

Legislative Update: New Laws Passed in Illinois, South Carolina

By Editorial Staff

On May 26 and June 3, respectively, the legislatures of Illinois and South Carolina passed new laws that will dramatically affect the way acupuncture will be practiced in those states. Both laws include language that replaces or modifies existing verbiage that had restricted members of the general public from seeing an acupuncturist without first being referred by a medical doctor. As a result, South Carolina and Illinois join more than 30 states in the U.S. that now allow acupuncturists to treat patients without a referral from a physician.

For more information on these important pieces of legislation, please see "South Carolina Passes New Acupuncture Law," written by *Acupuncture Today's* editorial staff, and "Illinois Passes Landmark Piece of Legislation to Allow Independent Practice for Licensed Acupuncturists," by Claudette Baker, which begin below.

South Carolina Passes New Acupuncture Law: Bill Removes Supervision and Referral Restrictions

The South Carolina General Assembly, after debating the issue for almost 16 months, has passed new legislation pertaining to the licensing and regulation of the state's acupuncturists. The bill, H 3891, establishes a new acupuncture advisory committee, creates licensure and license renewal requirements for new and currently practicing acupuncturists, auricular therapists and detoxification specialists, and repeals language that prohibited acupuncturists from treating patients without prior referral and supervision under a dentist or medical doctor.

Highlights of H 3891 One section of H 3891 creates an Acupuncture Advisory Committee, whose members will be appointed by the South Carolina Board of Medical Examiners. The committee will consist of five members, three of whom must be licensed to practice acupuncture. The committee will meet at least twice per year, and is charged with recommending regulations to the Board of Medical Examiners related to professional certification, qualifications for practicing, establishing ethical standards of practice, and other issues related to the practice of acupuncture.

Persons licensed to practice acupuncture in South Carolina may use the "LAc" designation and the titles "licensed acupuncturist" and/or "acupuncturist." All new acupuncturists wishing to be licensed must submit a completed application, and be actively certified to practice acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine. Currently practicing acupuncturists need not be certified by the NCCAOM to become licensed, but must be certified to have their licenses renewed. Similar regulations apply for auricular therapists and auricular detoxification specialists. Licenses for all three categories of provider will be renewed biennially.

Arguably the most important component of H 3891 relates to the ability of acupuncturists to care for patients without another health care provider's referral and/or supervision. Previous legislation required that an acupuncturist could treat patients only under the supervision and referral of a licensed medical doctor or dentist in facilities approved by the state's Department of Health and Environmental Control, and that an acupuncturist could not practice without prior written approval of the Board of Medical Examiners.

H 3891 removes those requirements, thus clearing the way for acupuncturists to provide care without a doctor or dentist's referral, and without being under their direct supervision. However, if an acupuncturist fails to refer a patient whose condition was determined to be beyond the acupuncturist's scope of practice to a medical doctor or

dentist, he or she can be sanctioned by the Board of Medical Examiners. In addition, if an acupuncturist continues to provide acupuncture, auricular therapy or detoxification therapy to any patient at least one time per month for three consecutive months, and the patient fails to show any clinical improvement, the acupuncturist could face sanctions unless he or she informs the patient in writing that the patient may need to seek a medical diagnosis from a medical doctor or dentist before continuing with treatment, or unless the patient was referred to the acupuncturist by a dentist or medical doctor.

Auricular therapists and detoxification specialists, meanwhile, may provide treatment only under the supervision of a licensed acupuncturist or person licensed to practice medicine. H 3891 also specifies what types of treatments specialists and therapists may administer.

H 3891 was originally introduced in March 2003 as part of a larger health services bill. It was initially referred to the House Committee on Medical, Military, Public and Municipal Affairs, approved by the House and sent to the Senate Committee on Medical Affairs, where it languished for nearly a year. In April 2004, the committee amended the bill, then returned it to the Senate with a favorable review. It was then reviewed by both the House and Senate before finally being passed on June 3, the last day of the 2004 legislative session.

Illinois Passes Landmark Piece of Legislation to Allow Independent Practice for Licensed Acupuncturists

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On May 26, 2004, Senate Bill 2254 unanimously passed both houses of the Illinois Legislature. When Gov. Rod Blagojevich signs it some time toward the end of August, Illinois acupuncturists will finally be able to treat patients without a physician referral. The passage of this bill is considered to be a watershed event for the country because Illinois is one of the most medically conservative states in the U.S. Our bill passed with the full support of the Illinois State Medical Society, the local branch of the AMA.

This legislative action was headed by myself and Dean Mouscher, LAc, Dipl. Ac. (NCCAOM), executive director of the Illinois Acupuncture Federation (IAF). The IAF consists of most of the acupuncture groups in Illinois, including the Illinois State Acupuncture Association (ISAA), the Asian-American Acupuncture Association, the Chicago Korean-American Acupuncture Association, the Korean-American Acupuncture Association, and Pacific College of Oriental Medicine.

SB 2254 was the result of careful negotiations over the past two years by the ISAA/IAF and is an **agreed bill** with the Illinois State Medical Society. This bill amends the state's Acupuncture Practice Act to make two changes.

First, the legislation updates two references in the act to the national acupuncture certifying and accrediting bodies to reflect their name changes since passage of our initial Acupuncture Practice Act seven years ago.

Second, SB 2254 adds **agreed** language between the acupuncture community and the Illinois State Medical Society on physician referrals. SB 2254 enjoyed widespread support in the General Assembly, passing the House by a vote of 109-5-0, the Senate 55-0-0, the House Registration and Regulation Committee 12-0-0, and the Senate Licensed Activities Committee 6-0-0. There are **no** opponents.

Current state statute provides that an acupuncturist *must* have on file a written referral from a physician in order to perform acupuncture on a patient. SB 2254 modifies the physician referral requirement to *allow* physicians to refer patients to an acupuncturist for treatment while maintaining management of the patient's health care. However, a patient is *not required* to have a referral to seek acupuncture under the new law.

This change will bring Illinois closer in line to the national trend. Of the 40+ states that license acupuncturists through state statutes, over 30 allow acupuncturists to treat patients without any referral order by a physician. Comparable states to Illinois, such as California, Florida, Oregon and New York, have no physician referral requirement. At least 18 states have removed the physician referral requirement or passed acupuncture practice laws without that requirement in the past 12 years (e.g., Alaska, Arizona, Arkansas, Connecticut, Georgia, Hawaii, Idaho, Iowa, Massachusetts, Maryland, Minnesota, New Hampshire, New York, North Carolina, Tennessee, Vermont, Virginia, and West Virginia). This legislation strikes a balance between current Illinois law and the national trend by allowing physicians to maintain management of the patient following referral.

Additionally, some Illinois physicians have come to regard the physician referral requirement as an unwelcome burden. Many physicians do not possess independent knowledge of the practice of acupuncture and are wary of the legally vulnerable position they place themselves in by being required to refer patients to a practice that is not included within their normal professional training. The national trend of removing physician referral requirements has reflected this sentiment, as has the recognition that acupuncturists are thoroughly trained and tested in their professional field. The national trend also reflects a growing desire by patients to have more direct access to acupuncture treatment. SB 2254 addresses these concerns, while maintaining physician management of the patient when desired. The Illinois State Medical Society (ISMS) recently adopted a resolution by the ISMS House of Delegates which endorses the changes made in SB 2254 and HB 2981, identical bills that passed in both chambers.

From my 20+ years of experience in running a practice, serving the acupuncture community on the state and national levels, and as a multiple-term president of the AAOM and the ISAA, I know that this legislation will be of tremendous benefit to patients, physicians and the acupuncture community. My hope is that this will encourage other state legislatures to adopt similar measures when considering new legislation for the practice of acupuncture in unlicensed states. I want to thank the AAOM for its invaluable support to Illinois over the past 10 years as I worked to help pass both the initial legislation regulating our profession in Illinois and this most current bill.

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Editor's note: Acupuncture Today would like to thank William D. Skelton, DAC, for bringing the passage of H 3891 to our attention.

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