

**ASSEMBLY BILL**

**No. 1117**

---

**Introduced by Assembly Member Yee**

February 22, 2005

---

An act to amend Sections 2075, 3642, 4926, 4935, 4937, and 4939 of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 1117, as introduced, Yee. Asian medicine.

Existing law provides for the licensing and regulation of the practice of oriental medicine and acupuncture.

This bill would change the term "oriental medicine" to "Asian medicine."

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2075 of the Business and Professions  
2 Code is amended to read:  
3 2075. The performance of acupuncture by a certified  
4 acupuncturist or other licentiate legally authorized to practice  
5 acupuncture within his or her scope of practice or a person  
6 licensed or certified in another state to perform acupuncture or  
7 other forms of traditional ~~oriental~~ *Asian* medicine, alone or in  
8 conjunction with other forms of traditional ~~oriental~~ *Asian*  
9 medicine, when carried on in a program affiliated with and under  
10 the jurisdiction of an approved medical school or approved  
11 acupuncture school, for the primary purpose of scientific  
12 investigation of acupuncture, shall not be in violation of this

1 chapter, but those procedures shall be carried on only under the  
2 supervision of a licensed physician and surgeon.

3 Any medical school or approved acupuncture school  
4 conducting research into acupuncture under this section shall  
5 report to the Legislature annually on the fifth legislative day of  
6 the regular session of the Legislature concerning the results of  
7 that research, the suitability of acupuncture as a therapeutic  
8 technique, and performance standards for persons who perform  
9 acupuncture.

10 SEC. 2. Section 3642 of the Business and Professions Code is  
11 amended to read:

12 3642. A naturopathic doctor may not perform any of the  
13 following functions:

14 (a) Prescribe, dispense, or administer a controlled substance or  
15 device identified in Sections 801 to 971, inclusive, of Title 21 of  
16 the United States Code, except as authorized by this chapter.

17 (b) Administer therapeutic ionizing radiation or radioactive  
18 substances.

19 (c) Practice or claim to practice any other system or method of  
20 treatment beyond that authorized by this chapter, for which  
21 licensure is required, unless otherwise licensed to do so.

22 (d) Administer general or spinal anesthesia.

23 (e) Perform an abortion.

24 (f) Perform any surgical procedure.

25 (g) Perform acupuncture or traditional Chinese and ~~oriental~~  
26 *Asian* medicine, including Chinese herbal medicine, unless  
27 licensed as an acupuncturist as defined in subdivision (c) of  
28 Section 4927.

29 SEC. 3. Section 4926 of the Business and Professions Code is  
30 amended to read:

31 4926. In its concern with the need to eliminate the  
32 fundamental causes of illness, not simply to remove symptoms,  
33 and with the need to treat the whole person, the Legislature  
34 intends to establish in this article, a framework for the practice of  
35 the art and science of ~~oriental~~ *Asian* medicine through  
36 acupuncture.

37 The purpose of this article is to encourage the more effective  
38 utilization of the skills of acupuncturists by California citizens  
39 desiring a holistic approach to health and to remove the existing  
40 legal constraints which are an unnecessary ~~hindrance~~ *hindrance*

1 to the more effective provision of health care services. Also, as it  
2 effects the public health, safety, and welfare, there is a necessity  
3 that individuals practicing acupuncture be subject to regulation  
4 and control as a primary health care profession.

5 SEC. 4. Section 4935 of the Business and Professions Code is  
6 amended to read:

7 4935. (a) (1) It is a misdemeanor, punishable by a fine of not  
8 less than one hundred dollars (\$100) and not more than two  
9 thousand five hundred dollars (\$2,500), or by imprisonment in a  
10 county jail not exceeding one year, or by both that fine and  
11 imprisonment, for any person who does not hold a current and  
12 valid license to practice acupuncture under this chapter or to hold  
13 himself or herself out as practicing or engaging in the practice of  
14 acupuncture.

15 (2) It is a misdemeanor, punishable by a fine of not less than  
16 one hundred dollars (\$100) and not more than two thousand five  
17 hundred dollars (\$2,500), or by imprisonment in a county jail not  
18 exceeding one year, or by both that fine and imprisonment, for  
19 any person to fraudulently buy, sell, or obtain a license to  
20 practice acupuncture, or to violate the provisions of this chapter.

21 (b) Notwithstanding any other provision of law, any person,  
22 other than a physician and surgeon, a dentist, or a podiatrist, who  
23 is not licensed under this article but is licensed under Division 2  
24 (commencing with Section 500), who practices acupuncture  
25 involving the application of a needle to the human body,  
26 performs any acupuncture technique or method involving the  
27 application of a needle to the human body, or directs, manages,  
28 or supervises another person in performing acupuncture  
29 involving the application of a needle to the human body is guilty  
30 of a misdemeanor.

31 (c) A person holds himself or herself out as engaging in the  
32 practice of acupuncture by the use of any title or description of  
33 services incorporating the words "acupuncture," "acupuncturist,"  
34 "certified acupuncturist," "licensed acupuncturist," "*Asian*  
35 *medicine*," "oriental medicine," or any combination of those  
36 words, phrases, or abbreviations of those words or phrases, or by  
37 representing that he or she is trained, experienced, or an expert in  
38 the field of acupuncture, ~~oriental~~ *Asian* medicine, or Chinese  
39 medicine.

1 (d) Subdivision (a) shall not prohibit a person from  
2 administering acupuncture treatment as part of his or her  
3 educational training if he or she:

4 (1) Is engaged in a course or tutorial program in acupuncture,  
5 as provided in this chapter; or

6 (2) Is a graduate of a school of acupuncture approved by the  
7 board and participating in a postgraduate review course that does  
8 not exceed one year in duration at a school approved by the  
9 board.

10 SEC. 5. Section 4937 of the Business and Professions Code is  
11 amended to read:

12 4937. An acupuncturist's license authorizes the holder  
13 thereof:

14 (a) To engage in the practice of acupuncture.

15 (b) To perform or prescribe the use of ~~oriental~~ *Asian* massage,  
16 acupressure, breathing techniques, exercise, heat, cold, magnets,  
17 nutrition, diet, herbs, plant, animal, and mineral products, and  
18 dietary supplements to promote, maintain, and restore health.  
19 Nothing in this section prohibits any person who does not  
20 possess an acupuncturist's license or another license as a healing  
21 arts practitioner from performing, or prescribing the use of any  
22 modality listed in this subdivision.

23 (c) For purposes of this section, a "magnet" means a mineral  
24 or metal that produces a magnetic field without the application of  
25 an electric current.

26 (d) For purposes of this section, "plant, animal, and mineral  
27 products" means naturally occurring substances of plant, animal,  
28 or mineral origin, except that it does not include synthetic  
29 compounds, controlled substances or dangerous drugs as defined  
30 in Sections 4021 and 4022, or a controlled substance listed in  
31 Chapter 2 (commencing with Section 11053) of Division 10 of  
32 the Health and Safety Code.

33 (e) For purposes of this section, "dietary supplement" has the  
34 same meaning as defined in subsection (ff) of Section 321 of  
35 Title 21 of the United States Code, except that dietary  
36 supplement does not include controlled substances or dangerous  
37 drugs as defined in Section 4021 or 4022, or a controlled  
38 substance listed in Chapter 2 (commencing with Section 11053)  
39 of Division 10 of the Health and Safety Code.

1 SEC. 6. Section 4939 of the Business and Professions Code is  
2 amended to read:

3 4939. (a) On or before January 1, 2004, the board shall  
4 establish standards for the approval of schools and colleges  
5 offering education and training in the practice of an  
6 acupuncturist, including standards for the faculty in those schools  
7 and colleges and tutorial programs, completion of which will  
8 satisfy the requirements of Section 4938.

9 (b) Standards for the approval of training programs shall  
10 include a minimum of 3,000 hours of study in curriculum  
11 pertaining to the practice of an acupuncturist. This subdivision  
12 shall apply to all students entering programs on or after January  
13 1, 2005.

14 (c) Within three years of initial approval by the board, each  
15 program so approved by the board shall receive full institutional  
16 approval under Article 3.5 (commencing with Section 94760) of  
17 Chapter 7 of Part 59 of the Education Code in the field of  
18 traditional-oriental *Asian* medicine, or in the case of institutions  
19 located outside of this state, approval by the appropriate  
20 governmental educational authority using standards equivalent to  
21 those of Article 3.5 (commencing with Section 94760) of  
22 Chapter 7 of Part 59 of the Education Code, or the board's  
23 approval of the program shall automatically lapse.