

# MICROFILM DIVIDER

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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2027

2007 SENATE HUMAN SERVICES

SB 2027

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2027

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 1-17-07

Recorder Job Number: 1274, 1301,

Committee Clerk Signature

*Mary K Monson*

Minutes:

Senator J. Lee, Chairman, opened the hearing on SB 2027 relating to the registration of practitioners of acupuncture; and to provide for a penalty.

Senator Ray Holmberg (Dist. 17) introduced SB 2027. This bill has been through an interim study, still needs a little work, and not everybody will be pleased with the bill but he felt it was time to put it through.

Don Wolf (Legislative Council) staffed the interim budget committee on health care which studied this bill. He was present just to explain the bill. He briefly went over some of the major areas. Page 1, lines 7-10, defines what acupuncture is. This bill provides for registration of acupuncturists. It excludes chiropractors, physicians, and other individuals who practice acupuncture within a licensed organization. Page 2, line 4 and 14, dealt with registration.

Senator Warner asked if, on page 2 duties of the registrar, we would allow certificates of competing training programs.

Mr. Wolf said the intent was to be that, currently, this is the main certification organization. The extra language was put there in case of a name change or another organization comes along that becomes a predominant certifying organization.

To answer a question by Senator Dever, Mr. Wolf said there are only three people that practice acupuncture that would be affected by this other than chiropractors and a few doctors.

Senator Warner said he understood that chiropractors and others may practice acupuncture incidental to their practice and are not required to file for separate licensure. Are they required to be a diplomat in good standing of the National Certification Commission on Acupuncture?

Mr. Wolf said no, they are completely independent.

Senator Heckaman asked if there are any recertification requirements.

Mr. Wolf wasn't able to answer that question.

David Magnusson (Acupuncturist) testified in a neutral position on SB 2027. (Attachment #1 includes research information being done on acupuncture.)

Senator Heckaman asked how he can be practicing in ND.

Mr. Magnusson said there are no regulations so anyone can practice.

Senator Heckaman asked about ordering supplies.

Mr. Magnusson said that is an issue. He orders through two different companies and they require a license number. ND doesn't provide a license so he uses his MN license to order.

A short discussion on recognizing a license from out of state like reciprocity can't be done. If ND doesn't have some sort of regulation there would be no way to deal with problems if they arose.

Senator J. Lee said the interim committee spent a lot of time trying to figure out how to make this licensure work. The problem is the expense for each acupuncturist to develop the rules and set up the board in the first place.

Senator Heckaman asked what the chiropractors who are acupuncturists do. Do they have to have a sub certification in that area?

Senator J. Lee responded that they are licensed under the board of chiropractors which regulates what they do.

There was discussion on requirements of other states and requirements of the National Commission on Certification. SB 2171, from the 2005 session, was the original bill and was based comparable to MN law. It was a financial issue, not necessarily the wording or the licensure.

There was also discussion on if it would be legal for the National Foundation to make a grant to a ND board to be used to set up its operating expenses for the first couple of years? Bruce Pritchet (Director of Division of Health Facilities for ND Dept. of Health) provided testimony opposing SB 2027. (Attachment #2)

Senator Dever asked, if standards are set for licensure, would the dept. of health be in a position to administer it.

Mr. Pritchet replied that there would have to be a severely changed fiscal note. They are not against it. The philosophy of the health department is that doctors should regulate doctors, nurses should regulate nurses, and acupuncturists should regulate acupuncturists. Asking the health dept. to regulate an entity they have no expertise in does not fit with the philosophy of the health dept.

There was no neutral testimony.

The hearing on SB 2027 was closed.

### **Job #1301**

Senator J. Lee opened SB 2027 for the purpose of getting some background information. She asked the intern to report on the legislative history on the bill about acupuncture licensure that was in the 2005 session.

He reported that it was amended to be turned into a study. It was approved and filed on March 9 of the last session.

Senator J. Lee reported that the health committee had spent the whole interim talking about it and this bill is what they came up with.

Discussion on SB 2027 was closed.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2027

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 1-31-07

Recorder Job Number: 2364

Committee Clerk Signature

*Mary K Monson*

Minutes:

Senator J. Lee, Chairman, opened SB 2027 for discussion.

Senator Warner reported that they would like to see this go forward so Mr. Magnusson can have an opportunity from his national organization to obtain a grant that would cover the cost of the registration. There really is no objection to having acupuncturists having a board and being licensed. There was discussion to, perhaps, strip the appropriations out of the bill and let it go forward.

There was discussion about letting this go forward without any money to buy time for Mr. Magnusson. A possibility of a sunset clause was also talked about. Other options included having any costs come from private funds so nobody is obligated to spend money. It was suggested they hoghouse the bill and make it like SB 2171 from the 2005 session.

The bill isn't what Mr. Magnusson wants. He doesn't want registration.

Senator Erbele suggested giving Mr. Magnusson direction for next session.

Senator Heckaman asked if the other two acupuncturists were in dire straights over this, also.

Senator J. Lee replied that there two issues. 1. They want to make sure that people who aren't as well trained can't practice. 2. The other thing is that it affects their reimbursement.

The bill, as it is, doesn't do them any good.

Senator Heckaman moved a Do Not Pass on SB 2027.

Seconded by Senator Erbele. Roll call vote 5-1-0. Carrier is Senator Heckaman.



**FISCAL NOTE**  
**Requested by Legislative Council**  
12/26/2006

Bill/Resolution No.: SB 2027

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$600		\$600
<b>Expenditures</b>			\$10,829		\$3,400	
<b>Appropriations</b>						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the ND Department of Health to develop and implement rules for the registration of Acupuncturists in our state. Currently, this group of providers is not regulated.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The costs included in this fiscal note include staff time for research, rules development, meetings with stakeholders, forms and registry development, and implementing the process. The amount needed after the first year will decrease substantially and will be limited to the annual registration process and adding new applicants to the registry.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fee established by this bill for registration is \$100 annually and there are three individuals at this time who we are aware would be required to be registered on the Department's registry. Total anticipated revenue in 2007-2009 is \$600. The revenue is expected to stay the same or increase if there are additional applicants in 2009-2011.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

During the 2007-2009 biennium, it is anticipated that it will take approximately 220 hours of staff time for rules development and implementation. The total direct and indirect anticipated to be in the 2007-2009 is \$9,281. Additional expenditures include the costs associated with the public hearing and rulemaking process of approximately \$1,548 for total anticipated expenditures of \$10,829 to implement these new requirements.

As development will occur prior to the 2009-2011 biennium, it is anticipated that the expenditures for ongoing operation of this registry would be significantly less - \$3,400 for the biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in the Department's Appropriation bill (HB 1004). The Department would need these funds appropriated.

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	01/04/2007

Date: 1-31-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2027

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Sen. Heckaman Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner		✓

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Heckaman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2027: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2027 was placed on the Eleventh order on the calendar.**

2007 TESTIMONY

SB 2027

David Magnuson  
Master's Degree in Acupuncture  
Nationally Board Certified in Acupuncture  
Licensed in the State of Minnesota to practice Acupuncture  
I practice in Grand Forks, ND. No regulation or qualification requirements

Position:

I believe it is in the best interest of the state to regulate the practice of Acupuncture through Licensure.

Licensure provides a system whereby standards are set and individuals must meet those standards in order to practice in this state.

Registration is actually taking a step back – it is essentially saying to acupuncturists, “pay \$100 and we will write your name down on a list.” It does nothing to protect the public which was the original intention of the bill.

Somehow missed out

Never any opposition to the wording of this bill. One of the issues with the licensure bill was to find a board to regulate. Board of Medicine, Health Dept.

Robert Angotti – Acu in Fargo

I have said and continue to say that I will be helpful in making this the least financially burdensome for the Health Department to regulate.

States that have had registration have moved to licensure. For example, Colorado did this in 2002. There is no state that use only registration as a means to regulate acupuncture. (easy thing vs right thing)

A concern for some of the legislators has been “Why should we form a board to regulate only 3 people?” The problem is that we are not attracting qualified acupuncturists into this state. If I am an acupuncturist about to graduate....

Steven Spader: ND not very inviting to acupuncturists

We need to set up a clear process where an acupuncturist can come into N.D. and begin to practice. Even to buy acu supplies need a license number.

Massage

Reflexology. Touch feet. 1 last year.

I have included a packet of information on research being done on acupuncture.

Acupuncture has been proven to be effective. It is often much less costly and less invasive than the traditional treatments of surgery and long term drug use.

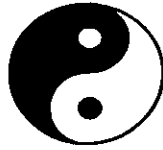
Mayo Clinic –leader, set up own acupuncture unit. 2006 Mayo Clinic.

Bextra, Vioxx, Celebrex. 570 patients.

(Best doctors are those who have the best interests of the patients in mind.)

In the future our HCS will be one of choices and options. We are seeing that right now. Hugo's Supermarket provides acupuncture benefits for its employees. Hugo's has stores throughout N.D. and has over 800 employees. BCBS who administers their program will not

I do not think it is wise to limit people's choices and options when it comes to health care, but it is wise and we do have an obligation to make sure it can be done safely by qualified persons.



### Reasons to License Acupuncturists:

1. Provides a system whereby standards are set and individuals must meet those standards in order to practice in this state.
2. Protects the public against unqualified persons from practicing in this state.
3. Sets up a clear process whereby acupuncturists can start a practice in this state.
4. Allows acupuncturists to order acupuncture needles and other supplies (a license number is required).
5. Acupuncture has been proven safe and effective. (See attached research)
6. Allows the public choices and options in their health care, especially for those wanting less invasive therapies.
7. 41 other states regulate the practice of acupuncture. There is no state that uses only registration to regulate acupuncture. In 2002, Colorado moved from a system of registration to one of licensure (See attached Bill Summary).

**North Dakota**

According to AOM Alliance, North Dakota is a state in which there is no legislation or rules authorizing the practice by licensed acupuncturists. However, a statute has been introduced.





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## North Dakota Laws & Details

### Practitioner Title

Acupuncturists are not licensed separately in North Dakota.

### Requirements

There is no specific training required for a medical or osteopathic doctor to practice acupuncture.

### Practice by Others

Only a medical doctor, osteopath and chiropractor may practice acupuncture in North Dakota.

Chiropractors may practice acupuncture after 100 hours of acupuncture training. A chiropractor may not supervise a non-physician acupuncturist.

**NOTE:** Look for a physician with formal training in the practice of acupuncture. Acupuncture and Oriental medicine is an art and a science that takes years to master. While any licensed physician can stick needles into you, for a positive experience and results, find an acupuncturist with experience treating a similar condition (with acupuncture) to what you have.

### Governmental Body

North Dakota State Board of Medical Examiners  
418 E. Broadway Ave., Suite 12  
Bismarck, ND 58501  
(701) 328-6500  
(701) 328-6505 (Fax)

Medical Practice Act: Medical Practice Act of North Dakota Chapter 43-17

There is no practice act for acupuncturists, however, the State Board of Chiropractic Examiners does make special provisions to allow qualified chiropractors to perform acupuncture within the scope of chiropractic. See Regulation of Acupuncture - Options.

### Local Organizations

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[austin.citysearch.com](http://austin.citysearch.com)

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[www.GCNM.com](http://www.GCNM.com)

#### Acupuncture for Health

Relief from Acute and Chronic Health Problems at Wellness Center  
[www.wholebodybalance.com](http://www.wholebodybalance.com)

#### Acupuncture New Jersey

Acupuncture, Herbs for pain fertility, immunity, allergies, etc  
[acupunctureandherbalm.com](http://acupunctureandherbalm.com)

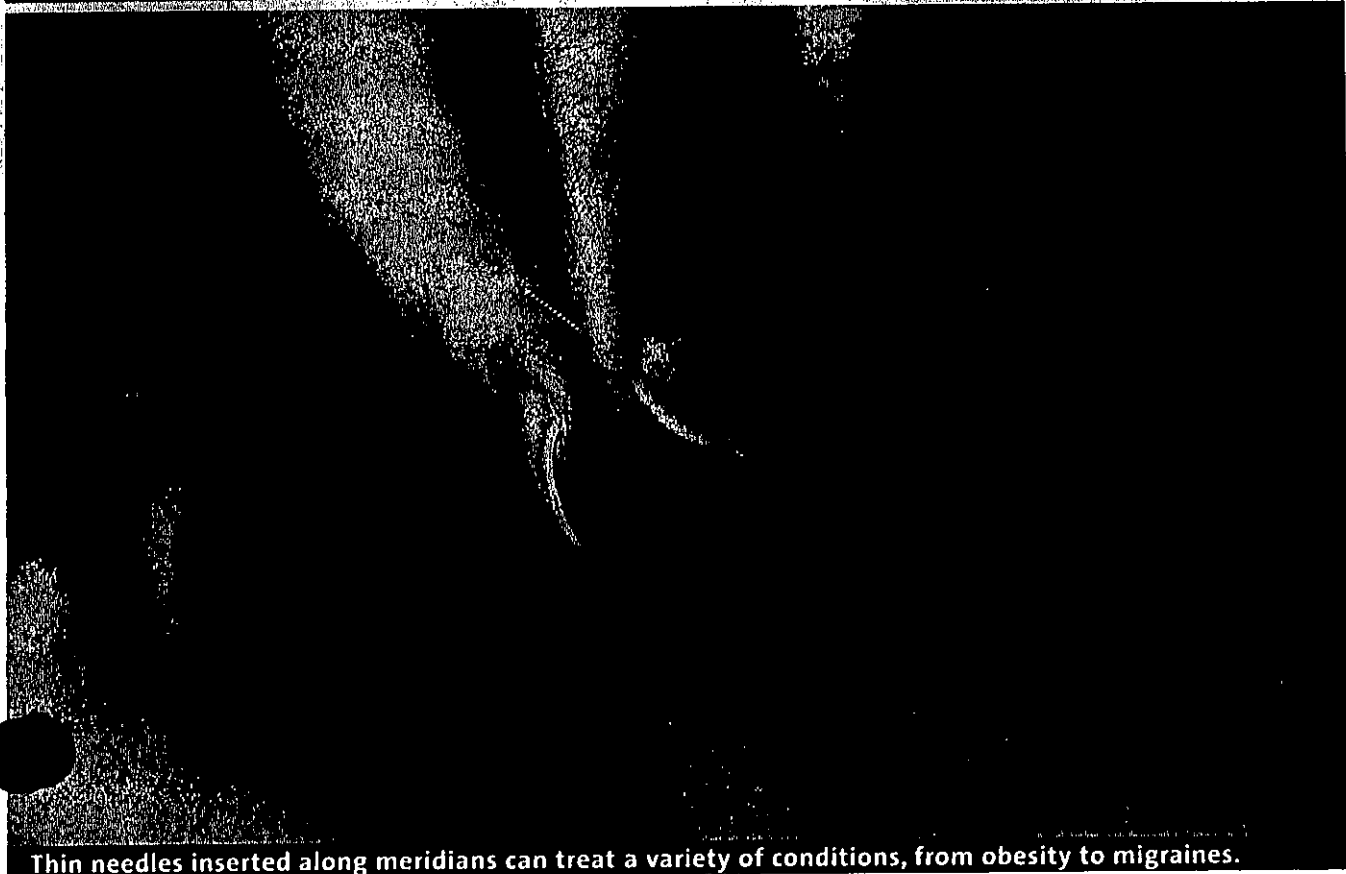
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# Health & Healing



Thin needles inserted along meridians can treat a variety of conditions, from obesity to migraines.

## a gentle needle

*Acupuncture meets—and sometimes beats—its reputation. The latest research shows what it works best for.*

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remedies	p. 92
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IT ONLY TOOK 2,000 YEARS, but Eastern and Western medicine finally agree on something: the effectiveness of acupuncture, the healing art in which hair-thin needles are inserted along pathways called meridians to clear qi, or energy, that gets blocked due to illness and imbalance. Scientists have yet to explain the success of the therapy in Western terms, but they theorize that it stimulates the production of immune-system cells and painkilling endorphins; studies also indicate that acupuncture alters the release pattern of brain chemicals like neurotransmitters and neurohormones, which affects the central nervous system.

Much clinical attention has been paid to acupuncture. The medical website PubMed ([www.pubmed.gov](http://www.pubmed.gov)) lists more than 10,000 published

THEW SOLAN

# healing news

investigations, and the National Institutes of Health currently sponsor about 50 trials in the recruitment stage that will examine acupuncture in the treatment of hypertension, osteoarthritis, chronic pain, depression, and other conditions. And even though researchers struggle to find a consistently reliable placebo, study results so far have been particularly encouraging in treating the following conditions.

**Fibromyalgia:** A 2006 report in *Mayo Clinic Proceedings* indicated that a relatively brief course in acupuncture significantly reduced common complaints related to fibromyalgia—particularly fatigue, anxiety, and chronic pain. The 50 subjects received six treatments over a three-week period; however,

they continued to report improved symptoms compared with the control group after one month and seven months later, respectively. “Acupuncture needles may trigger the patient’s nervous system to respond in ways that improve the underlying hypersensitivity that causes fibromyalgia symptoms,” says lead researcher David Martin, M.D., Ph.D.

**Migraines and headaches:** While some research on acupuncture and headaches has had so-so results, a 2005 study in the *British Medical Journal* found that episodes could be cut by nearly 50 percent. About 270 people who suffered episodic or chronic tension headaches were recruited. Half received acupuncture and standard medication; the other, just medication. The acu-

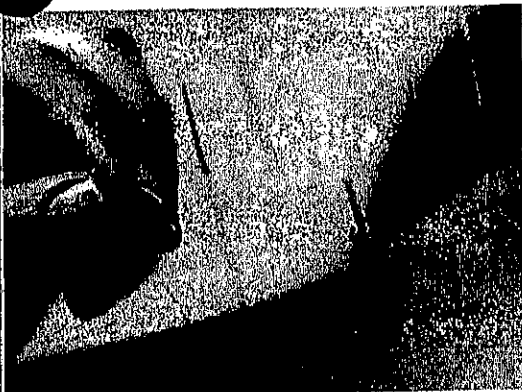
(about 10 pounds) than a diet-only group after five weeks. For this study, 20-minute treatments were given twice a week along the stomach and pericardium meridian, which address stomach issues and stress, and on the hunger point of the ear. Acupuncture’s success has been attributed to improved feelings of wellbeing that suppress the desire for excess food; it’s also theorized to stimulate metabolism and help the body process food more efficiently.

**Osteoarthritis:** A 2004 study in the *Annals of Internal Medicine* discovered that acupuncture significantly reduced pain and improved function for patients with osteoarthritis of the knee who still had moderate to severe pain despite taking medication.

puncture group, after 12 treatments of 30 minutes each over a three-month period, reported nearly two fewer days of headaches per month compared with the medication group. The acupuncture treatments also continued to work for up to nine months after the study.

**Obesity:** Acupuncture may facilitate weight loss by helping to suppress appetite. A 2005 investigation recorded in the Chinese journal *Zhongguo Zhen Jiu* concluded that acupuncture combined with a low-calorie diet program was nearly three times more effective in helping obese patients lose weight than the diet alone. A similar randomized controlled trial published in *Medical Acupuncture* found that an acupuncture-diet group lost twice as much weight

The Phase III study examined 570 patients with this most common form of arthritis, the largest group ever for an acupuncture study. Participants were divided into three groups: One received education about treating arthritis, another received acupuncture, and the third had sham acupuncture, where the needles were taped onto the skin but did not penetrate; the latter two groups received 24 treatments over a 26-week period, evolving from twice a week to once a month. The acupuncture group reported a 40 percent improvement in both pain relief and function compared with the sham and education groups. The researchers concluded that acupuncture is an effective adjunct therapy—and even more notable for its lack of side effects. ▀



## FIND A PRACTITIONER

About 40 states offer certifications in acupuncture to ensure that a practitioner has met a certain standard of training. Ask your primary physician for a referral, or consult the directories of the American Association of Medical Acupuncture ([www.medicalacupuncture.com](http://www.medicalacupuncture.com)), the American Academy of Oriental Medicine ([www.aaom.org](http://www.aaom.org)), the National Acupuncture and Oriental Medicine Alliance ([www.acuall.org](http://www.acuall.org)), or the National Certification Commission for Acupuncture and Oriental Medicine ([www.nccaom.org](http://www.nccaom.org)).

What do the studies say?

• Osteoarthritis of the knee, (Dr. Brian Berman, University of Maryland School of Medicine): "40% less pain and nearly 40% improvement in function over the course of the study." 570 patients.

# National Institutes of Health Consensus Statement on Acupuncture Safety, 1997

"One of the advantages of acupuncture is that the incidence of adverse effects is substantially lower than that of many drugs or other accepted medical procedures used for the same conditions. As an example, musculoskeletal conditions, such as fibromyalgia, myofascial pain, and tennis elbow, or epicondylitis, are conditions for which acupuncture may be beneficial."

"These painful conditions are often treated with, among other things, anti-inflammatory medications (aspirin, ibuprofen, etc.) or with steroid injections. Both medical interventions have a potential for deleterious side effects but are still widely used and are considered acceptable treatments. The evidence supporting these therapies is no better than that for acupuncture."

### Bill Summary

Acupuncturists in Colorado are currently regulated under the jurisdiction of the Division of Registrations, a component of the Department of Regulatory Agencies. HB 1117 extends the regulation of acupuncturists until July 1, 2013, at which time a decision will be made to continue, terminate or re-establish the statute. As with the existing legislation, the director of the Division of Registrations will be responsible for the profession's regulatory functions, and will have the authority to establish rules, accept or deny applications, set fees for licensure and renewal, and make investigations into the conduct of acupuncturists when appropriate.

One of the most important aspects of House Bill 1117 is that while the process of registering with the state remains the same, the name of the process has been changed from registration to licensure. The point in changing the name to licensure stemmed from the Department of Regulatory Agencies itself, which argued that the registration process already in place was equivalent to licensure and should be called as such.

The educational and reporting requirements for acupuncturists will also remain as they did under prior legislation. In addition, practitioners will still be required to apply for a license to practice with the Division of Registrations. To qualify for licensure, applicants must:

- have successfully completed an education program for acupuncturists that conforms to standards approved by the director of the division of registrations (these standards will be determined using the assistance of any professional organization whose membership includes a minimum of one-third of the people licensed to practice acupuncture in Colorado);
- pay an annual license fee, the amount of which will be determined by the director;
- report to the director every judgement or administrative action against the applicant that involves malpractice or the improper practice of acupuncture, whether in Colorado or any other jurisdiction; and
- purchase and maintain commercial professional liability insurance with a company authorized to do business in the state of Colorado.

Any acupuncturist who is already registered to practice in Colorado prior to July 1 will be issued a license to practice from the director and will be allowed to use the designations "LAc" or "licensed acupuncturist." Acupuncturists who have not been registered for two or more years prior to July 1, 2002 will need to reapply for licensure.

"The change in title from registered to licensed reflects the nature of our registration program in that we have to meet specific education, training and testing requirements," remarked Valerie Hobbs, vice president of the Acupuncture Association of Colorado. "Most of the public know us simply as 'acupuncturists.' We do not expect to gain more acceptance in the eyes of our consumers just because our name has changed, as the respect we have gained is clearly through efficacy. We do, however, expect to eliminate the confusion that the title 'registered' sometimes creates with regards to the professionalism of Oriental medical practitioners, since it implies merely providing personal information for our state regulation."

