

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 14, 1998 Revised: _____

Subject: Acupuncture

| | <u>Analyst</u> | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u> |
|----|----------------|-----------------------|------------------|---------------------|
| 1. | <u>Munroe</u> | <u>Wilson</u> | <u>HC</u> | <u>Favorable/CS</u> |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

The bill redefines the term “acupuncture” to include “modern Oriental medical techniques,” defines “Oriental medicine,” and increases the five-member Board of Acupuncture to seven by adding two additional acupuncturists to the board. Effective July 1, 2001, applicants for acupuncturist licensure must complete a course on first aid and cardiopulmonary resuscitation. The bill revises continuing education requirements for acupuncturists and eliminates the Board of Acupuncture’s authority to approve criteria for continuing education programs and courses. The bill provides additional prohibitions under the acupuncturist practice act in chapter 457, F.S.

This bill substantially amends the following sections of the Florida Statutes: 457.102, 457.103, 457.105, 457.107, and 457.116.

II. Present Situation:

Chapter 457, F.S., provides for the regulation of the practice of acupuncture by the Board of Acupuncture. The board is composed of 5 members which include 3 licensed acupuncturists and 2 laypersons who are not and who have never been acupuncturists or members of any closely related profession. The chapter provides requirements for persons to become licensed as acupuncturists which include: being at least 18 years of age; completing a 3-year course of study that meets standards established by the board by rule, which standards include successful completion of academic courses in western anatomy, western physiology, western pathology, and western biomedical terminology; and passing a board-approved national examination. After July 31, 2001, the course of study for licensure must be at least 4 years in duration and must meet standards established by the board by rule, which standards include successful completion of academic courses in western anatomy, western physiology, western pathology, and western biomedical terminology.

The chapter defines acupuncture to mean a form of primary health care, based on traditional Chinese medical concepts, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture includes the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body. Dorland's Illustrated Medical Dictionary, 26th Ed., defines "moxibustion" to mean cauterization by the burning of a tuft of soft, combustible substance upon the skin. The chapter defines "acupuncturist" to be a person certified to practice acupuncture as a primary health care provider.

Under chapter 457, F.S., the Board of Acupuncture may approve the criteria for acupuncture continuing education programs or courses. Chapter 457, F.S., prohibits a person from: holding himself or herself out as a certified or licensed acupuncturist unless licensed under the chapter; obtaining or attempting to obtain a license to practice acupuncture by fraudulent misrepresentation; or permitting an employed person to engage in acupuncture unless such person holds an active license as an acupuncturist, except as otherwise provided by this chapter. Persons who violate the prohibitions are subject to a second degree misdemeanor punishable by jail up to 60 days and imposition of up to a \$500 fine.

Part II, ch. 455, F.S., provides the general regulatory provisions for professions regulated by the Department of Health. Section 455.624, F.S., provides grounds for which a professional under the regulatory jurisdiction of the department or a regulatory board within the department may be subject to discipline for specified violations which include failing to report to the department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the department or the board.

III. Effect of Proposed Changes:

The bill revises the definition of "acupuncture" in s. 457.102, F.S., to mean a form of primary care, based on traditional *and modern Oriental* medical techniques, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. "Oriental medicine" means the use of acupuncture, electro-acupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies. The bill increases the number of acupuncturist members on the Board of Acupuncture from three to five, for a total of seven members on the board. The bill revises the licensing requirements for acupuncturists under both the 3-year course of study and the 4-year course of study to conform to the change in the definition of acupuncture as revised by the bill to include an academic course in Oriental medicine. Effective July 31, 2001, the licensing requirements for acupuncturists include a 4-year course of study that includes standards established by the Board of Acupuncture which standards include specified academic courses. The bill expands the required courses under the 4-year course of study to include first aid and cardiopulmonary resuscitation.

The bill deletes the Board of Acupuncture's authority to approve criteria for continuing education programs and courses. In lieu thereof, all national and state acupuncture and Oriental-medicine

organizations and acupuncture and Oriental-medicine schools are approved to provide acupuncture or oriental medical continuing professional education. The bill specifies that the acupuncture continuing professional education requirements must be in acupuncture or Oriental-medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases. The bill requires acupuncturists to retain proof of the completion of continuing professional education requirements and authorizes the board to request documentation of such proof.

The bill substantially revises penalties specified under ch. 457, F.S., and makes it unlawful for any person to: knowingly give false or forged evidence to the Board of Acupuncture; conceal information regarding a violation of the chapter regulating acupuncture; present the license to practice acupuncture of another person as his or her own license; or use specified protected titles including: “acupuncture,” “acupuncturist,” “Oriental medical practitioner,” or the letters, or any words, symbols, abbreviations, or insignia indicating that the person practices acupuncture, unless he or she holds an active license under ch. 457, F.S. Persons who violate the prohibitions are subject to a second degree misdemeanor punishable by jail up to 60 days and imposition of up to a \$500 fine.

The bill provides an effective date of October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, section 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, subsections 24(a) and (b) of the State Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, subsection 19(f) of the State Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons seeking licensure as an acupuncturist under both the 3-year course of study and the 4-year course of study, may incur additional costs to complete an academic course in Oriental Medicine.

Persons seeking licensure as an acupuncturist after July 1, 2001, may incur additional costs to complete the academic courses on first aid and cardiopulmonary resuscitation.

C. Government Sector Impact:

The Department of Health estimates it will need an additional \$7,732 in 1998-1999 and \$6,560 in 1999-2000 to cover costs associated with board member expenses for travel, per diem, printing, postage, and other communication for the additional two members added to the Board of Acupuncture under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.