

**As Reported by the Senate Health, Human Services and Aging  
Committee**

**127th General Assembly  
Regular Session  
2007-2008**

**Sub. S. B. No. 245**

**Senator Schuring**

**Cosponsor: Senator Miller, D.**

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**A B I L L**

To amend sections 4762.02, 4762.03, 4762.031, 4762.04 1  
to 4762.06, 4762.08 to 4762.11, 4762.13, 4762.131, 2  
4762.132, 4762.15, 4762.16, and 4762.18 and to 3  
enact section 4762.22 of the Revised Code to 4  
modify the laws regarding the practice of 5  
acupuncturists. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4762.02, 4762.03, 4762.031, 4762.04, 7  
4762.05, 4762.06, 4762.08, 4762.09, 4762.10, 4762.11, 4762.13, 8  
4762.131, 4762.132, 4762.15, 4762.16, and 4762.18 be amended and 9  
section 4762.22 of the Revised Code be enacted to read as follows: 10

**Sec. 4762.02.** (A) Except as provided in division (B) of this 11  
section, no person shall engage in the practice of acupuncture 12  
unless the person holds a valid certificate ~~of registration to~~ 13  
practice as an acupuncturist issued by the state medical board 14  
under this chapter. 15

(B) Division (A) of this section does not apply to the 16  
following: 17

(1) A physician; 18

(2) A person who performs acupuncture as part of a training program in acupuncture, but only if both of the following conditions are met:

(a) The training program is operated by an educational institution that holds an effective certificate of authorization issued by the Ohio board of regents under section 1713.02 of the Revised Code or a school that holds an effective certificate of registration issued by the state board of career colleges and schools under section 3332.05 of the Revised Code~~+~~.

(b) The person performs the acupuncture under the general supervision of an acupuncturist who holds a certificate to practice as an acupuncturist issued under this chapter and is not practicing within the supervisory period required by section 4762.10 of the Revised Code.

(3) A chiropractor who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code.

**Sec. 4762.03.** (A) An individual seeking a certificate of ~~of~~ registration to practice as an acupuncturist shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age and of good moral character;

(2) Evidence satisfactory to the board that the applicant has been designated as a diplomate in acupuncture or oriental medicine by the national certification commission for acupuncture and oriental medicine and that the designation is current and active;

(3) Any other information the board requires.

(B) The board shall review all applications received under

this section. The board shall determine whether an applicant meets 49  
the requirements to receive a certificate ~~of registration to~~ 50  
practice not later than sixty days after receiving a complete 51  
application. The affirmative vote of not fewer than six members of 52  
the board is required to determine that an applicant meets the 53  
requirements for a certificate. 54

(C) At the time of making application for a certificate ~~of~~ 55  
~~registration to practice~~, the applicant shall pay the board a fee 56  
of one hundred dollars, no part of which shall be returned. 57

**Sec. 4762.031.** In addition to any other eligibility 58  
requirement set forth in this chapter, each applicant for a 59  
certificate ~~of registration to practice~~ as an acupuncturist shall 60  
comply with sections 4776.01 to 4776.04 of the Revised Code. The 61  
state medical board shall not grant to an applicant a certificate 62  
~~of registration to practice~~ as an acupuncturist unless the board, 63  
in its discretion, decides that the results of the criminal 64  
records check do not make the applicant ineligible for a 65  
certificate issued pursuant to section 4762.04 of the Revised 66  
Code. 67

**Sec. 4762.04.** If the state medical board determines under 68  
section 4762.03 of the Revised Code that an applicant meets the 69  
requirements for a certificate ~~of registration to practice~~ as an 70  
acupuncturist, the secretary of the board shall register the 71  
applicant as an acupuncturist and issue to the applicant a 72  
certificate ~~of registration to practice~~ as an acupuncturist. The 73  
certificate shall expire biennially and may be renewed in 74  
accordance with section 4762.06 of the Revised Code. 75

**Sec. 4762.05.** Upon application by the holder of a certificate 76  
~~of registration to practice~~ as an acupuncturist, the state medical 77  
board shall issue a duplicate certificate to replace one that is 78

missing or damaged, to reflect a name change, or for any other 79  
reasonable cause. The fee for a duplicate certificate is 80  
thirty-five dollars. 81

**Sec. 4762.06.** (A) A person seeking to renew a certificate ~~of~~ 82  
~~registration to practice~~ as an acupuncturist shall, on or before 83  
the thirty-first day of January of each even-numbered year, apply 84  
for renewal of the certificate. The state medical board shall send 85  
renewal notices at least one month prior to the expiration date. 86  
87

Applications shall be submitted to the board on forms the 88  
board shall prescribe and supply. Each application shall be 89  
accompanied by a biennial renewal fee of one hundred dollars. 90

The applicant shall report any criminal offense that 91  
constitutes grounds for refusing to issue a certificate ~~of~~ 92  
~~registration~~ under section 4762.13 of the Revised Code to which 93  
the applicant has pleaded guilty, of which the applicant has been 94  
found guilty, or for which the applicant has been found eligible 95  
for intervention in lieu of conviction, since last signing an 96  
application for a certificate ~~of registration to practice~~ as an 97  
acupuncturist. 98

(B) To be eligible for renewal, an acupuncturist must certify 99  
to the board that the acupuncturist has maintained the 100  
acupuncturist's designation as a diplomate in acupuncture or 101  
Oriental medicine by the national certification commission for 102  
acupuncture and oriental medicine. 103

(C) If an applicant submits a complete renewal application 104  
and qualifies for renewal pursuant to division (B) of this 105  
section, the board shall issue to the applicant a renewed 106  
certificate ~~of registration to practice~~ as an acupuncturist. 107

(D) A certificate ~~of registration to practice~~ that is not 108

renewed on or before its expiration date is automatically 109  
suspended on its expiration date. If a certificate has been 110  
suspended pursuant to this division for two years or less, the 111  
board shall reinstate the certificate upon an applicant's 112  
submission of a renewal application, the biennial renewal fee, and 113  
the applicable monetary penalty. The penalty for reinstatement is 114  
twenty-five dollars. If a certificate has been suspended pursuant 115  
to this division for more than two years, it may be restored upon 116  
an applicant's submission of a restoration application, the 117  
biennial registration fee, and the applicable monetary penalty and 118  
compliance with sections 4776.01 to 4776.04 of the Revised Code. 119  
The board shall not restore a certificate to practice unless the 120  
board, in its discretion, decides that the results of the criminal 121  
records check do not make the applicant ineligible for a 122  
certificate issued pursuant to section 4762.04 of the Revised 123  
Code. The penalty for restoration is fifty dollars. 124

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**Sec. 4762.08.** A person who holds a certificate of 126  
~~registration to practice~~ as an acupuncturist issued under this 127  
chapter may use the following titles, initials, or abbreviations, 128  
or the equivalent of such titles, initials, or abbreviations, to 129  
identify the person as an acupuncturist: "Acupuncturist," 130  
"Registered Licensed Acupuncturist," "R. Ac.," "Reg. Ac.," 131  
"~~Certified Acupuncturist,~~" "~~C.A.,~~" "~~C. Ac.,~~" "L.Ac.," "Diplomate 132  
of Acupuncture (NCCAOM)," "Dipl. Ac. (NCCAOM)," or "National Board 133  
Certified in Acupuncture (NCCAOM)." The person shall not use other 134  
titles, initials, or abbreviations in conjunction with the 135  
person's practice of acupuncture, including the title "doctor." 136

137

**Sec. 4762.09.** An acupuncturist who holds a certificate of 138  
~~registration to practice~~ issued under this chapter shall 139

conspicuously display at the acupuncturist's primary place of 140  
business both of the following: 141

(A) The acupuncturist's certificate ~~of registration~~, as 142  
evidence that the acupuncturist is authorized to practice 143  
acupuncture in this state; 144

(B) A notice specifying that the practice of acupuncture 145  
under the certificate ~~of registration~~ is regulated by the state 146  
medical board and the address and telephone number of the board's 147  
office. 148

**Sec. 4762.10.** ~~All~~ (A) On receipt of an initial certificate to 149  
practice as an acupuncturist issued under this chapter, the 150  
acupuncturist's practice is subject to a supervisory period. The 151  
length of the supervisory period shall be determined as follows: 152

(1) The supervisory period shall end one year after the 153  
initial certificate to practice was issued, if during that year 154  
the state medical board has not taken disciplinary action against 155  
the acupuncturist pursuant to section 4762.13 of the Revised Code. 156

(2) The supervisory period shall end two years after the 157  
initial certificate to practice was issued, if during the first 158  
year after the certificate was issued the state medical board has 159  
issued a final order imposing disciplinary action against the 160  
acupuncturist pursuant to section 4762.13 of the Revised Code and 161  
the form of disciplinary action imposed allows the acupuncturist 162  
to continue practicing. 163

(B) During an acupuncturist's supervisory period, both of the 164  
following apply to the acupuncturist's practice of a person who 165  
~~holds a certificate of registration as an acupuncturist issued~~ 166  
~~under this chapter~~ in addition to the requirements of division (D) 167  
of this section: 168

~~(A)~~(1) The acupuncturist shall perform acupuncture for a 169

patient only if the patient has received a written referral or 170  
prescription for acupuncture from a physician or chiropractor. As 171  
specified in the referral or prescription, the acupuncturist shall 172  
provide reports to the physician or chiropractor on the patient's 173  
condition or progress in treatment and comply with the conditions 174  
or restrictions on the acupuncturist's course of treatment. 175

~~(B)~~(2) The acupuncturist shall perform acupuncture under the 176  
general supervision of the patient's referring or prescribing 177  
physician or chiropractor. General supervision does not require 178  
that the acupuncturist and physician or chiropractor practice in 179  
the same office. 180

(C) After an acupuncturist's supervisory period has ended, 181  
both of the following apply to the acupuncturist's practice in 182  
addition to the applicable requirements of division (D) of this 183  
section: 184

(1) Before treating a patient for a particular condition, the 185  
acupuncturist shall confirm whether the patient has undergone 186  
within the past six months a diagnostic examination that was 187  
related to the condition for which the patient is seeking 188  
acupuncture and was performed by a physician or chiropractor 189  
acting within the physician or chiropractor's scope of practice. 190  
Confirmation that the diagnostic examination was performed may be 191  
made by obtaining from the patient a signed form stating that the 192  
patient has undergone the examination. 193

(2) If the patient does not provide the signed form specified 194  
in division (C)(1) of this section or the acupuncturist otherwise 195  
determines that the patient has not undergone the diagnostic 196  
examination specified in that division, the acupuncturist shall 197  
provide to the patient a written recommendation to undergo a 198  
diagnostic examination by a physician or chiropractor. 199

(D) In the practice of acupuncture pursuant to a certificate 200

to practice issued under this chapter, all of the following apply: 201  
202

(1) Prior to treating a patient, the acupuncturist shall 203  
advise the patient that acupuncture is not a substitute for 204  
conventional medical diagnosis and treatment. 205

~~(D)~~(2) On initially meeting a patient in person, the 206  
acupuncturist shall provide in writing the acupuncturist's name, 207  
business address, and business telephone number, and information 208  
on acupuncture, including the techniques that are used. 209

~~(E)~~(3) While treating a patient, the acupuncturist shall not 210  
make a diagnosis. If a patient's condition is not improving or a 211  
patient requires emergency medical treatment, the acupuncturist 212  
shall consult promptly with a physician. 213

~~(F)~~ ~~An~~ (4) The acupuncturist shall maintain records for each 214  
patient treated. ~~In each patient's records, the acupuncturist~~ 215  
~~shall include the written referral or prescription pursuant to~~ 216  
~~which the acupuncturist is treating the patient.~~ The records shall 217  
be confidential and shall be retained for not less than three 218  
years following termination of treatment. 219

During an acupuncturist's supervisory period, the 220  
acupuncturist shall include in a patient's records the written 221  
referral or prescription pursuant to which the acupuncturist is 222  
treating the patient. 223

**Sec. 4762.11.** All of the following apply to ~~an~~ 224  
~~acupuncturist's supervising a physician or chiropractor for a~~ 225  
~~patient~~ supervising an acupuncturist during the acupuncturist's 226  
supervisory period required by section 4762.10 of the Revised 227  
Code: 228

(A) Before making the referral or prescription for 229  
acupuncture, the physician shall perform a medical diagnostic 230

examination of the patient or review the results of a medical 231  
diagnostic examination recently performed by another physician, 232  
or, in the case of a chiropractor, the chiropractor shall perform 233  
a chiropractic diagnostic examination of the patient or review the 234  
results of a chiropractic diagnostic examination recently 235  
performed by another chiropractor. 236

(B) The physician or chiropractor shall make the referral or 237  
prescription in writing and specify in the referral or 238  
prescription all of the following: 239

(1) The physician's or chiropractor's diagnosis of the 240  
ailment or condition that is to be treated by acupuncture; 241

(2) A time by which or the intervals at which the 242  
acupuncturist must provide reports to the physician or 243  
chiropractor regarding the patient's condition or progress in 244  
treatment; 245

(3) The conditions or restrictions placed in accordance with 246  
division (C) of this section on the acupuncturist's course of 247  
treatment. 248

(C) The physician shall place conditions or restrictions on 249  
the acupuncturist's course of treatment in compliance with 250  
accepted or prevailing standards of medical care, or, in the case 251  
of a chiropractor, the chiropractor shall place conditions or 252  
restrictions on the acupuncturist's course of treatment in 253  
compliance with accepted or prevailing standards of chiropractic 254  
care. 255

(D) The physician or chiropractor shall be personally 256  
available for consultation with the acupuncturist. If the 257  
physician or chiropractor is not on the premises at which 258  
acupuncture is performed, the physician or chiropractor shall be 259  
readily available to the acupuncturist through some means of 260  
telecommunication and be in a location that under normal 261

circumstances is not more than sixty minutes travel time away from 262  
the location where the acupuncturist is practicing. 263

**Sec. 4762.13.** (A) The state medical board, by an affirmative 264  
vote of not fewer than six members, may revoke or may refuse to 265  
grant a certificate ~~of registration~~ to practice as an 266  
acupuncturist to a person found by the board to have committed 267  
fraud, misrepresentation, or deception in applying for or securing 268  
the certificate. 269

(B) The board, by an affirmative vote of not fewer than six 270  
members, shall, to the extent permitted by law, limit, revoke, or 271  
suspend an individual's certificate ~~of registration~~ to practice as 272  
an acupuncturist, refuse to issue a certificate to an applicant, 273  
refuse to reinstate a certificate, or reprimand or place on 274  
probation the holder of a certificate for any of the following 275  
reasons: 276

(1) Permitting the holder's name or certificate to be used by 277  
another person; 278

(2) Failure to comply with the requirements of this chapter, 279  
Chapter 4731. of the Revised Code, or any rules adopted by the 280  
board; 281

(3) Violating or attempting to violate, directly or 282  
indirectly, or assisting in or abetting the violation of, or 283  
conspiring to violate, any provision of this chapter, Chapter 284  
4731. of the Revised Code, or the rules adopted by the board; 285

(4) A departure from, or failure to conform to, minimal 286  
standards of care of similar practitioners under the same or 287  
similar circumstances whether or not actual injury to the patient 288  
is established; 289

(5) Inability to practice according to acceptable and 290  
prevailing standards of care by reason of mental illness or 291

physical illness, including physical deterioration that adversely	292
affects cognitive, motor, or perceptive skills;	293
(6) Impairment of ability to practice according to acceptable	294
and prevailing standards of care because of habitual or excessive	295
use or abuse of drugs, alcohol, or other substances that impair	296
ability to practice;	297
(7) Willfully betraying a professional confidence;	298
(8) Making a false, fraudulent, deceptive, or misleading	299
statement in soliciting or advertising for patients or in securing	300
or attempting to secure a certificate <del>of registration</del> to practice	301
as an acupuncturist.	302
As used in this division, "false, fraudulent, deceptive, or	303
misleading statement" means a statement that includes a	304
misrepresentation of fact, is likely to mislead or deceive because	305
of a failure to disclose material facts, is intended or is likely	306
to create false or unjustified expectations of favorable results,	307
or includes representations or implications that in reasonable	308
probability will cause an ordinarily prudent person to	309
misunderstand or be deceived.	310
(9) Representing, with the purpose of obtaining compensation	311
or other advantage personally or for any other person, that an	312
incurable disease or injury, or other incurable condition, can be	313
permanently cured;	314
(10) The obtaining of, or attempting to obtain, money or a	315
thing of value by fraudulent misrepresentations in the course of	316
practice;	317
(11) A plea of guilty to, a judicial finding of guilt of, or	318
a judicial finding of eligibility for intervention in lieu of	319
conviction for, a felony;	320
(12) Commission of an act that constitutes a felony in this	321

state, regardless of the jurisdiction in which the act was committed;	322 323
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	324 325 326
(14) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	327 328 329
(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	330 331 332
(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	333 334 335
(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;	336 337 338 339 340
(18) Any of the following actions taken by the state agency responsible for regulating the practice of acupuncture in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	341 342 343 344 345 346 347 348
(19) Violation of the conditions placed by the board on a certificate <del>of registration</del> <u>to practice as an acupuncturist</u> ;	349 350
(20) Failure to use universal blood and body fluid	351

precautions established by rules adopted under section 4731.051 of the Revised Code;

(21) Failure to cooperate in an investigation conducted by the board under section 4762.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(22) Failure to comply with the standards of the national certification commission for acupuncture and oriental medicine regarding professional ethics, commitment to patients, commitment to the profession, and commitment to the public;

(23) Failure to have adequate professional liability insurance coverage in accordance with section 4762.22 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an acupuncturist or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(D) For purposes of divisions (B)(12), (15), and (16) of this

section, the commission of the act may be established by a finding 383  
by the board, pursuant to an adjudication under Chapter 119. of 384  
the Revised Code, that the applicant or certificate holder 385  
committed the act in question. The board shall have no 386  
jurisdiction under these divisions in cases where the trial court 387  
renders a final judgment in the certificate holder's favor and 388  
that judgment is based upon an adjudication on the merits. The 389  
board shall have jurisdiction under these divisions in cases where 390  
the trial court issues an order of dismissal upon technical or 391  
procedural grounds. 392

(E) The sealing of conviction records by any court shall have 393  
no effect upon a prior board order entered under the provisions of 394  
this section or upon the board's jurisdiction to take action under 395  
the provisions of this section if, based upon a plea of guilty, a 396  
judicial finding of guilt, or a judicial finding of eligibility 397  
for intervention in lieu of conviction, the board issued a notice 398  
of opportunity for a hearing prior to the court's order to seal 399  
the records. The board shall not be required to seal, destroy, 400  
redact, or otherwise modify its records to reflect the court's 401  
sealing of conviction records. 402

(F) For purposes of this division, any individual who holds a 403  
certificate ~~of registration to practice~~ issued under this chapter, 404  
or applies for a certificate ~~of registration to practice~~, shall be 405  
deemed to have given consent to submit to a mental or physical 406  
examination when directed to do so in writing by the board and to 407  
have waived all objections to the admissibility of testimony or 408  
examination reports that constitute a privileged communication. 409

(1) In enforcing division (B)(5) of this section, the board, 410  
upon a showing of a possible violation, may compel any individual 411  
who holds a certificate ~~of registration to practice~~ issued under 412  
this chapter or who has applied for a certificate ~~of registration~~ 413  
pursuant to this chapter to submit to a mental examination, 414

physical examination, including an HIV test, or both a mental and 415  
physical examination. The expense of the examination is the 416  
responsibility of the individual compelled to be examined. Failure 417  
to submit to a mental or physical examination or consent to an HIV 418  
test ordered by the board constitutes an admission of the 419  
allegations against the individual unless the failure is due to 420  
circumstances beyond the individual's control, and a default and 421  
final order may be entered without the taking of testimony or 422  
presentation of evidence. If the board finds an acupuncturist 423  
unable to practice because of the reasons set forth in division 424  
(B)(5) of this section, the board shall require the acupuncturist 425  
to submit to care, counseling, or treatment by physicians approved 426  
or designated by the board, as a condition for an initial, 427  
continued, reinstated, or renewed certificate ~~of registration to~~ 428  
practice. An individual affected by this division shall be 429  
afforded an opportunity to demonstrate to the board the ability to 430  
resume practicing in compliance with acceptable and prevailing 431  
standards of care. 432

(2) For purposes of division (B)(6) of this section, if the 433  
board has reason to believe that any individual who holds a 434  
certificate ~~of registration to practice~~ issued under this chapter 435  
or any applicant for a certificate ~~of registration~~ suffers such 436  
impairment, the board may compel the individual to submit to a 437  
mental or physical examination, or both. The expense of the 438  
examination is the responsibility of the individual compelled to 439  
be examined. Any mental or physical examination required under 440  
this division shall be undertaken by a treatment provider or 441  
physician qualified to conduct such examination and chosen by the 442  
board. 443

Failure to submit to a mental or physical examination ordered 444  
by the board constitutes an admission of the allegations against 445  
the individual unless the failure is due to circumstances beyond 446

the individual's control, and a default and final order may be 447  
entered without the taking of testimony or presentation of 448  
evidence. If the board determines that the individual's ability to 449  
practice is impaired, the board shall suspend the individual's 450  
certificate or deny the individual's application and shall require 451  
the individual, as a condition for an initial, continued, 452  
reinstated, or renewed certificate ~~of registration~~, to submit to 453  
treatment. 454

Before being eligible to apply for reinstatement of a 455  
certificate suspended under this division, the acupuncturist shall 456  
demonstrate to the board the ability to resume practice in 457  
compliance with acceptable and prevailing standards of care. The 458  
demonstration shall include the following: 459

(a) Certification from a treatment provider approved under 460  
section 4731.25 of the Revised Code that the individual has 461  
successfully completed any required inpatient treatment; 462

(b) Evidence of continuing full compliance with an aftercare 463  
contract or consent agreement; 464

(c) Two written reports indicating that the individual's 465  
ability to practice has been assessed and that the individual has 466  
been found capable of practicing according to acceptable and 467  
prevailing standards of care. The reports shall be made by 468  
individuals or providers approved by the board for making such 469  
assessments and shall describe the basis for their determination. 470

The board may reinstate a certificate suspended under this 471  
division after such demonstration and after the individual has 472  
entered into a written consent agreement. 473

When the impaired acupuncturist resumes practice, the board 474  
shall require continued monitoring of the acupuncturist. The 475  
monitoring shall include monitoring of compliance with the written 476  
consent agreement entered into before reinstatement or with 477

conditions imposed by board order after a hearing, and, upon 478  
termination of the consent agreement, submission to the board for 479  
at least two years of annual written progress reports made under 480  
penalty of falsification stating whether the acupuncturist has 481  
maintained sobriety. 482

(G) If the secretary and supervising member determine that 483  
there is clear and convincing evidence that an acupuncturist has 484  
violated division (B) of this section and that the individual's 485  
continued practice presents a danger of immediate and serious harm 486  
to the public, they may recommend that the board suspend the 487  
individual's certificate ~~of registration~~ to practice without a 488  
prior hearing. Written allegations shall be prepared for 489  
consideration by the board. 490

The board, upon review of the allegations and by an 491  
affirmative vote of not fewer than six of its members, excluding 492  
the secretary and supervising member, may suspend a certificate 493  
without a prior hearing. A telephone conference call may be 494  
utilized for reviewing the allegations and taking the vote on the 495  
summary suspension. 496

The board shall issue a written order of suspension by 497  
certified mail or in person in accordance with section 119.07 of 498  
the Revised Code. The order shall not be subject to suspension by 499  
the court during pendency of any appeal filed under section 119.12 500  
of the Revised Code. If the acupuncturist requests an adjudicatory 501  
hearing by the board, the date set for the hearing shall be within 502  
fifteen days, but not earlier than seven days, after the 503  
acupuncturist requests the hearing, unless otherwise agreed to by 504  
both the board and the certificate holder. 505

A summary suspension imposed under this division shall remain 506  
in effect, unless reversed on appeal, until a final adjudicative 507  
order issued by the board pursuant to this section and Chapter 508  
119. of the Revised Code becomes effective. The board shall issue 509

its final adjudicative order within sixty days after completion of 510  
its hearing. Failure to issue the order within sixty days shall 511  
result in dissolution of the summary suspension order, but shall 512  
not invalidate any subsequent, final adjudicative order. 513

(H) If the board takes action under division (B)(11), (13), 514  
or (14) of this section, and the judicial finding of guilt, guilty 515  
plea, or judicial finding of eligibility for intervention in lieu 516  
of conviction is overturned on appeal, upon exhaustion of the 517  
criminal appeal, a petition for reconsideration of the order may 518  
be filed with the board along with appropriate court documents. 519  
Upon receipt of a petition and supporting court documents, the 520  
board shall reinstate the certificate ~~of registration~~ to practice. 521  
The board may then hold an adjudication under Chapter 119. of the 522  
Revised Code to determine whether the individual committed the act 523  
in question. Notice of opportunity for hearing shall be given in 524  
accordance with Chapter 119. of the Revised Code. If the board 525  
finds, pursuant to an adjudication held under this division, that 526  
the individual committed the act, or if no hearing is requested, 527  
it may order any of the sanctions specified in division (B) of 528  
this section. 529

(I) The certificate ~~of registration~~ to practice of an 530  
acupuncturist and the acupuncturist's practice in this state are 531  
automatically suspended as of the date the acupuncturist pleads 532  
guilty to, is found by a judge or jury to be guilty of, or is 533  
subject to a judicial finding of eligibility for intervention in 534  
lieu of conviction in this state or treatment or intervention in 535  
lieu of conviction in another jurisdiction for any of the 536  
following criminal offenses in this state or a substantially 537  
equivalent criminal offense in another jurisdiction: aggravated 538  
murder, murder, voluntary manslaughter, felonious assault, 539  
kidnapping, rape, sexual battery, gross sexual imposition, 540  
aggravated arson, aggravated robbery, or aggravated burglary. 541

Continued practice after the suspension shall be considered 542  
practicing without a certificate. 543

The board shall notify the individual subject to the 544  
suspension by certified mail or in person in accordance with 545  
section 119.07 of the Revised Code. If an individual whose 546  
certificate is suspended under this division fails to make a 547  
timely request for an adjudication under Chapter 119. of the 548  
Revised Code, the board shall enter a final order permanently 549  
revoking the individual's certificate ~~of registration~~ to practice. 550

(J) In any instance in which the board is required by Chapter 551  
119. of the Revised Code to give notice of opportunity for hearing 552  
and the individual subject to the notice does not timely request a 553  
hearing in accordance with section 119.07 of the Revised Code, the 554  
board is not required to hold a hearing, but may adopt, by an 555  
affirmative vote of not fewer than six of its members, a final 556  
order that contains the board's findings. In the final order, the 557  
board may order any of the sanctions identified under division (A) 558  
or (B) of this section. 559

(K) Any action taken by the board under division (B) of this 560  
section resulting in a suspension shall be accompanied by a 561  
written statement of the conditions under which the 562  
acupuncturist's certificate to practice may be reinstated. The 563  
board shall adopt rules in accordance with Chapter 119. of the 564  
Revised Code governing conditions to be imposed for reinstatement. 565  
Reinstatement of a certificate suspended pursuant to division (B) 566  
of this section requires an affirmative vote of not fewer than six 567  
members of the board. 568

(L) When the board refuses to grant a certificate ~~of~~ 569  
~~registration~~ to practice as an acupuncturist to an applicant, 570  
revokes an individual's certificate ~~of registration~~, refuses to 571  
renew a certificate ~~of registration~~, or refuses to reinstate an 572  
individual's certificate ~~of registration~~, the board may specify 573

that its action is permanent. An individual subject to a permanent 574  
action taken by the board is forever thereafter ineligible to hold 575  
a certificate ~~of registration~~ to practice as an acupuncturist and 576  
the board shall not accept an application for reinstatement of the 577  
certificate or for issuance of a new certificate. 578

579

(M) Notwithstanding any other provision of the Revised Code, 580  
all of the following apply: 581

(1) The surrender of a certificate ~~of registration~~ to 582  
practice as an acupuncturist issued under this chapter is not 583  
effective unless or until accepted by the board. Reinstatement of 584  
a certificate surrendered to the board requires an affirmative 585  
vote of not fewer than six members of the board. 586

(2) An application made under this chapter for a certificate 587  
~~of registration~~ may not be withdrawn without approval of the 588  
board. 589

(3) Failure by an individual to renew a certificate ~~of~~ 590  
~~registration~~ in accordance with section 4762.06 of the Revised 591  
Code shall not remove or limit the board's jurisdiction to take 592  
disciplinary action under this section against the individual. 593

**Sec. 4762.131.** On receipt of a notice pursuant to section 594  
2301.373 of the Revised Code, the state medical board shall comply 595  
with that section with respect to a certificate ~~of registration~~ to 596  
practice as an acupuncturist issued pursuant to this chapter. 597

**Sec. 4762.132.** If the state medical board has reason to 598  
believe that any person who has been granted a ~~certificate~~ under 599  
this chapter a certificate to practice as an acupuncturist is 600  
mentally ill or mentally incompetent, it may file in the probate 601  
court of the county in which the person has a legal residence an 602  
affidavit in the form prescribed in section 5122.11 of the Revised 603

Code and signed by the board secretary or a member of the board 604  
secretary's staff, whereupon the same proceedings shall be had as 605  
provided in Chapter 5122. of the Revised Code. The attorney 606  
general may represent the board in any proceeding commenced under 607  
this section. 608

If any person who has been granted a certificate is adjudged 609  
by a probate court to be mentally ill or mentally incompetent, the 610  
person's certificate shall be automatically suspended until the 611  
person has filed with the state medical board a certified copy of 612  
an adjudication by a probate court of the person's subsequent 613  
restoration to competency or has submitted to the board proof, 614  
satisfactory to the board, that the person has been discharged as 615  
having a restoration to competency in the manner and form provided 616  
in section 5122.38 of the Revised Code. The judge of the probate 617  
court shall forthwith notify the state medical board of an 618  
adjudication of mental illness or mental incompetence, and shall 619  
note any suspension of a certificate in the margin of the court's 620  
record of such certificate. 621

**Sec. 4762.15.** (A) As used in this section, "prosecutor" has 622  
the same meaning as in section 2935.01 of the Revised Code. 623

(B) Whenever any person holding a valid certificate to 624  
practice as an acupuncturist issued pursuant to this chapter 625  
pleads guilty to, is subject to a judicial finding of guilt of, or 626  
is subject to a judicial finding of eligibility for intervention 627  
in lieu of conviction for a violation of Chapter 2907., 2925., or 628  
3719. of the Revised Code or of any substantively comparable 629  
ordinance of a municipal corporation in connection with the 630  
person's practice, the prosecutor in the case, on forms prescribed 631  
and provided by the state medical board, shall promptly notify the 632  
board of the conviction. Within thirty days of receipt of that 633  
information, the board shall initiate action in accordance with 634

Chapter 119. of the Revised Code to determine whether to suspend 635  
or revoke the certificate under section 4762.13 of the Revised 636  
Code. 637

(C) The prosecutor in any case against any person holding a 638  
valid certificate to practice issued pursuant to this chapter, on 639  
forms prescribed and provided by the state medical board, shall 640  
notify the board of any of the following: 641

(1) A plea of guilty to, a finding of guilt by a jury or 642  
court of, or judicial finding of eligibility for intervention in 643  
lieu of conviction for a felony, or a case in which the trial 644  
court issues an order of dismissal upon technical or procedural 645  
grounds of a felony charge; 646

(2) A plea of guilty to, a finding of guilt by a jury or 647  
court of, or judicial finding of eligibility for intervention in 648  
lieu of conviction for a misdemeanor committed in the course of 649  
practice, or a case in which the trial court issues an order of 650  
dismissal upon technical or procedural grounds of a charge of a 651  
misdemeanor, if the alleged act was committed in the course of 652  
practice; 653

(3) A plea of guilty to, a finding of guilt by a jury or 654  
court of, or judicial finding of eligibility for intervention in 655  
lieu of conviction for a misdemeanor involving moral turpitude, or 656  
a case in which the trial court issues an order of dismissal upon 657  
technical or procedural grounds of a charge of a misdemeanor 658  
involving moral turpitude. 659

The report shall include the name and address of the 660  
certificate holder, the nature of the offense for which the action 661  
was taken, and the certified court documents recording the action. 662  
663

**Sec. 4762.16.** (A) Within sixty days after the imposition of 664

any formal disciplinary action taken by any health care facility, 665  
including a hospital, health care facility operated by ~~an~~ a health 666  
insuring corporation, ambulatory surgical center, or similar 667  
facility, against any individual holding a valid certificate ~~of~~ 668  
registration to practice as an acupuncturist, the chief 669  
administrator or executive officer of the facility shall report to 670  
the state medical board the name of the individual, the action 671  
taken by the facility, and a summary of the underlying facts 672  
leading to the action taken. Upon request, the board shall be 673  
provided certified copies of the patient records that were the 674  
basis for the facility's action. Prior to release to the board, 675  
the summary shall be approved by the peer review committee that 676  
reviewed the case or by the governing board of the facility. 677

The filing of a report with the board or decision not to file 678  
a report, investigation by the board, or any disciplinary action 679  
taken by the board, does not preclude a health care facility from 680  
taking disciplinary action against an acupuncturist. 681

In the absence of fraud or bad faith, no individual or entity 682  
that provides patient records to the board shall be liable in 683  
damages to any person as a result of providing the records. 684

(B) An acupuncturist, professional association or society of 685  
acupuncturists, physician, or professional association or society 686  
of physicians that believes a violation of any provision of this 687  
chapter, Chapter 4731. of the Revised Code, or rule of the board 688  
has occurred shall report to the board the information upon which 689  
the belief is based. This division does not require any treatment 690  
provider approved by the board under section 4731.25 of the 691  
Revised Code or any employee, agent, or representative of such a 692  
provider to make reports with respect to an acupuncturist 693  
participating in treatment or aftercare for substance abuse as 694  
long as the acupuncturist maintains participation in accordance 695  
with the requirements of section 4731.25 of the Revised Code and 696

the treatment provider or employee, agent, or representative of 697  
the provider has no reason to believe that the acupuncturist has 698  
violated any provision of this chapter or rule adopted under it, 699  
other than being impaired by alcohol, drugs, or other substances. 700  
This division does not require reporting by any member of an 701  
impaired practitioner committee established by a health care 702  
facility or by any representative or agent of a committee or 703  
program sponsored by a professional association or society of 704  
acupuncturists to provide peer assistance to acupuncturists with 705  
substance abuse problems with respect to an acupuncturist who has 706  
been referred for examination to a treatment program approved by 707  
the board under section 4731.25 of the Revised Code if the 708  
acupuncturist cooperates with the referral for examination and 709  
with any determination that the acupuncturist should enter 710  
treatment and as long as the committee member, representative, or 711  
agent has no reason to believe that the acupuncturist has ceased 712  
to participate in the treatment program in accordance with section 713  
4731.25 of the Revised Code or has violated any provision of this 714  
chapter or rule adopted under it, other than being impaired by 715  
alcohol, drugs, or other substances. 716

(C) Any professional association or society composed 717  
primarily of acupuncturists that suspends or revokes an 718  
individual's membership for violations of professional ethics, or 719  
for reasons of professional incompetence or professional 720  
malpractice, within sixty days after a final decision, shall 721  
report to the board, on forms prescribed and provided by the 722  
board, the name of the individual, the action taken by the 723  
professional organization, and a summary of the underlying facts 724  
leading to the action taken. 725

The filing of a report with the board or decision not to file 726  
a report, investigation by the board, or any disciplinary action 727  
taken by the board, does not preclude a professional organization 728

from taking disciplinary action against an acupuncturist. 729

(D) Any insurer providing professional liability insurance to 730  
any person holding a valid certificate ~~of registration~~ to practice 731  
as an acupuncturist or any other entity that seeks to indemnify 732  
the professional liability of an acupuncturist shall notify the 733  
board within thirty days after the final disposition of any 734  
written claim for damages where such disposition results in a 735  
payment exceeding twenty-five thousand dollars. The notice shall 736  
contain the following information: 737

(1) The name and address of the person submitting the 738  
notification; 739

(2) The name and address of the insured who is the subject of 740  
the claim; 741

(3) The name of the person filing the written claim; 742

(4) The date of final disposition; 743

(5) If applicable, the identity of the court in which the 744  
final disposition of the claim took place. 745

(E) The board may investigate possible violations of this 746  
chapter or the rules adopted under it that are brought to its 747  
attention as a result of the reporting requirements of this 748  
section, except that the board shall conduct an investigation if a 749  
possible violation involves repeated malpractice. As used in this 750  
division, "repeated malpractice" means three or more claims for 751  
malpractice within the previous five-year period, each resulting 752  
in a judgment or settlement in excess of twenty-five thousand 753  
dollars in favor of the claimant, and each involving negligent 754  
conduct by the acupuncturist. 755

(F) All summaries, reports, and records received and 756  
maintained by the board pursuant to this section shall be held in 757  
confidence and shall not be subject to discovery or introduction 758

in evidence in any federal or state civil action involving an 759  
acupuncturist, supervising physician, or health care facility 760  
arising out of matters that are the subject of the reporting 761  
required by this section. The board may use the information 762  
obtained only as the basis for an investigation, as evidence in a 763  
disciplinary hearing against an acupuncturist or supervising 764  
physician, or in any subsequent trial or appeal of a board action 765  
or order. 766

The board may disclose the summaries and reports it receives 767  
under this section only to health care facility committees within 768  
or outside this state that are involved in credentialing or 769  
recredentialing an acupuncturist or supervising physician or 770  
reviewing their privilege to practice within a particular 771  
facility. The board shall indicate whether or not the information 772  
has been verified. Information transmitted by the board shall be 773  
subject to the same confidentiality provisions as when maintained 774  
by the board. 775

(G) Except for reports filed by an individual pursuant to 776  
division (B) of this section, the board shall send a copy of any 777  
reports or summaries it receives pursuant to this section to the 778  
acupuncturist. The acupuncturist shall have the right to file a 779  
statement with the board concerning the correctness or relevance 780  
of the information. The statement shall at all times accompany 781  
that part of the record in contention. 782

(H) An individual or entity that reports to the board or 783  
refers an impaired acupuncturist to a treatment provider approved 784  
by the board under section 4731.25 of the Revised Code shall not 785  
be subject to suit for civil damages as a result of the report, 786  
referral, or provision of the information. 787

(I) In the absence of fraud or bad faith, a professional 788  
association or society of acupuncturists that sponsors a committee 789  
or program to provide peer assistance to an acupuncturist with 790

substance abuse problems, a representative or agent of such a 791  
committee or program, and a member of the state medical board 792  
shall not be held liable in damages to any person by reason of 793  
actions taken to refer an acupuncturist to a treatment provider 794  
approved under section 4731.25 of the Revised Code for examination 795  
or treatment. 796

**Sec. 4762.18.** (A) Subject to division (E) of this section, 797  
the attorney general, the prosecuting attorney of any county in 798  
which the offense was committed or the offender resides, the state 799  
medical board, or any other person having knowledge of a person 800  
engaged either directly or by complicity in the practice of 801  
acupuncture without having first obtained a certificate ~~of~~ 802  
~~registration~~ to do so pursuant to this chapter, may, in accord 803  
with provisions of the Revised Code governing injunctions, 804  
maintain an action in the name of the state to enjoin any person 805  
from engaging either directly or by complicity in the unlawful 806  
practice of acupuncture by applying for an injunction in any court 807  
of competent jurisdiction. 808

(B) Prior to application for an injunction under division (A) 809  
of this section, the secretary of the state medical board shall 810  
notify the person allegedly engaged either directly or by 811  
complicity in the unlawful practice of acupuncture by registered 812  
mail that the secretary has received information indicating that 813  
this person is so engaged. The person shall answer the secretary 814  
within thirty days showing that the person is either properly 815  
licensed for the stated activity or that the person is not in 816  
violation of this chapter. If the answer is not forthcoming within 817  
thirty days after notice by the secretary, the secretary shall 818  
request that the attorney general, the prosecuting attorney of the 819  
county in which the offense was committed or the offender resides, 820  
or the state medical board proceed as authorized in this section. 821

(C) Upon the filing of a verified petition in court, the 822  
court shall conduct a hearing on the petition and shall give the 823  
same preference to this proceeding as is given all proceedings 824  
under Chapter 119. of the Revised Code, irrespective of the 825  
position of the proceeding on the calendar of the court. 826

(D) Injunction proceedings as authorized by this section 827  
shall be in addition to, and not in lieu of, all penalties and 828  
other remedies provided in this chapter. 829

(E) An injunction proceeding permitted by division (A) of 830  
this section may not be maintained against a person described in 831  
division (B) of section 4762.02 of the Revised Code or a 832  
chiropractor who holds a valid certificate to practice acupuncture 833  
issued under section 4734.283 of the Revised Code. 834

Sec. 4762.22. An acupuncturist who holds a certificate to 835  
practice issued under this chapter shall have professional 836  
liability insurance coverage in an amount that is not less than 837  
five hundred thousand dollars. 838

**Section 2.** That existing sections 4762.02, 4762.03, 4762.031, 839  
4762.04, 4762.05, 4762.06, 4762.08, 4762.09, 4762.10, 4762.11, 840  
4762.13, 4762.131, 4762.132, 4762.15, 4762.16, and 4762.18 of the 841  
Revised Code are hereby repealed. 842