

REVIEW OF HOUSE BILL 88  
WHICH PROPOSES TO REGULATE  
ACUPUNCTURE IN GEORGIA

GEORGIA OCCUPATIONAL REGULATION REVIEW COUNCIL  
DECEMBER, 1991

## EXECUTIVE SUMMARY

As provided in O.C.G.A. 43-1A, the Georgia Occupational Regulation Review Council reviews all bills proposing licensure of a profession or business referred to it by the chairperson of the legislative committee of reference. Accordingly, the Council has examined House Bill 88 and its proposed House Committee Substitute (LC 11 7530S) which propose to regulate acupuncture at the request of the Chairperson of the House Health and Ecology Committee.

During the course of this study, we obtained information from the Informed Health Care Association of Georgia, National Commission for the Certification of Acupuncturists, National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, Medical Association of Georgia, and the Department of Human Resources. We analyzed the resulting information, and prepared recommendations which are included in the text of this report. Our findings and recommendations are briefly described in the following pages, and presented in greater detail in other sections of this report.

### Findings

Adhering to the criteria in O.C.G.A. 43-1A which the Council is required to use to make its basis for a decision, we found the following conditions exist:

- Unregulated acupuncturists do pose a recognizable threat to the health, safety and welfare of the general public. Because of the medical aspects regarding the use of acupuncture, the incomplete knowledge of how acupuncture effects the body, and the Attorney General's view that the legal definition of the practice of medicine also encompasses acupuncture, we believe the potential for harm is not limited.
- Due to the acupuncture's physiological effects and its injury potential, individuals desiring to practice acupuncture should have formal education and training in the appropriate use and techniques of acupuncture. Individuals, particularly from non-medical professions, must acquire knowledge of these techniques from acupuncture schools, nearly all of which are located outside the Southeast.
- A 1973 Attorney General's opinion considers acupuncture to be in the domain of the legal definition of the practice of medicine; consequently, its use is confined to licensed physicians authorized to practice acupuncture by the Composite State Board of Medical Examiners. Should the Attorney General's opinion be invalidated or withdrawn, the voluntary certification and training programs (i.e., the NCCA and the NCASC) whose standards House Bill 88 references, would not adequately protect the public health.
- The Council has discovered no evidence suggesting the proposed regulation of acupuncture will drive fees for acupuncture treatment measurably higher or lower than is the present case.

### Recommendation

Based on the information received by the Council and our subsequent findings, two central concerns guide the Council's recommendation on House Bill 88:

- Acupuncture being deemed as the practice of medicine by the Attorney General; and
- Real and serious medical hazards the unregulated practice of acupuncture poses to the public's health, safety and welfare.

The Council also strives to balance these concerns with the sincere intent of this legislation's advocates to broaden the options available to substance abuse/addiction specialists in treating persons suffering from substance abuse/addiction.

The Council desires to address these concerns and interests with the following recommendation which should afford the public the medical oversight necessary, while offering flexibility to individuals and health care professionals seeking alternative treatment methods, especially regarding substance abuse/addiction. The Council does not recommend passage of House Bill 88. Instead, we recommend that acupuncture remain under the State Composite Board of Medical Examiners' aegis, with the Board pursuing one or both of the following courses of action:

- Strengthening its present criteria for authorizing a licensed physician to administer acupuncture treatment (i.e., possibly raising the 100 hours of board approved education and training in acupuncture requirement); and/or
- Establishing regulations and standards for the medically supervised administration of acupuncture treatment by non-physicians. Medical supervision should be direct and by a physician authorized by the Board to perform acupuncture treatment.

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## INTRODUCTION

House Bill 88 and its proposed House Committee Substitute (LC 11 7530S) desire to regulate individuals practicing acupuncture. Both legislative proposals would prohibit uncertified persons from employing traditional Chinese medical concepts and adjunctive evaluation and treatment modalities for the promotion, maintenance, and restoration of health and the prevention of disease. The proposed House Committee Substitute (LC 11 7530S) would exempt from acupuncture certification physicians, osteopaths and physician's assistants licensed under Chapter 34 Articles 2 or 4 of Official Code of Georgia Title 43. Summaries of both legislative proposals are located in Appendices I and II. Copies of these legislative proposals reside in Appendices III and IV. The Informed Health Care Association of Georgia, Inc. supports this legislation in Georgia.

In conducting its review, the Georgia Occupational Regulation Review Council obtained input from as many sources as possible. A questionnaire was sent to the applicant group, the Informed Health Care Association of Georgia, Inc., and to other groups we believed would be interested in the proposed legislation. After receiving these groups' responses, we formulated additional questions to ask the applicant group and requested further input. Any groups which wished to make a formal presentation before the Council were afforded that opportunity. All groups responding to our questionnaire, as well anyone else who requested to be notified of our meetings, were informed of each meeting so they could attend.

The information received from these various sources was compiled and analyzed, resulting in the Council's development of findings and recommendations. Our discussion of present practices, present statutory requirements and voluntary certification efforts, other states' regulatory programs, findings, and recommendations follow.

## PRESENT PRACTICES

Acupuncture is a treatment founded on a Chinese model for the promotion of good health. The theory of acupuncture revolves around the Eastern concept that physical health and well being are influenced by the body's balance of energy or "qi" (pronounced "chee"). In Eastern terms, an imbalance or disruption in the flow and circulation of this energy through the body results in illness or chronic health problems. Acupuncture's approaches in restoring and maintaining the body's "qi" balance include the separate or combined use of:

- Acupuncture needles (manually or electrically stimulated);
- Moxibustion (a form of heat therapy);
- Various massage and movement techniques;
- Diet;
- Herbal prescriptions; and
- Therapeutic exercises.

Currently, the practice of acupuncture in Georgia is limited to licensed physicians emanating from a 1973 Attorney General's opinion. The Composite State Board of Medical Examiners has authorized 18 licensed physicians to practice acupuncture. The Informed Health Care Association of Georgia reports of finding only three physicians publicizing acupuncture among the services they offer. In the following paragraphs, we discuss reasons for performing acupuncture; persons who perform acupuncture; methods for performing acupuncture; acupuncturist safety procedures; acupuncturist education and training; and potential hazards associated with acupuncture.

### Reasons for Performing Acupuncture

According to our research, persons may solicit acupuncture treatment for a host of medical conditions (i.e., allergies, depression, arthritis, general or specific pain, colds/flu, headache, hypertension, etc.). However, most of the applicant group's focus on acupuncture deals with its use in treating individuals suffering from substance abuse/addiction, especially addiction to cocaine or its "crack" derivative. Persons may also utilize acupuncture as a preventive health measure in avoiding illness. Additionally, a physician may recommend acupuncture to a patient for a diagnosed medical condition and perform it himself, or refer the patient to the appropriate acupuncture professional.

Acupuncture views illness or chronic poor health a consequence of a "qi" imbalance or disturbance within the body, rendering the body and the immune system vulnerable to breakdowns. Acupuncture attempts to correct this "qi" imbalance through the methods cited above. Medical and scientific research has detected the presence of minute amounts of electricity in the body, particularly in the nervous system where it is believed to be used in transmitting impulses throughout the body. Acupuncturists contend that this evidence of a bioelectric system at least partially confirms the idea of "qi" or energy flowing and circulating in the body, and its role in controlling health.

### Persons Who Perform Acupuncture

Persons performing acupuncture possess various backgrounds. Some practitioners may be physicians, nurses, or belong to other allied health occupations, while other practitioners may have migrated from an assortment of non-health, non-professional fields. Resultingly, the educational histories of these individuals can obviously differ, ranging from college or post

graduate education to less than a high school education.

Acupuncture treatment may be delivered in a myriad of surroundings including a private office/clinic, a private residence or a physician's office. The acupuncturist may or may not be supervised, particularly medically supervised, depending on the arrangement stipulated by the state in which the acupuncturist practices. Despite the contrasting surroundings and levels/types of supervision found, the quality of acupuncture care relies basically upon the qualifications of the acupuncturist and the procedures followed.

#### Methods for Performing Acupuncture

An acupuncture course of treatment can encompass several means of alleviating or preventing an illness. These methods, as explained earlier, can be used alone or in conjunction at the acupuncturist's discretion. The primary technique favored, and the most invasive of the ones previously listed, is the insertion of acupuncture needles into predetermined points on the body. Acupuncture literature has mapped these points and identified the physical response each one regulates. The acupuncturist selects the point(s) to penetrate based on his/her diagnosis of the patient's malady, and the results he/she wishes to achieve. The insertion of the acupuncture needle(s) into one or several designated points is intended to stimulate the point(s), producing a prescribed physical reaction. This reaction (i.e., heart rate, blood pressure, pain sensitivity, etc.) may be heightened or depressed according to the acupuncture point(s) stimulated.

The acupuncture needle is a thin, solid shaft needle with a rounded, polished tip designed to gently move or displace tissue and blood vessels as it enters the skin, contrasted to the hollow, sharp edged hypodermic injection needle which damages tissue and blood vessels upon entry. The acupuncture needle can be manufactured from stainless steel, gold or silver, and be up to several inches in length. The needle is carefully inserted from 1/8th to 1/4th inch to as much as two to four inches into the skin at the acupuncture point(s) chosen by the acupuncturist. The needle insertion depth is affected by the location of the point(s), the patient's weight and the amount of fat vs. muscle at the insertion site. The needle(s) stay in place from 10 minutes to an hour. Proper insertion, manipulation (if necessary), and removal of the acupuncture needle should not cause injury.

The patient should encounter little or no pain from the needle penetration itself when the correct insertion technique is employed. The subsequent stimulation of the acupuncture points though, is usually purported to induce a relaxing sensation of warmth or pressure in the patient. Some individuals do feel a small prick or a burning sensation upon needle insertion. The stimulation of selected points is essential in redistributing and rebalancing the body's "qi" under the needle method.

The effectiveness of acupuncture in general, and the needle method specifically, in treating or remedying medical conditions is still being studied. Research has suggested a connection between the stimulation of acupuncture points and the release of endorphins/enkephalins within the body. These chemicals are speculated to be part of the body's natural mechanism of inhibiting or preventing pain, and may also possibly exert an overall relaxing or calming effect on the body. Some measure of effectiveness has been clinically shown in cases where pain management is a factor, but evidence regarding its effectiveness in treating the cause of the actual illness remains inconclusive.



## Acupuncture Safety Procedures

The evolution of acupuncture and the emerging concern over the possibility of contracting serious bacterial/viral infections (i.e., AIDS, hepatitis, herpes simplex viruses I and II, etc.) from the methods involving the use of acupuncture needles or moxibustion, have ushered the development of acupuncture safety and infection prevention procedures. These procedures are enumerated in the National Commission for the Certification of Acupuncturists (NCCA) standards under the caption "Clean Needle Technique for Acupuncturists". These guidelines are intended to reduce the risk of infection to both the patient and the acupuncturist by outlining precautions the acupuncturist should exercise toward office/personal hygiene, needle and instrument cleansing/sterilization, and when utilizing electrical stimulation or moxibustion. House Bill 88 would require persons registered as certified acupuncturists, under the proposed plan, to comply with the NCCA's Clean Needle Technique protocol. The NCCA guidelines are presented in the following paragraphs.

### Office/Personal Hygiene Procedures

The acupuncturist's office should be free of dust and dirt with cleanliness accomplished through the use of disinfectants (i.e., Clorox, Cidex, Lysol, etc.) known to eradicate most viruses, including hepatitis B. These disinfectants are recommended for cleansing office surfaces and equipment. A sink with hot and cold water taps should be located in or near the treatment room. Hand soap, preferably liquid, and a hygienic means of drying hands (e.g. disposable paper towels) must be available and readily accessible. Paper or other disposable material, and any towel, cloth, sheet, gown or other article coming in contact with the patient's skin must be clean and not previously used on another patient. Treatment table tops, shelves and other working surfaces should have a smooth, impervious surface cleaned at least daily with one of the aforementioned disinfectants. The acupuncturist should wear clean, washable clothing while treating patients.

The personal hygiene procedures for an acupuncturist encompass the areas of handwashing/handcare and personal health. The acupuncturist and any treatment personnel contacting patients should wash their hands:

- Before and after performing acupuncture treatment;
- During acupuncture treatment if they touch unclean/unsterile surfaces or skin in the midst of such treatment;
- After contact with a patient suffering AIDS, hepatitis B or other virulent infectious diseases; and
- Before contact with particularly susceptible patients.

The acupuncturist's hands can be cleaned with soap and water, unless the patient receiving treatment is infected with a virulent agent, then an antiseptic must be used on the acupuncturist's hands. Removal of hand jewelry before hand washing and conducting treatment ensures that the cleansed hands are not contaminated by micro-organisms residing on the jewelry. Hand cleanliness is enhanced by regularly clipping the fingernails short, along with washing and dressing all hand cuts and wounds.

The acupuncturist's personal health is a critical factor in impeding the transmittal or exposure of infectious diseases. Acupuncturists and treatment personnel ill from major infections such as strep throat, active influenza, or a staphylococcal bacteria skin abscess should limit patient contact as the American Hospital Association's guidelines on infection control advise. Acupuncturists and treatment personnel displaying minor infections of the skin or upper respiratory tract (e.g., head cold) may continue patient contact provided they practice vigilant personal hygiene when around any patients.

Acupuncturists injured by a needle or instrument contaminated by a patient possibly or definitely suffering from a virulent infectious disease should immediately seek medical assistance.

#### Needle and Instrument Cleansing/Sterilization

The acupuncture needle must be sterile upon insertion into the patient, and used for only that one insertion. Sterile needles (reusable or disposable) must be used for subsequent insertions. Sterile disposable acupuncture needles are becoming more popular among acupuncturists simplifying the problem of maintaining a sterile supply of needles, yet many practitioners still resort to reusable acupuncture needles, and must adhere to recommended procedures and have access to the necessary equipment to sterilize and maintain an adequate supply of needles. Reusable acupuncture needles should be inspected after each use, and discarded when they demonstrate signs of wear. Stainless steel needles are preferred since they are easier to clean and sterilize. Needles and instruments (i.e., forceps, needle trays, etc.) are to be cleaned (wiped) with alcohol and placed in disinfectant before sterilized. The desired method for sterilizing needles and instruments is autoclaving with pressurized steam. Other acceptable sterilization methods include use of a glass bead sterilizer, dry heat or ethylene oxide gas. Discarded or disposable needles/instruments should be sterilized before disposal.

#### Electrical Stimulation and Moxibustion Precautions

Some acupuncturists attempt to electrically stimulate a patient's acupuncture points as part of the patient's acupuncture therapy. Acupuncturists using electrical stimulation are reminded not to apply it to the chest area near the region of the heart or to the back along the spinal cord due to the potential effect electricity has on heart and spinal activity. Patients wearing cardiac pacemakers should not be candidates for electrical stimulation regardless of the location of the area to be treated.

Acupuncture needles weaken and become pitted when repeatedly re-used for this electro-acupuncture, making breakage more likely and sterilization increasingly difficult. Thicker, stainless steel needles are recommended for electro-acupuncture.

Acupuncturists advocating moxibustion, the burning of moxa (a soft, downy material composed of one or various plants/herbs) on the skin or acupuncture needle, in their patient treatment regimen should only moderately heat the moxa to avoid burning or injuring the patient's skin. Presently, moxibustion (due mainly to the moxa) is not recommended for patients with certain diseases or hypertension. The direct burning of moxa on the skin should be disregarded in the facial area, breasts, and over large blood vessels or tendons. Acupuncturists should be cautious about the use of moxa on the abdominal area of any pregnant female patient.

#### Acupuncturist Education and Training

Currently, Georgia permits only licensed physicians to perform acupuncture. Licensed physicians wishing to add acupuncture to their medical knowledge and skills must complete 100 hours of training specified by the State Composite Board of Medical Examiners before offering acupuncture treatment to their patients.

Elsewhere, persons wanting to become acupuncturists can learn this theory of medicine at private schools specializing in acupuncture teaching and training. An acupuncturist may participate in voluntary certification or

continuing education programs sponsored by the American Association of Acupuncture and Oriental Medicine (AAAOM) and the National Commission for the Certification of Acupuncturists (NCCA). Schools of acupuncture and oriental medicine can voluntarily have their programs evaluated by the National Council of Acupuncture Schools and Colleges (NCASC) and the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), and accredited by the NACSCAOM. Presently, 11 schools are NACSCAOM accredited, while another four schools are NACSCAOM accreditation candidates. These NACSCAOM designated schools are located primarily in the West and Midwest with no schools residing in Georgia or the Southeast. An acupuncture school in St. Petersburg, Florida, though not NACSCAOM accredited, is accredited by the United States Department of Education recognized Accreditation Council for Continuing Education and Training. House Bill 88 would prescribe, among other items, that persons applying for registration as a certified acupuncturist have completed the certification process for diplomate of the NCCA, and have finished an acupuncture course at a school whose curriculum is consistent with the core curriculum and guidelines of the NCASC.

#### Potential Hazards Associated With Acupuncture

Acupuncture and its treatment techniques normally pose no danger when properly performed. Patients may endure potential risks if appropriate safety procedures are not obeyed or if their conditions are misjudged and a physician is not consulted. Potential hazards associated with acupuncture include infection and physical damage. These potential hazards are discussed in the following paragraphs.

#### Infection

The possibility of infection exists for acupuncture patients undergoing treatment with acupuncture needles and/or moxibustion. Unsterile needles are the prime means of infecting unwary patients. The likelihood of patient infection is further bolstered by the combination of unsterile needles and the presence of unsanitary office/treatment conditions. These factors could substantially contribute to the spread of major diseases such as AIDS and hepatitis (A and B versions) which may cause severe chronic illness and/or death. The burns resulting from the improper application of moxibustion may be easily infected if not promptly treated, creating another route for disease to reach the patient.

#### Physical Damage

Acupuncture, when not performed properly, can inflict temporary or permanent physical damage to a patient. These injuries can occur from:

- Inserting an acupuncture needle too deep, rupturing the skin wall or an organ;
- Using excessive electrical current during electro-acupuncture, affecting the heart and possibly other body processes;
- Using improper moxibustion technique, causing burns resulting in tissue damage and scarring;
- Stimulating/overstimulating certain acupuncture points which may trigger an adverse physical reaction in some patients; and
- Indiscriminate use of moxa on the abdominal area of a pregnant female patient.

Prompt medical attention is recommended in most of these instances.

PRESENT STATUTORY REQUIREMENTS  
AND VOLUNTARY CERTIFICATION EFFORTS

This section describes the present federal requirements, State requirements, other regulatory agencies and voluntary certification organizations for acupuncture.

Federal Requirements

Our background research has found no federal regulation which directly affects acupuncturists.

State Requirements

A 1973 Attorney General's opinion (Opinion 73-131) has interpreted the practice of medicine, as defined in section 43-34-20 of the Official Code of Georgia Annotated, to include the practice of acupuncture. This interpretation has led to restricting the practice of acupuncture to licensed physicians authorized to practice this discipline by the Composite State Board of Medical Examiners. Board authorization is predicated on the licensed physician satisfactorily fulfilling a Board approved 100 hour curriculum in acupuncture education and training. Representative Mable Thomas has requested the Attorney General's Office review its opinion on this matter to ascertain whether, in light of developments in the fields of acupuncture and general medicine since the original 1973 issuance, the continued restriction of the practice of acupuncture remains applicable.

Voluntary Certification Organizations

Four national acupuncture organizations manage or sponsor voluntary certification, continuing education and acupuncture school accreditation programs. These organizations are the:

- National Commission for the Certification of Acupuncturists (NCCA);
- American Association of Acupuncture and Oriental Medicine (AAAOM);
- National Council of Acupuncture Schools and Colleges (NCASC); and
- National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM).

The NCCA sponsors a voluntary national certification program. The NCCA has a membership of 3,000 certified diplomates. Applicants desiring certification must:

- Satisfy NCCA eligibility standards of acupuncture education and/or experience;
- Pass the NCCA comprehensive written and practical examinations (the latter entails demonstrating proficient knowledge and skills in use of the clean needle technique, and in determining acupuncture point location); and
- Honor the NCCA's professional code of ethics.

Recertification is biennial and is predicated on the diplomate accumulating a collective minimum number of points amassed from successfully completing a series of NCCA specified tasks/activities (number of patient visits, hours of continuing education, articles published, etc.) during this two year period. The Professional Examination Service develops and administers the NCCA's written certification examination. The NCCA is endeavoring to have states

licensing acupuncturists adopt its certification examination and/or standards as their own. House Bill 88 specifies the NCCA standards as the minimum standards for granting registration as a certified acupuncturist.

The AAAOM is the acupuncture profession's lobbying and public education arm. The AAAOM furnishes information on acupuncture to the media, insurance companies, universities, and other interested private and public sector parties. The AAAOM has also written an acupuncture code of ethics.

The NCASC is comprised of established three-year professional acupuncture training programs. It formed, with the AAAOM's assistance, the NCCA and the NACSCAOM, which are the acupuncture profession's voluntary national certification and school accreditation organizations, respectively. Today, NCASC's activities include developing programs to: improve teacher skills, support member schools' efforts toward accreditation, and sustain research and other academic work in oriental medicine. NCASC is also interested in assisting the emergence of other commissions and committees whose aim is to improve the conditions of education and the practice of acupuncture and oriental medicine.

The NACSCAOM is the voluntary national accreditation body for acupuncture and oriental medicine schools and colleges. This commission:

- Stipulates criteria for accreditation;
- Arranges site visits;
- Evaluates institutions or programs requesting accredited status; and
- Designates publicly the applicant institutions/programs satisfying the accreditation criteria.

Under House Bill 88, candidates for registration as certified acupuncturists must have completed an acupuncture course at a school possessing a curriculum consistent with the NCASC's core curriculum and guidelines.

### OTHER STATES' REGULATORY PROGRAMS

Currently, Florida is the only southeastern state requiring individuals practicing acupuncture to be licensed. Florida presently licenses 367 individuals. Licenses are biennial, carrying an initial fee of \$500 and a renewal fee of \$759. One full-time staff person is assigned to the Florida board. Applicants must have two years continuous education from an accredited school of acupuncture. This education is to consist of 1500 clock hours of acupuncture learning and 240 clock hours devoted to Western medicine. The Florida board received 12 complaints in Fiscal Year 1989 and 16 complaints in both Fiscal Years 1990 and 1991 concerning acupuncture licensees. No disciplinary actions were taken during these fiscal years.

Nationally, 21 states and the District of Columbia license acupuncturists. Six states do not license acupuncturists, but allow them to practice under supervision (i.e., direct or indirect medical supervision). The remaining 23 states (including Georgia) consider acupuncture the practice of medicine, and limit its exercise to licensed physicians. Exhibit 1 displays a breakdown of the states in these categories.

A survey of the 21 states and the District of Columbia which license acupuncturists revealed:

- 10 states and the District of Columbia license acupuncturists through their respective medical boards;
- 10 states license acupuncturists through an independent board; and
- 1 state licenses acupuncturists through its Regulatory Department instead of an independent board.

Two of the above states which license acupuncturists through an independent board limit the board's jurisdiction to practitioners who are non-physicians (in the case of one state), and practitioners who are neither physicians nor dentists (in the case of the other state). Instead, physicians (and dentists as mentioned) in these states wishing to practice acupuncture must be licensed for such by the state medical board. Exhibit 2 lists the surveyed states (including the District of Columbia) and their mode of regulation.

Eighteen of the 22 jurisdictions licensing acupuncturists use either NCCA certification itself as the basis for licensure/registration or at least employ the NCCA comprehensive examination as part of the licensure process. Exhibit 3 diagrams these 17 states' and the District of Columbia's licensure/registration relationship with the NCCA.

ACUPUNCTURE LICENSING SUMMARY SHEET

A. States which independently license, certify or register acupuncturists:

Alaska	New Jersey*
California	New Mexico
Colorado	New York
District of Columbia*	Oregon*
Florida	Pennsylvania*
Hawaii*	Rhode Island
Maine	Utah
Maryland*	Vermont
Massachusetts*	Virginia*
Montana	Washington*
Nevada	Wisconsin

\*Some sort of medical supervision, diagnosis or referral required.

B. States which do not independently license, certify or register acupuncturists, but allow them to practice under supervision:

Connecticut	Minnesota
Delaware	South Carolina
Illinois	Texas

C. States where acupuncture is considered the practice of medicine and is restricted to physicians:

Arizona	Missouri
Alabama	Nebraska
Arkansas	New Hampshire
Georgia	North Carolina
Idaho	North Dakota
Indiana	Ohio
Iowa	Oklahoma
Kansas	South Dakota
Kentucky	Tennessee
Louisiana	West Virginia
Michigan	Wyoming
Mississippi	

Source: National Commission for the Certification of Acupuncturists

MODE OF REGULATION USED BY STATES  
LICENSING/REGISTERING ACUPUNCTURISTS

State	Mode of Regulation			Comments
	Indep. Board	Medical Board	Other	
Alaska		X		
California		X		Licensure handled by a separate committee of the medical board.
Colorado		X		
Dist. of Columbia		X		
Florida	X			
Hawaii	X			
Maine	X			
Maryland		X		
Massachusetts		X		
Montana		X		
Nevada	X			
New Jersey		X		
New Mexico	X			
New York	X			Physicians and dentists must be licensed instead by the medical board.
Oregon		X		
Pennsylvania		X		
Rhode Island	X			Physicians must be licensed instead by the medical board.
Utah	X			
Vermont	X			
Virginia		X		
Washington	X			
Wisconsin			X	Licensure conducted by the Department of Regulation and Licensing.
Total	10	11	1	



USE OF NCCA STANDARDS/EXAMINATION BY STATES  
LICENSING/REGISTERING ACUPUNCTURISTS

State	NCCA Cert. Basis For Lic./Reg.	Lic./Reg. Includes NCCA Exam	Use Neither NCCA Cert. Nor Exam
Alaska	X		
California			X
Colorado	X		
Dist. of Columbia	X		
Florida		X	
Hawaii		X	
Maine	X		
Maryland	X		
Massachusetts		X	
Montana		X	
Nevada			X
New Jersey		X	
New Mexico		X	
New York	X		
Oregon		X	
Pennsylvania	X		
Rhode Island	X		
Utah	X		
Vermont			X
Virginia			X
Washington	X		
Wisconsin	X		
Total	11	7	4

## FINDINGS

In developing its findings concerning the need to regulate acupuncture, the Council used these criteria:

- That the unregulated practice of an occupation may harm or endanger the health, safety and welfare of citizens of this State and that the potential for harm is recognizable and not remote;
- That the practice of an occupation requires specialized skill or training and that the public will benefit by assuring initial and continued occupational ability;
- That the citizens of this State are not or may not be effectively protected by other means; and
- That the overall cost effectiveness and economic impact would be positive for the citizens of this State.

Our findings regarding the need to regulate acupuncture appear below.

### Unregulated Acupuncturists Do Pose A Recognizable Threat to the Health, Safety and Welfare of the Citizens of this State

The potential physical hazards of acupuncture (i.e., overstimulation of acupuncture points, cardiac or spinal complications from the misuse of electro-acupuncture, punctured organs, burns from the misapplication of moxibustion or electro-acupuncture, etc.) are sufficiently real and serious to persons receiving acupuncture treatment to warrant obtaining immediate medical attention should these crises occur. A 1973 Attorney General's opinion (Opinion 73-131) has interpreted the practice of medicine, as defined in section 43-34-20 of the Official Code of Georgia Annotated, to include the practice of acupuncture. This interpretation has led to restricting the practice of acupuncture to licensed physicians authorized to practice this discipline by the Composite State Board of Medical Examiners.

Although recent medical and scientific research has been unable to conclusively prove acupuncture's effectiveness in areas besides pain management, its value in treating other medical and health conditions is still being scientifically investigated. Because of the medical aspects regarding the use of acupuncture, the incomplete knowledge of how acupuncture affects the body, and the Attorney General's view that the legal definition of the practice of medicine also encompasses acupuncture, we believe the potential for harm the unregulated practice of acupuncture poses to the public is not limited.

### Acupuncturists Must Have Formal Education and Training

Due to the acupuncture's physiological effects and its injury potential, individuals desiring to practice acupuncture should have formal education and training in the appropriate use and techniques of acupuncture. The need for medical training in determining the proper use of acupuncture and treating any medical complications that arise appears significant. The importance of medical training is underscored by the medical implications associated with the misuse or negligent use of acupuncture to a patient's physical condition.

Secondly, no NCSGAOM accredited acupuncture schools and only one non-NCSGAOM accredited acupuncture school presently exist in Georgia or the Southeast for instructing individuals on acupuncture techniques. Individuals,

particularly from non-medical professions, must acquire knowledge of these techniques from schools located mostly outside the Southeast.

The Citizens of This State Are Adequately Protected by Other Means

We reviewed statutory requirements and voluntary efforts which have been developed to protect public health. Our finding regarding the adequacy of the present system are addressed below.

The Practice of Acupuncture is Already Restricted to Authorized, Licensed Physicians

Due to the aforementioned Attorney General's opinion, acupuncture is considered in the domain of the legal definition of the practice of medicine; consequently, its use is confined to licensed physicians authorized to practice acupuncture by the Composite State Board of Medical Examiners. Board authorization rests on the licensed physician satisfactorily fulfilling a Board approved 100 hour curriculum in acupuncture education and training. This arrangement does not preclude an authorized, licensed physician from using acupuncture in treating drug addiction.

Should the Attorney General's opinion be invalidated or withdrawn, the voluntary certification and training programs (i.e., the NCCA and the NCASC) whose standards House Bill 88 references, would not adequately protect the public health. We believe the medical issues surrounding the unsupervised use of acupuncture necessitate medical education and training which is beyond the scope of these voluntary programs.

Regulation May Not Have an Economic Impact Upon the State

The Council has discovered no evidence suggesting the proposed regulation of acupuncture will drive fees for acupuncture treatment measurably higher or lower than is the present case.

### RECOMMENDATION

Based on the information received by the Council and our subsequent findings, two central concerns guide the Council's recommendation on House Bill 88:

- Acupuncture being deemed as the practice of medicine by the Attorney General; and
- Real and serious medical hazards the unregulated practice of acupuncture poses to the public's health, safety and welfare.

The Council also strives to balance these concerns with the sincere intent of this legislation's advocates to broaden the options available to substance abuse/addiction specialists in treating persons suffering from substance abuse/addiction.

The Council desires to address these concerns and interests with the following recommendation which should afford the public the medical oversight necessary, while offering flexibility to individuals and health care professionals seeking alternative treatment methods, especially regarding substance abuse/addiction. The Council does not recommend passage of House Bill 88. Instead, we recommend that acupuncture remain under the State Composite Board of Medical Examiners' aegis, with the Board pursuing one or both of the following courses of action:

- Strengthening its present criteria for authorizing a licensed physician to administer acupuncture treatment (i.e., possibly raising the 100 hours of board approved education and training in acupuncture requirement); and/or
- Establishing regulations and standards for the medically supervised administration of acupuncture treatment by non-physicians. Medical supervision should be direct and by a physician authorized by the Board to perform acupuncture treatment.

SUMMARY OF HOUSE BILL 88

PROPOSING TO REGULATE THE PRACTICE OF ACUPUNCTURE

The proposed legislation adds a Chapter 52 to Title 43 relating to professions and businesses, to provide for the following:

- 43-52-1 Defines terms used in this chapter. Among the terms used:
- Acupuncture means a form of health care, based on traditional Chinese medical concepts, that employs traditional Chinese medical concepts and adjunctive evaluation and treatment modalities for the promotion, maintenance, and restoration of health and the prevention of disease;
  - Acupuncturist means any person certified as provided in this chapter to practice acupuncture as approved and registered by the National Commission for Certification of Acupuncturists; and
  - Practice of acupuncture means the stimulation of specific areas of the human body based upon traditional Chinese medical evaluation and treatment protocol. Adjunctive therapies within the scope of acupuncture include, but are not limited to, electro-acupuncture, manual, mechanical, thermal, and electromagnetic treatment and the recommendation of dietary guidelines and therapeutic exercises.
- 43-52-2 Specifies the following:
- a) Directs the Department of Human Resources (DHR) to register acupuncturists satisfying this chapter's requirements. Mandates the DHR registered acupuncturist use the title "Certified Acupuncturist" or the letters "C.A." after his name.
  - b) Lists these eligibility requirements for acupuncturist registration applicants:
    - Be at least 21 years old;
    - Completed the certification process for diplomate of the National Commission for the Certification of Acupuncturists, including successful completion of the clean needle technique course;
    - Completed a course in acupuncture at a school having a curriculum consistent with the core curriculum and guidelines of the National Council of Acupuncture Schools and Colleges;
    - Satisfied all eligibility rules and criteria of the National Commission For the Certification of Acupuncturists and the National Commission for Health Certifying Agencies; and
    - Be of good moral character and subscribe to the code of ethics established by the National Commission for the Certification of Acupuncturists.
  - c) Establishes the following fees:
    - \$50 registration application filing fee;
    - An additional \$100 upon application approval; and
    - \$100 annual renewal fee.
  - d) Obligates the acupuncturist renewing his registration to have current diplomate acupuncture status in the National Commission for the Certification of Acupuncturists.

registration.

- 43-52-3 Requires persons registered as certified acupuncturists to:
- Comply with the National Commission for the Certification of Acupuncturists' code of ethics;
  - Comply with the National Commission for the Certification of Acupuncturists' clean needle technique, with the Clean Needle Technique Manual guidelines, and with state law, rules and regulations regarding waste management;
  - Comply with the Georgia informed consent law;
  - Display certificates of training prominently; and
  - Designate himself with the words "Certified Acupuncturist" or the letters "CA".
- 43-52-4 Contains the following:
- a) Classifies the practice of acupuncture by someone other than a Certified Acupuncturist a misdemeanor; and
  - b) Describes the enjoining of the unlawful practice of acupuncture and penalties if respondent is guilty.

SUMMARY OF HOUSE BILL 88 (HCS)

PROPOSING TO REGULATE THE PRACTICE OF ACUPUNCTURE

The proposed legislation adds a Chapter 52 to Title 43 relating to professions and businesses, to provide for the following:

- 43-52-1 Defines terms used in this chapter. Among the terms used:
- Acupuncture means a form of primary health care, based on traditional Chinese medical concepts, that employs traditional Chinese medical concepts and adjunctive evaluation and treatment modalities for the promotion, maintenance, and restoration of health and the prevention of disease;
  - Acupuncturist means any person certified as provided in this chapter to practice acupuncture as approved and registered by the ~~National Commission for Certification of Acupuncturists~~ State of Georgia; and
  - Practice of acupuncture means the stimulation of specific areas of the human body based upon traditional Chinese medical evaluation and treatment protocol. Adjunctive therapies within the scope of acupuncture include, but are not limited to, electro-acupuncture, manual, mechanical, thermal, and electromagnetic treatment and the recommendation of dietary guidelines and therapeutic exercises.
- 43-52-2 Specifies the following:
- a) Directs the Department of Human Resources (DHR) to register acupuncturists satisfying this chapter's requirements. Mandates the DHR registered acupuncturist use the title "Certified Acupuncturist" or the letters "C.A." after his name.
  - b) Lists these eligibility requirements for acupuncturist registration applicants:
    - Be at least 21 years old;
    - Completed the certification process for diplomate of the National Commission for the Certification of Acupuncturists, ~~including successful completion of the clean needle technique course or the~~ acupuncture certification process by examination in another state;
    - Successfully completed the clean needle technique course approved by the National Commission for the Certification of Acupuncturists;
    - Completed a course in acupuncture at a school having a curriculum consistent with the core curriculum and guidelines of the National Council of Acupuncture Schools and Colleges;
    - Satisfied all eligibility rules and criteria of the National Commission For the Certification of Acupuncturists ~~and the National Commission for Health Certifying Agencies~~; and
    - Be of good moral character and subscribe to the code of ethics established by the National Commission for the Certification of Acupuncturists.
  - c) Establishes the following fees:
    - \$50 registration application filing fee;

- An additional \$100 upon application approval; and
- \$100 annual renewal fee.

d) Obligates the acupuncturist renewing his registration to have either current diplomate acupuncture status in the National Commission for the Certification of Acupuncturists, or have fulfilled the equivalent standards of that body.

43-52-3 Requires persons registered as certified acupuncturists to:

- Comply with the National Commission for the Certification of Acupuncturists' code of ethics;
- Comply with the ~~National Commission for the Certification of Acupuncturists' clean-needle technique, with the Clean Needle Technique Manual guidelines,~~ standards and guidelines outlined in the clean needle technique course and manuals approved by the National Commission for the Certification of Acupuncturists, and with state law, rules and regulations regarding waste management;
- Comply with the Georgia informed consent law;
- Display ~~certificates of training~~ certificate of registration prominently; and
- Designate himself with the words "Certified Acupuncturist" or the letters "CA".

43-52-4 Contains the following:

- a) Classifies the practice of acupuncture by someone other than a Certified Acupuncturist a misdemeanor;
- b) Describes the enjoining of the unlawful practice of acupuncture and penalties if respondent is guilty; and
- c) Exempts persons licensed or certified under Articles 2 or 4 of Chapter 34 of this title, relating to physicians, osteopaths, and physician's assistants.



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H. B. No. 88

By: Representatives Thomas of the 31st and Abernathy of  
the 39th

A BILL TO BE ENTITLED

AN ACT

1           To amend Title 43 of the Official Code of Georgia     31  
2     Annotated, relating to professions and businesses, so as to     32  
3     provide for the registration of acupuncturists; to provide     33  
4     for definitions; to provide qualifications for registration;     34  
5     to provide for fees; to provide requirements for continued     35  
6     registration; to provide for penalties; to provide for     36  
7     injunctions; to provide for other matters relative to the     37  
8     foregoing; to repeal conflicting laws; and for other     37  
9     purposes.

10           BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:     40

11           Section 1. Title 43 of the Official Code of     43  
12     Georgia Annotated, relating to professions and businesses,     44  
13     is amended by adding at the end thereof a new Chapter 52 to     45  
14     read as follows:

15                           "CHAPTER 52                           48

16           43-52-1. As used in this chapter, the term:     51

17                   (1) 'Acupuncture' means a form of health     53  
18                   care, based on traditional Chinese medical     54  
19                   concepts, that employs traditional Chinese medical  
20                   concepts and adjunctive evaluation and treatment     55  
21                   modalities for the promotion, maintenance, and     56  
22                   restoration of health and the prevention of  
23                   disease.

24                   (2) 'Acupuncturist' means any person     58  
25                   certified as provided in this chapter to practice     59  
26                   acupuncture as approved and registered by the

H. B. No. 88

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1 National Commission for Certification of 60  
2 Acupuncturists. 61

3 (3) 'Practice of acupuncture' means the 62  
4 stimulation of specific areas of the human body 63  
5 based upon traditional Chinese medical evaluation  
6 and treatment protocol. Adjunctive therapies 64  
7 within the scope of acupuncture include, but are 65  
8 not limited to, electro-acupuncture, manual,  
9 mechanical, thermal, and electromagnetic treatment 66  
10 and the recommendation of dietary guidelines and 67  
11 therapeutic exercises.

12 43-52-2. (a) The Department of Human Resources 69  
13 shall register acupuncturists who meet the requirements 70  
14 of this chapter. An acupuncturist who is registered 71  
15 under this chapter shall use after his or her name the  
16 designation 'Certified Acupuncturist' or the letters 72  
17 'CA'.

18 (b) Each person applying to the Department of 74  
19 Human Resources for registration as an acupuncturist 75  
20 shall:

21 (1) Be at least 21 years of age; 77  
22 (2) Have completed the certification process 79  
23 for diplomate of the National Commission for the 80  
24 Certification of Acupuncturists, including 81  
25 successful completion of the clean needle technique  
26 course;

27 (3) Have completed a course in acupuncture at 83  
28 a school having a curriculum consistent with the 84  
29 core curriculum and guidelines of the National 85  
30 Council of Acupuncture Schools and Colleges;

31 (4) Demonstrate that all rules and criteria 87  
32 of eligibility set forth by the National Commission 88  
33 for the Certification of Acupuncturists and the

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1	National Commission for Health Certifying Agencies	89
2	are met; and	
3	(5) Be of good moral character and subscribe	91
4	to the code of ethics established by the National	92
5	Commission for the Certification of Acupuncturists.	
6	(c) Each applicant shall be required to pay to the	94
7	Department of Human Resources a fee of \$50.00 upon	95
8	filing the application and an additional fee of \$100.00	96
9	if the application is approved. The annual renewal fee	
10	for continued registration shall be \$100.00.	97
11	(d) In order to qualify for renewal of	99
12	registration the acupuncturist shall maintain current	100
13	diplomate acupuncture status in the National Commission	101
14	for the Certification of Acupuncturists.	
15	43-52-3. Each person registered under this chapter	103
16	as a certified acupuncturist shall:	104
17	(1) Comply with the code of ethics adopted by	106
18	the National Commission for the Certification of	107
19	Acupuncturists;	
20	(2) Comply with the National Commission for	109
21	the Certification of Acupuncturists' clean needle	110
22	technique and with guidelines established by the	111
23	Clean Needle Technique Manual, with waste	
24	management consistent with state law and rules and	112
25	regulations promulgated pursuant thereto;	
26	(3) Comply with Georgia law providing for	114
27	informed consent; and	
28	(4) Display prominently his or her	116
29	certificates of training and designate himself or	118
30	herself with the words 'Certified Acupuncturist' or	
31	the letters 'CA'.	119
32	43-52-4. (a) It shall be unlawful for an	121
33	individual to practice acupuncture or represent himself	122
34	or herself as a practitioner of acupuncture in this	123

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1 state unless the individual is registered as a Certified 124  
2 Acupuncturist by the Department of Human Resources as  
3 provided in this chapter. An individual willfully 125  
4 violating the provisions of this subsection shall be 126  
5 guilty of a misdemeanor.

6 (b) The unlawful practice of acupuncture may be 128  
7 enjoined by the courts on petition of the Department of 129  
8 Human Resources. In any such proceeding, it shall not 130  
9 be necessary to show that any person is individually  
10 injured by the actions complained of. If the respondent 131  
11 is found guilty of the unlawful practice of acupuncture, 132  
12 the court shall enjoin him or her from so practicing 133  
13 unless he or she has been duly registered. Procedure in  
14 such cases shall be the same as in any other action for 134  
15 injunction. The remedy of injunction shall be in 135  
16 addition to criminal prosecution and punishment."

17 Section 2. All laws and parts of laws in conflict 138  
18 with this Act are repealed. 139

\_\_\_\_\_ offers the following  
substitute to HB 88:

A BILL TO BE ENTITLED

AN ACT

1           To amend Title 43 of the Official Code of Georgia   31  
2   Annotated, relating to professions and businesses, so as to   32  
3   provide for the registration of acupuncturists; to provide   33  
4   for definitions; to provide qualifications for registration;   34  
5   to provide for fees; to provide requirements for continued  
6   registration; to prohibit certain representations and   35  
7   practices; to provide for penalties; to provide for   36  
8   injunctions; to provide for exemptions; to provide for other   37  
9   matters relative to the foregoing; to repeal conflicting  
10   laws; and for other purposes.                                   38

11           BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:   41

12           Section 1. Title 43 of the Official Code of   44  
13   Georgia Annotated, relating to professions and businesses,   45  
14   is amended by adding at the end thereof a new Chapter 52 to   46  
15   read as follows:

16                                   "CHAPTER 52                                   49

17           43-52-1. As used in this chapter, the term:   52

18                   (1) 'Acupuncture' means a form of primary   54  
19           health care, based on traditional Chinese medical   56  
20           concepts, that employs traditional Chinese medical  
21           concepts and adjunctive evaluation and treatment   57  
22           modalities for the promotion, maintenance, and   58  
23           restoration of health and the prevention of  
24           disease.

25                   (2) 'Acupuncturist' means any person   60  
26           certified as provided in this chapter to practice   61

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1 acupuncture as approved and registered by the State 62  
2 of Georgia.

3 (3) 'Practice of acupuncture' means the 64  
4 stimulation of specific areas of the human body 65  
5 based upon traditional Chinese medical evaluation  
6 and treatment protocol. Adjunctive therapies 66  
7 within the scope of acupuncture include, but are 67  
8 not limited to, electro-acupuncture, manual,  
9 mechanical, thermal, and electromagnetic treatment 68  
10 and the recommendation of dietary guidelines and 69  
11 therapeutic exercises.

12 43-52-2. (a) The Department of Human Resources 71  
13 shall register acupuncturists who meet the requirements 72  
14 of this chapter. An acupuncturist who is registered 73  
15 under this chapter shall use after his or her name the  
16 designation 'Certified Acupuncturist' or the letters 74  
17 'CA'.

18 (b) Each person applying to the Department of 76  
19 Human Resources for registration as an acupuncturist 77  
20 shall:

21 (1) Be at least 21 years of age; 79  
22 (2) Have completed the certification process 81  
23 for diplomate of the National Commission for the 82  
24 Certification of Acupuncturists, or the acupuncture  
25 certification process by examination in another 83  
26 state;

27 (3) Have successfully completed the clean 85  
28 needle technique course approved by the National 86  
29 Commission for the Certification of Acupuncturists;

30 (4) Have completed a course in acupuncture at 88  
31 a school having a curriculum consistent with the 89  
32 core curriculum and guidelines of the National 90  
33 Council of Acupuncture Schools and Colleges;

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1           (5) Demonstrate that all rules and criteria 92  
2 of eligibility set forth by the National Commission 93  
3 for the Certification of Acupuncturists are met;  
4 and 94  
5           (6) Be of good moral character and subscribe 96  
6 to the code of ethics established by the National 97  
7 Commission for the Certification of Acupuncturists.  
8           (c) Each applicant shall be required to pay to the 99  
9 Department of Human Resources a nonrefundable fee of 100  
10 \$50.00 upon filing the application and an additional fee 101  
11 of \$100.00 if the application is approved. The annual 102  
12 renewal fee for continued registration shall be \$100.00. 103  
13           (d) In order to qualify for renewal of 105  
14 registration the acupuncturist shall maintain current 106  
15 diplomate acupuncture status in the National Commission 107  
16 for the Certification of Acupuncturists or demonstrate  
17 having met the equivalent standards of that body. 108  
18           43-52-3. Each person registered under this chapter 110  
19 as a certified acupuncturist shall: 111  
20           (1) Comply with the code of ethics adopted by 113  
21 the National Commission for the Certification of 114  
22 Acupuncturists;  
23           (2) Comply with the standards and guidelines 116  
24 outlined in the clean needle technique course and 117  
25 manuals approved by the National Commission for the 118  
26 Certification of Acupuncturists, with waste  
27 management consistent with state law and rules and 119  
28 regulations promulgated pursuant thereto;  
29           (3) Comply with Georgia law providing for 121  
30 informed consent; and  
31           (4) Display prominently his or her 123  
32 certificate of registration and designate himself 125  
33 or herself with the words 'Certified Acupuncturist'  
34 or the letters 'CA'. 126

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1           43-52-4. (a) It shall be unlawful for an 128  
2 individual to practice acupuncture or represent himself 129  
3 or herself as a practitioner of acupuncture in this 130  
4 state unless the individual is registered as a Certified 131  
5 Acupuncturist by the Department of Human Resources as  
6 provided in this chapter. An individual willfully 132  
7 violating the provisions of this subsection shall be 133  
8 guilty of a misdemeanor.

9           (b) The unlawful practice of acupuncture may be 135  
10 enjoined by the courts on petition of the Department of 136  
11 Human Resources. In any such proceeding, it shall not 137  
12 be necessary to show that any person is individually  
13 injured by the actions complained of. If the respondent 138  
14 is found guilty of the unlawful practice of acupuncture, 139  
15 the court shall enjoin him or her from so practicing 140  
16 unless he or she has been duly registered. Procedure in  
17 such cases shall be the same as in any other action for 141  
18 injunction. The remedy of injunction shall be in 142  
19 addition to criminal prosecution and punishment.

20           (c) Nothing in this chapter shall be construed to 144  
21 apply to any person licensed or certified under Article 145  
22 2 or 4 of Chapter 34 of this title, relating to 146  
23 physicians, osteopaths, and physician's assistants."

24           Section 2. All laws and parts of laws in conflict 149  
25 with this Act are repealed. 150