

SECOND REGULAR SESSION

SENATE BILL NO. 937

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STAPLES.

Read 1st time January 31, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4287S.011

AN ACT

To repeal sections 324.478 and 324.481, RSMo Supp. 1999, relating to the acupuncturist advisory council, and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 324.478 and 324.481, RSMo Supp. 1999, are repealed and two new sections enacted in lieu thereof, to be known as sections 324.478 and 324.481, to read as follows:

324.478. 1. There is hereby created within the division of professional registration a committee to be known as the "Missouri Acupuncturist Advisory Committee". The committee shall consist of five members, all of whom shall be citizens of the United States and registered voters of the state of Missouri. The governor shall appoint the members of the committee with the advice and consent of the senate for terms of four years; except as provided in subsection 2 of this section. Three committee members shall be acupuncturists. Such members shall at all times be holders of licenses for the practice of acupuncture in this state; except for the members of the first committee who shall meet the requirements for licensure pursuant to sections 324.475 to 324.499. One member shall be a current board member of the Missouri state board for chiropractic examiners. The remaining member shall be a public member. All members shall be chosen from lists submitted by the director of the division of professional registration. The president of the Acupuncture Association of Missouri in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five acupuncturists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

with the list so submitted, the president of the Acupuncture Association of Missouri shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The initial appointments to the committee shall be one member for a term of one year, one member for a term of two years, one member for a term of three years and two members for a term of four years.

3. The public member of the committee shall not be and never has been a member of any profession regulated by the provisions of sections 324.475 to 324.499, or the spouse of any such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by the provisions of sections 324.475 to 324.499 or an activity or organization directly related to the profession regulated pursuant to sections 324.475 to 324.499.

4. Any member of the committee may be removed from the committee by the governor for neglect of duty required by law, for incompetency or for unethical or dishonest conduct. Upon the death, resignation, disqualification or removal of any member of the committee, the governor shall appoint a successor. A vacancy in the office of any member shall only be filled for the unexpired term.

5. The acupuncturist advisory committee shall:

(1) Review all applications for licensure;

(2) Advise the board on all matters pertaining to the licensing of acupuncturists;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 324.475 to 324.499 or regulations promulgated pursuant thereto and make recommendations and referrals to the board on complaints the committee determines to warrant further action;

(4) Follow the provisions of the board's administrative practice procedures in conducting all official duties;

(5) Recommend for prosecution violations of sections 324.475 to 324.499 to an appropriate prosecuting or circuit attorney;

(6) Assist the board, as needed and when requested by the board, in conducting any inquiry or disciplinary proceedings initiated as a result of committee recommendation and referral pursuant to subdivision (3) of this subsection.

6. Each member of the committee shall receive as compensation an amount set by the board not to exceed seventy dollars for each day devoted to the affairs of the committee, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.

7. The committee shall elect annually from its membership a chairman and secretary in a public meeting held pursuant to chapter 610, RSMo. The committee may

hold such additional meetings as may be required in the performance of its duties. A quorum of the committee shall consist of a majority of its members.

324.481. 1. The board shall upon recommendation of the committee license applicants who meet the qualifications for acupuncturists, who file for licensure, and who pay all fees required for this licensure.

2. The division shall:

(1) Prescribe the design of all forms to be furnished to all persons seeking licensure pursuant to sections 324.475 to 324.499;

(2) Prescribe the form and design of the license to be issued pursuant to sections 324.475 to 324.499.

3. The board shall:

(1) Maintain a record of all board and committee proceedings regarding sections 324.475 to 324.499 and of all acupuncturists licensed in this state;

(2) Annually prepare a roster of the names and addresses of all acupuncturists licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

(3) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

(4) Adopt an official seal;

(5) Inform licensees of any changes in policy, rules or regulations;

(6) Upon the recommendation of the committee, set all fees, by rule, necessary to administer the provisions of sections 324.475 to 324.499.

4. The board may with the approval of the advisory committee:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend or revoke licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 324.475 to 324.499 including, but not limited to, regulations establishing:

(a) Standards for the practice of acupuncture;

(b) Standards for ethical conduct in the practice of acupuncture;

(c) Standards for continuing professional education;

(d) Standards for the training and practice of auricular detox technicians, including specific enumeration of points which may be used.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.475 to 324.499, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the

powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

6. All funds received [by the board] pursuant to the provisions of sections [324.240 to 324.275] **324.475 to 324.499** shall be collected by the [director who] **division of professional registration which** shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the "[Acupuncturist] **State Board of Chiropractic Examiners'** Fund" which is hereby created.

7. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the acupuncturist fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the acupuncturist fund for the preceding fiscal year.

Bill

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