

- SUBJECT:** Regulating the practice of acupuncture
- COMMITTEE:** Public Health — favorable, with amendment
- VOTE:** 7 ayes — Gray, Coleman, Capelo, Delisi, Longoria, Maxey, Uresti
1 nay — Wohlgemuth
1 absent — Glaze
- SENATE VOTE:** On final passage, March 29 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — *Registered but did not testify:* Chris Butler, Texas Association of Acupuncture and Oriental Medicine
Against — None
On — *Registered but did not testify:* F.M. Langley, Texas State Board of Medical Examiners
- BACKGROUND:** Occupations Code, sec 205.001 defines acupuncture as the nonsurgical, noninvasive insertion of a needle to treat and mitigate a human condition and an acupuncturist as one who practices acupuncture. Except for treatment of smoking addiction, weight loss, or substance abuse, a licensed acupuncturist may not treat a patient without a referral from a physician, dentist, or chiropractor.

Labor Code, sec. 413.005 establishes the Texas Workers' Compensation Commission Medical Advisory Council (MAC) to help monitor providers, insurers, and workers' compensation claims to ensure compliance with medical policies and fee guidelines.

The Texas HMO Act (Insurance Code, sec.20A.02) defines a provider as any person other than a physician who provides health-care services.
- DIGEST:** SB 643, as amended, would require the Board of Medical Examiners to determine by rule, after notice and public hearing, whether an acupuncturist

could treat a patient for alcoholism or chronic pain without a referral from a physician, dentist, or chiropractor. The board would have to make the determination on the basis of clinical evidence and what the board determined to be in the best interest of affected patients.

The bill would broaden the definition of acupuncture to include patient evaluation and assessment. It would qualify the definition of acupuncturist by specifying that the person directly or indirectly charges a fee for the service. It would add an acupuncturist to the MAC that helps monitor compliance with medical policies and fee guidelines, and it would add an acupuncturist to the definition of provider in the Texas HMO Act.

This bill would take effect September 1, 2001. The Board of Medical Examiners would have to adopt the required rules by December 15, 2001.

**SUPPORTERS
SAY:**

SB 643 would formalize acupuncture services in the statute that regulates insurers. Many policies cover services that an acupuncturist could provide, but because this profession is not defined in the insurance law, many insurers will not reimburse for acupuncture services. The bill would make it more likely that the services of an acupuncturist would be reimbursed.

The bill would allow the Board of Medical Examiners to broaden the scope of practice for acupuncturists. Under current law, acupuncturists may treat patients for smoking addiction, weight loss, or substance abuse without a referral from a physician. Some studies indicate that acupuncture also is safe and effective for treating alcoholism and chronic pain. The board should have the authority to evaluate these studies and to decide if a physician referral is necessary for the treatment of these conditions through acupuncture.

Acupuncturists should be represented on the MAC because acupuncture can be used to treat patients covered by workers' compensation. Other committee representatives include medical doctors, doctors of osteopathic medicine, chiropractors, dentists, physical therapists, pharmacists, podiatrists, and others. Because acupuncturists administer services that are similar to those provided by some of these health professions, they should be included in the committee that makes workers' compensation policies.

OPPONENTS
SAY:

SB 643 would allow a patient to see an acupuncturist without oversight of a physician and the acupuncturist to be reimbursed for these services. While anyone is free to consult an acupuncturist, insurance should reimburse only when the patient's care is supervised by a physician. Otherwise, a patient's health could be compromised by relying solely on the judgment of an acupuncturist who is not medically trained. Reimbursement for services that do not help a patient's medical condition is a waste of money.

NOTES:

The committee amendment would change the deadline for the Board of Medical Examiners to implement rules from December 1 to December 15, 2001.