



State of Vermont
Office of the Secretary of State

[phone] 802-828-1505
[fax] 802-828-2465
www.sec.state.vt.us

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
Colin R. Benjamin, Director

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

**To: Hon. Claire Ayer, Chair and Members of the
Senate Committee on Health and Welfare**

**From: Gabriel M. Gilman, General Counsel
Office of Professional Regulation**

Re: H. 690

Date: April 13, 2016

Thank you for your invitation to comment upon H. 690, an act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

The Office of Professional Regulation supports the goals of H. 690. For reasons I will be happy to discuss in brief, in-person testimony, the Office recommends a subtly different means of achieving those goals.

Specifically, we recommend that the General Assembly amend 26 V.S.A. § 3402 by adding a general coordination-of-practice provision, rather than by exempting specific classes of health professionals. This approach has worked successfully in multiple Title-26 chapters, including those concerning the regulation of physical therapists, speech-language pathologists, audiologists, athletic trainers, podiatrists, optometrists. Indeed, it is the absence of a coordination-of-practice provision in the existing text of chapter 63 that led to the absurd regulatory result H. 690 seeks to correct.

Appended to this memorandum, please find draft legislative text illustrating the described approach.

Appendix

OPR-Recommended Amendment of 26 V.S.A. § 3402

§ 3402. Prohibitions; offenses; exemptions

(a) Except as provided in section 3412 of this title, no person shall practice acupuncture unless he or she is licensed in accordance with the provisions of this chapter.

(b) No person shall use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an acupuncturist unless the person is licensed in accordance with this chapter. The only title a licensed acupuncturist may use in reference to that license is "licensed acupuncturist" or its abbreviation, as "Lic. Ac."

(c) A person who violates any of the provisions of subsection (a) or (b) of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

(d) Nothing in subsection (a) of this section shall prevent a student from performing acupuncture under the supervision of a competent licensed acupuncturist instructor:

(1) within a school or a college or an acupuncture department of a college or university that is licensed by the Vermont Agency of Education or certified by the Accreditation Commission for Acupuncture and Oriental Medicine; or

(2) as a student in a Director-approved apprenticeship; or

(3) as an intern in any hospital.

(e) Nothing in subsection (a) of this section shall prevent a person who is licensed or certified as an acupuncturist in another state or Canadian province from practicing acupuncture for no more than five days in a calendar year as part of a health care professional educational seminar or program in Vermont, if the educational seminar or program is directly supervised by a Vermont-licensed health care professional whose scope of practice includes acupuncture.

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health-care profession regulated under this Title from performing services within the scope of his or her professional practice.