
 16 certify to the Secretary of State that the applicant has passed the  
 17 examination.

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

21  
 22 SECTION 15. Arkansas Code § 17-102-305 is amended to read as follows:  
 23 17-102-305. Examinations in lieu of the National Certification  
 24 Commission for Acupunctures and Oriental Medicine examination.

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

- 27 (1) Anatomy and physiology;
- 28 (2) Pathology;
- 29 (3) Diagnosis;
- 30 (4) Hygiene, sanitation, and sterilization techniques;
- 31 (5) Acupuncture and related principles, practices, and  
 32 techniques; ~~and~~
- 33 (6) Chinese herbal medicine; and
- 34 (7) Oriental medicine techniques.

35 (b)(1) The Arkansas State Board of Acupuncture and Related Techniques  
 36 shall hold an examination at least once each calendar year, and all

1 applicants shall be notified in writing of the date and time of all  
2 examinations.

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

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

9 (A) An examination for national certification acceptable  
10 to the board in acupuncture and Oriental medicine; or

11 (B) Another exam approved by the board with standards that  
12 equal or exceed the standards of the exam given by the National Certification  
13 Commission for Acupuncturists and Oriental Medicine.

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

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

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

21

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

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

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

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

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*/s/ J. Jeffress, et al*