

AMENDED IN ASSEMBLY APRIL 17, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2152**

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**Introduced by Assembly Member Chan**

February 21, 2006

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An act to amend Sections 4935 and 4947 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2152, as amended, Chan. Acupuncture: practice by health care professionals.

Existing law, the Acupuncture Licensing Act, regulates the practice and licensure of acupuncture and establishes the Acupuncture Board to enforce and administer these provisions. Existing law requires an applicant for an acupuncture license to meet specified requirements, including certain educational and examination requirements. Existing law provides that the act does not prevent the practice of acupuncture by a person licensed as a dentist or podiatrist within the scope of his or her license if the licensee has received a course of instruction in acupuncture, as specified. Existing law provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with the exception of ~~physician~~ *physicians* and surgeons, dentists, and podiatrists.

This bill would delete the authorization for a dentist or a podiatrist to practice acupuncture within the scope of his or her license if the licensee has received a course of instruction in acupuncture. The bill would instead only permit a physician and surgeon, a dentist, or a

podiatrist to practice acupuncture within the scope of his or her license if he or she meets the educational and examination requirements for licensure as an acupuncturist, and would count toward fulfillment of the educational and examination requirements equivalent requirements fulfilled as part of his or her licensure as a physician and surgeon, a dentist, or a podiatrist. *However, the bill would provide that California licensed physicians and surgeons, podiatrists, and dentists practicing acupuncture on January 1, 2007, and meeting certain requirements shall be considered to be duly licensed to practice acupuncture if they register with the California Acupuncture Board by January 1, 2008, and conform with all regulations governing licensed acupuncturists.* The bill would also subject ~~physician~~ physicians and surgeons, dentists, and podiatrists to the misdemeanor provisions with regard to a person who practices without an acupuncturist license. Because it would create a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 4935 of the Business and Professions  
 2 Code is amended to read:  
 3 4935. (a) *A California licensed physician and surgeon,*  
 4 *podiatrist, or dentist who is practicing acupuncture on January*  
 5 *1, 2007, and who holds a certificate of acupuncture training and*  
 6 *with a current listing of acupuncture patients shall register with*  
 7 *the California Acupuncture Board not later than January 1,*  
 8 *2008. Criteria for registration shall include, at a minimum,*  
 9 *evidence of three years experience in treating patients with*  
 10 *acupuncture. All those physicians and surgeons, podiatrists, and*  
 11 *dentists shall be considered duly licensed to practice*  
 12 *acupuncture in this state and shall not be required to submit to*  
 13 *additional educational requirements, shall not be required to*

1 *take the California state examination, and shall not be required*  
2 *to otherwise apply for licensure. Those practitioners shall,*  
3 *however, be required to conform with all regulations governing*  
4 *licensed acupuncturists, including continuing education*  
5 *requirements and payment of biannual licensure fees.*

6 *(b) A physician and surgeon, podiatrist, or dentist who is not*  
7 *practicing acupuncture on January 1, 2007, and who does not*  
8 *become registered with the state by January 1, 2008, in that*  
9 *regard shall be required to conform to the requirements of*  
10 *California law in all manner and form relating to education,*  
11 *examination, and licensure before engaging in that practice.*

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

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

26 ~~(b)~~

27 *(d) Any person who is not licensed under this article who*  
28 *practices acupuncture involving the application of a needle to the*  
29 *human body, performs any acupuncture technique or method*  
30 *involving the application of a needle to the human body, or*  
31 *directs, manages, or supervises another person in performing*  
32 *acupuncture involving the application of a needle to the human*  
33 *body is guilty of a misdemeanor.*

34 ~~(e)~~

35 *(e) A person holds himself or herself out as engaging in the*  
36 *practice of acupuncture by the use of any title or description of*  
37 *services incorporating the words “acupuncture,” “acupuncturist,”*  
38 *“certified acupuncturist,” “licensed acupuncturist,” “medical*  
39 *acupuncturist,” “Asian medicine,” “oriental medicine,” or any*  
40 *combination of those words, phrases, or abbreviations of those*

1 words or phrases, or by representing that he or she is trained,  
2 experienced, or an expert in the field of acupuncture, Asian  
3 medicine, or Chinese medicine.

4 ~~(d)~~

5 (f) Subdivision—(a) (c) shall not prohibit a person from  
6 administering acupuncture treatment as part of his or her  
7 educational training if he or she:

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

10 (2) Is a graduate of a school of acupuncture approved by the  
11 board and participating in a postgraduate review course that does  
12 not exceed one year in duration at a school approved by the  
13 board.

14 SEC. 2. Section 4947 of the Business and Professions Code is  
15 amended to read:

16 4947. (a) Nothing in this chapter shall be construed to  
17 prevent the practice of acupuncture by a person licensed as a  
18 physician and surgeon, a dentist, or a podiatrist, within the scope  
19 of their respective licenses, if the licensee meets the educational  
20 and examination requirements in Section 4938.

21 (b) Educational and examination requirements fulfilled by a  
22 physician and surgeon, a dentist, or a podiatrist as part of his or  
23 her licensure under this division, and that are equivalent to the  
24 educational and examination requirements for licensure as an  
25 acupuncturist under this chapter, shall count toward the  
26 fulfillment of the applicable educational and examination  
27 requirements of this chapter. Satisfactory proof of meeting the  
28 educational and examination requirements shall be furnished by  
29 the licensee to the board.

30 SEC. 3. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the  
35 penalty for a crime or infraction, within the meaning of Section  
36 17556 of the Government Code, or changes the definition of a  
37 crime within the meaning of Section 6 of Article XIII B of the  
38 California Constitution.

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