

STORAGE NAME: h4365a.hcr

DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS AND REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4365

RELATING TO: Acupuncture

SPONSOR(S): Representative Kelly

COMPANION BILL(S): SB 2282(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 8 NAYS 0
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 - (5)
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I. SUMMARY:

HB 4365 adds language to the definition of "acupuncture" to include modern oriental concepts. It increases the number of board members from five to seven, with the two new members being those involved in the profession.

The bill includes oriental medicine in the educational requirements for an authorized three-year program. It also adds courses to be included in the three-year academic programs which must be completed by the student.

Additional prohibited acts and penalties are defined.

The Department of Health indicates that there will be a fiscal impact. There is no fiscal impact on local government, or the private sector in general.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The practice of acupuncture is regulated by chapter 457, F.S. "Acupuncture" is defined as "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."

Requirements for licensure as an acupuncturist include being 18 years of age or older; completion of 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture, and completion of the 3-year course of study (effective July 31, 2001, a 4-year course) which meets standards established by board rule (such standards include successful completion of academic courses in western anatomy, western physiology, western pathology, and western biomedical terminology); has successfully completed a board-approved national certification process; and pays the required fees set by the board by rule.

The Board of Acupuncture consists of five members, appointed by the governor and confirmed by the Senate. Three members must be licensed acupuncturists and two members must be laypersons who are not and never have been acupuncturists or members of any closely related profession.

Current prohibited acts include obtaining or attempting to obtain a license to practice acupuncture by fraudulent misrepresentation; also prohibited is permitting an employed person to engage in the practice of acupuncture unless such person holds an active license as an acupuncturist, except as otherwise provided by chapter 457, F.S.

Approximately thirty states allow some type of acupuncture practice. Thirteen of those states have specific boards of acupuncture, with the others under a Board of Medicine or an umbrella agency.

Any person who was enrolled in an authorized course of study in acupuncture on or before August 1, 1997, must have completed only a 2-year course of study.

B. EFFECT OF PROPOSED CHANGES:

The definition of "acupuncture" reflects that it is a form of primary health care based on traditional and modern oriental medical concepts which employ acupuncture diagnosis and treatment as well as adjunctive therapies and diagnostic treatments. The word "Chinese" is deleted and replaced with "modern oriental."

Membership of the Board of Acupuncture is increased from five to seven. The two new members are professionals, with two consumer members.

The study of oriental medicine is added to the three-year course in acupuncture. "Oriental medicine" language is added to the four-year program effective July 31, 2001. The course requirements are increased to include first aid and cardiopulmonary resuscitation.

Language is added to the prohibition section making it illegal to present the license of another person as his or her own, as well as to conceal information regarding a violation of chapter 457, F.S. The use of various titles (such as acupuncturist, oriental medical practitioner) or any symbols, abbreviations, or insignia indicating that the individual practices acupuncture unless they hold an active license under chapter 457, F.S., is prohibited.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 457.102, 457.103, 457.105, 457.116, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 457.102(1), F.S., to add "modern Oriental" medical concepts to the definition of acupuncture.

Section 2. Amends. s. 457.103(1), F.S., to increase membership of the Board of Acupuncture from five to seven, with five of the members being licensed Florida acupuncturists and two being laypersons who are not and never have been acupuncturists or members of any closely related profession.

Section 3. Amends s. 457.105(2), F.S., to include Oriental medicine in the educational requirements for an authorized three-year program. Adds first aid and cardiopulmonary resuscitation as courses to be included in the three-year academic programs which must be completed by a student.

Section 4. Amends s. 457.116(1), F.S., to define additional prohibited acts and penalties.

Section 5. Provides that the act shall take effect July 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects:</u>	<u>Year 1</u>	<u>Year 2</u>
First-Year Start-Up Effects:		
EXPENSE: New board member workshop	\$200	
Total Non-Recurring Costs:	\$200	
2. <u>Recurring Effects:</u>		
Recurring or Annualized Continuation Effects (travel, printing of agendas, printing materials, compensation for board members)	\$7,532	\$6,560

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Total Recurring Costs: \$7,532 \$6,560

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

First Year: \$7,732

Second Year: \$6,560

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The Department of Health has indicated that the configuration of the Board of Acupuncture, as presented in this bill, would create a seven (7) member board with five (5) members being professional and two (2) consumer members. It has been suggested that one of the two new members be a professional and the other a consumer, in keeping with the department's trend towards more equal consumer representation.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At the April 15, 1998 meeting of the Committee on Health Care Standards and Regulatory Reform, a strike everything amendment was adopted. The difference between the original bill and the strike everything amendment is that a definition for the term "Oriental medicine" was added. "Oriental medicine" is defined as the use of acupuncture, electro-acupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS AND REGULATORY REFORM:

Prepared by:

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