

LICENSING OF ACUPUNCTURISTS

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Senate Bill 683 (S-3) as reported from House committee

Sponsor: Sen. Margaret O'Brien

House Committee: Health Policy

Senate Committee: Health Policy

Complete to 12-10-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 683 would amend Part 165 of the Public Health Code, which governs acupuncture, to replace the current registration of acupuncturists with licensure of acupuncturists.

Scope of practice

The bill would stipulate that the practice of acupuncture does not include the practices of medicine, osteopathic medicine and surgery, physical therapy, occupational therapy, podiatric medicine or surgery, nursing, dentistry, massage therapy, or chiropractic.

Currently, a licensed allopathic (M.D.) or osteopathic (D.O.) physician is allowed to delegate an act that requires surgical instrumentation if the procedure would be supervised by a licensed M.D. or D.O. and the person performing it is an M.D. or D.O. student or a student in a physician's assistant training program. The bill would add a provision that, until 12 months after the bill takes effect, an M.D. or D.O. could delegate that task to an individual performing acupuncture.

Rules promulgated by LARA

Within a year after the bill took effect, LARA would have to promulgate rules that established the minimum standards for licensure as an acupuncturist and implement the license program for the practice of acupuncture.

Once the rules took effect, an individual could not practice acupuncture unless he or she were licensed under Part 165 of the Code or were otherwise authorized under the occupations article of the Code. However, for up to six months after the rules took effect, a registered acupuncturist could continue to use the titles "acupuncturist," "registered acupuncturist," or "certified acupuncturist" and engage in the practice of acupuncture.

Issuance of a license

By 12 months after the bill took effect, LARA would have to issue a license to an applicant who had passed a background check and was either a registered acupuncturist or had the education, training, and experience appropriate to the practice of acupuncture as established under the rules promulgated by LARA.

License renewal

LARA, in consultation with the Board of Acupuncture, would have to promulgate rules requiring a licensee seeking renewal of a license to produce evidence of participation in continuing education programs related to acupuncture. An individual would be considered to have completed this requirement if LARA determined that he or she had met the continuing education standards of the National Certification Commission for Acupuncture and Oriental Medicine or equivalent standards.

The continuing education requirement would have to include an appropriate number of hours or course in pain and symptom management.

Licensure fees

The licensure fees under the bill would retain a \$75 application processing fee, but set yearly license, limited license, and temporary fees at \$200 each.

Board of Acupuncture

The bill would raise the number of acupuncturists on the Board from four to seven. It would also require that at least one of the physicians who are currently required to sit on the Board have completed at least 300 hours of systematic acupuncture education that includes at least 100 hours of live lectures, demonstrations, and supervised clinical training specific to acupuncture.

Protected terms

The bill would prohibit an individual from using the words “licensed acupuncturist,” “L.AC.,” or similar words or initials that indicate that the individual is an acupuncturist, unless he or she were authorized to do so under Part 165 of the Code, which governs acupuncture. Currently, physicians and individuals certified by the National Acupuncture Detoxification Association are excluded from the prohibition on using certain acupuncture-related titles. The bill would remove the exception.

Exemptions from the rules governing acupuncturists

In addition to specified exemptions to required licensure (for instance, for students in health professions and health professionals performing official duties for the military), Part 165 of the Code would not apply to any of the following:

- An individual licensed, registered, or authorized under existing law who is performing activities considered to be within the practice of acupuncture if those activities are within his or her scope of practice and the individual did not use the protected words or titles described above.
- An M.D. or D.O. if the physician had completed at least 300 hours of systematic acupuncture education that includes at least 100 hours of live lectures, demonstrations, and supervised clinical training specific to acupuncture.
- An individual who meets the requirements for a certificate of training by the National Acupuncture Detoxification Association (NADA) or a successor organization, who only uses the auricular protocol for substance use disorder prevention and treatment developed by NADA under the supervision of an M.D., D.O., or acupuncturist, and who does not use the protected terms described above.
- An individual performing acupressure, cupping, dermal friction, dietary counseling, heat therapy, herbal medicine, homeopathy, lifestyle coaching, manual therapy, or thermal exercise, while engaged in the practice of a profession with established standards and ethics as long as those services are not designated or implied to be the practice of acupuncture and the individual did not use the protected terms above.
- Dry needling by an individual licensed, registered, or otherwise authorized under any other part if dry needling were within the individual’s scope of practice.

The bill would take effect 90 days after enactment.

MCL 333.16215 et al. and proposed 333.16513 et seq.

HOUSE COMMITTEE ACTION:

The House Committee on Health Policy reported the Senate-passed version of the bill without amendment.

FISCAL IMPACT:

Senate Bill 683 would have an indeterminate fiscal impact on LARA. The bill would likely cause increases to the department's expenditures and revenues, but the net fiscal impact of the bill would depend on the level of expenditures compared to the level of revenues, which is currently indeterminable. The bill would establish fees for licensure in acupuncture, largely in line with fees that are presently collected for registration in acupuncture. Under the bill, fees applicable to licensure in the practice of acupuncture would be as follows: \$75 application processing fee, \$200 annual license fee, \$200 annual limited license fee, and \$200 temporary license fee. The bill would require LARA to promulgate rules pertaining to the licensure of acupuncturists; however, these costs would be sufficiently covered by existing departmental appropriations. Under the bill, licensure would be required for practicing as an acupuncturist, so it is likely that LARA would see increased licensure application volumes in the short run.

POSITIONS:

Representatives of the Michigan Association of Acupuncture and Oriental Medicine testified in support of the bill. (12-5-18)

Representatives of the following entities testified in opposition to the bill (12-5-18):

- American Health Source
- Blue Heron Academy
- Michigan Medical Acupuncture Association

The Michigan Association of Health Plans indicated opposition to the bill. (12-5-18)

Legislative Analyst: Jenny McInerney
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.