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BILL ANALYSIS

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Senate Bill 351 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Bev Hammerstrom  
Committee: Health Policy

Date Completed: 5-19-05

### **RATIONALE**

Acupuncture originated in China several thousand years ago and is used today to treat various ailments and disorders. According to the Michigan Association of Acupuncture and Oriental Medicine (MAAOM), it is a method of balancing and building the body's life force energy known as "qi". During an acupuncture treatment, thin needles are inserted into specific points along the meridians, or pathways in the body through which the energy circulates. The MAAOM lists many reasons people undergo acupuncture, among them the treatment of allergies, arthritis, insomnia, conjunctivitis, bronchitis, fatigue, skin problems, injuries, and high blood pressure, as well as pain management and smoking cessation. In Michigan, acupuncturists must practice under the supervision of a licensed physician. Michigan is one of eight states, however, that do not require registration or licensure of acupuncturists. Due to the harm that potentially could be done to patients by unqualified acupuncturists, it has been suggested that the State should require them to register in order to practice under the title "acupuncturist".

### **CONTENT**

**The bill would amend the Public Health Code and add Part 165 to the Code to provide for the registration of acupuncturists. The bill would do all of the following:**

- Establish a \$75 application processing fee and an annual \$150 registration fee.**
- Prohibit an individual from calling himself or herself an acupuncturist,**

**or using certain other titles, without being registered.**

- Create the Michigan Board of Acupuncture within the Department of Community Health (DCH).**
- Require the DCH, in consultation with the Board, to promulgate rules setting forth the minimum standards for registration as an acupuncturist.**

The bill would take effect on January 1, 2006.

Part 165 would not apply to a licensed physician or an individual certified by the National Acupuncture Detoxification Association.

"Acupuncturist" would mean an individual who practiced acupuncture and was registered, or otherwise authorized, under Part 165. "Acupuncture" would mean the insertion and manipulation of needles through the surface of the human body at specific locations on the human body for the prevention or correction of disease, injury, pain, or other condition.

After the Board promulgated rules specifying requirements for registrations, renewals, examinations, and passing scores, an individual could not use the title "acupuncturist", "certified acupuncturist", or "registered acupuncturist" unless he or she were registered under Part 165. Those titles could be used only by people authorized under the Code to use them in the prescribed way.

The bill would create the Michigan Board of Acupuncture within the DCH. The Board

would consist of eight voting members meeting the requirements of Part 161 of the Code (described below). Four of the members would have to be acupuncturists, and three would have to be licensed physicians. One would have to be a public member.

The Department, in consultation with the Board, would have to promulgate rules setting forth the minimum standards for registration as an acupuncturist. In consultation with the Board, the DCH could adopt by reference the professional standards issued by a certified program that was recognized by the National Commission for Certifying Agencies or by a nationally recognized trade association. The DCH could not promulgate rules that diminished competition or exceeded the minimum level of regulation necessary to protect the public.

The bill specifies that Part 165 would not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by a registered acupuncturist.

(Under Part 161, a member of any registration board must be at least 18 years old, be of good moral character, be a Michigan resident for at least the six months immediately preceding the appointment, and be currently registered in that health profession in Michigan. Additionally, the member must have actively practiced that profession or taught in an approved educational institution that prepares applicants for registration in that profession in any state for at least the two years immediately preceding the appointment. The Governor also may appoint members who either are certified or otherwise approved by a national organization that certifies or approves individuals in the profession to be registered by the board, or have actively practiced the profession or taught in an educational institution that prepares applicants for registration in that profession for at least the two years immediately preceding the appointment.)

MCL 333.16131 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

## **Supporting Argument**

As the popularity of acupuncture as a complement to conventional medicine grows, it is imperative that a regulatory structure that ensures a minimum level of education, training, and competency be established to protect the public. Acupuncture has moved further into the mainstream of modern medicine, and, when performed by a trained practitioner, has been shown to reduce pain, provide relief from symptoms of many diseases and conditions, alleviate depression, and aid in the cessation of smoking and substance abuse. When performed by an untrained or incompetent practitioner, however, acupuncture can lead to infections, punctured organs, and the transmission of serious blood-borne diseases.

In 2002, Toronto Public Health began investigating the development of an unusual skin condition among several patients of a particular acupuncturist. The condition was found to be a result of *Mycobacterium abscessus* (*M. abscessus*), a bacterium that can cause infections when it gets into a wound or when contaminated medical devices are inserted under the skin, and can lead to abscesses and lung infections. Apparently, the acupuncturist had reused improperly sterilized needles. Of the 327 patients involved in the investigation, 32 reported *M. abscessus* infections. Toronto Public Health advised that the patients also should be tested for HIV and hepatitis B and C, although ultimately no cases of those diseases could be linked with treatments from that practitioner. More recently, the government of Quebec requested that 1,100 people be tested for HIV and hepatitis after a woman was found to have been practicing acupuncture illegally for 25 years and failing to use proper sterilization techniques.

In light of the threat of HIV, hepatitis, and other blood-borne pathogens, it is critical that those practicing a profession in which the primary tool is a needle are held to the highest possible standards of education and training. Some basic protections for Michigan residents should be implemented before a potential public health disaster occurs.

## **Opposing Argument**

There is no pressing need for further regulation of acupuncturists. According to Attorney General Opinion No. 4832, the

practice of acupuncture falls within the statutory definition of the practice of medicine. Therefore, acupuncture must be performed under the supervision of a licensed physician. This requirement provides the appropriate level of protection to the public from unqualified or incompetent practitioners. Furthermore, registration could be the first step toward expanding acupuncturists' scope of practice in the future.

Michigan Board of Acupuncture standards and become registered.

Fiscal Analyst: David Fosdick

### **Opposing Argument**

Acupuncture is one of several professions for which there has been a push for registration or licensure in recent years. In 2004, legislation was enacted requiring the licensure of social workers, audiologists, and respiratory therapists. To date, none of the bills has been implemented. Thus, it is unclear whether such regulatory measures are effective in weeding out unqualified practitioners and protecting consumers. The results of this approach in other occupations should be examined more thoroughly before the State implements a similar regulatory structure for acupuncturists.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The State would incur costs associated with the administration, staffing, and per diem reimbursement for the Michigan Board of Acupuncture as well as the costs incurred in regulating the activities of registered acupuncturists in the State.

These costs would be offset by the \$75 application processing fee for initial registration as an acupuncturist and the \$150 annual registration fee for registered acupuncturists. While the number of individuals who would seek registration is not clear, previous discussions with the Michigan Association of Acupuncture and Oriental Medicine suggested that about 200 individuals in the State currently meet the certification standards of the National Certifying Commission for Acupuncture and Oriental Medicine, a national certifying body for acupuncture practitioners.

It may be expected that after the bill was enacted, the number of individuals meeting the registration requirements would increase, as those who practice acupuncture would have greater incentive to meet

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.