

3131--B

2013-2014 Regular Sessions

I N S E N A T E

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Introduced by Sens. MARTINS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law and the education law, in relation to the care and treatment of injured employees by licensed or certified acupuncturists

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The workers' compensation law is amended by adding a new
2 section 13-p to read as follows:

3 S 13-P. CARE AND TREATMENT OF INJURED EMPLOYEES BY LICENSED OR CERTI-
4 FIED ACUPUNCTURISTS. 1. FOR PURPOSES OF THIS SECTION: (A) THE TERM
5 "ACUPUNCTURIST" SHALL MEAN A PERSON WHO IS DULY LICENSED AND REGISTERED
6 AS A LICENSED ACUPUNCTURIST PURSUANT TO ARTICLE ONE HUNDRED SIXTY OF THE
7 EDUCATION LAW, OR WHO IS A CERTIFIED ACUPUNCTURIST PURSUANT TO SUBDIVI-
8 SION THREE OF SECTION EIGHTY-TWO HUNDRED SIXTEEN OF THE EDUCATION LAW;
9 AND

10 (B) THE TERM "CHAIR" SHALL MEAN THE CHAIRPERSON OF THE STATE BOARD OF
11 ACUPUNCTURE PURSUANT TO ARTICLE ONE HUNDRED SIXTY OF THE EDUCATION LAW.

12 2. (A) AN INJURED EMPLOYEE, INJURED UNDER CIRCUMSTANCES WHICH MAKE
13 SUCH AN INJURY COMPENSABLE UNDER THIS ARTICLE, MAY LAWFULLY BE TREATED,
14 UPON THE REFERRAL OF AN AUTHORIZED PHYSICIAN, BY AN ACUPUNCTURIST
15 AUTHORIZED BY THE CHAIR TO RENDER ACUPUNCTURE CARE PURSUANT TO THIS
16 SECTION. SUCH SERVICES SHALL BE WITHIN THE SCOPE OF THE PROFESSION OF
17 ACUPUNCTURE AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHTY-TWO HUNDRED
18 ELEVEN OF THE EDUCATION LAW.

19 (B) MEDICAL BUREAUS, MEDICAL CENTERS JOINTLY OPERATED BY LABOR AND
20 MANAGEMENT REPRESENTATIVES, HOSPITALS AND HEALTH MAINTENANCE ORGANIZA-
21 TIONS, AUTHORIZED TO PROVIDE MEDICAL CARE PURSUANT TO SECTION THIRTEEN-C

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OF THIS ARTICLE, MAY PROVIDE ACUPUNCTURE SERVICES WHEN REQUIRED,
2 PROVIDED SUCH CARE IS RENDERED BY AN ACUPUNCTURIST AS REQUIRED BY THIS
3 SECTION.

4 (C) AN ACUPUNCTURIST RENDERING SERVICE PURSUANT TO THIS SECTION SHALL
5 MAINTAIN RECORDS OF THE PATIENT'S CONDITION AND ACUPUNCTURE TREATMENT,
6 AND SUCH RECORDS OR REPORTS SHALL BE SUBMITTED TO THE CHAIR ON SUCH
7 FORMS AND AT SUCH TIMES AS THE CHAIR MAY REQUIRE.

8 3. (A) AN ACUPUNCTURIST WHO IS DESIROUS OF BEING AUTHORIZED TO RENDER
9 ACUPUNCTURE SERVICES UNDER THIS SECTION SHALL FILE AN APPLICATION FOR
10 AUTHORIZATION UNDER THIS SECTION WITH THE ACUPUNCTURE PRACTICE COMMIT-
11 TEE. THE APPLICANT SHALL AGREE TO REFRAIN FROM SUBSEQUENTLY TREATING FOR
12 REMUNERATION, AS A PRIVATE PATIENT, ANY PERSON SEEKING ACUPUNCTURE
13 SERVICES, IN CONNECTION WITH, OR AS A RESULT OF, ANY INJURY COMPENSABLE
14 UNDER THIS CHAPTER, IF HE OR SHE HAS BEEN REMOVED FROM THE LIST OF
15 ACUPUNCTURISTS AUTHORIZED TO RENDER SERVICES UNDER THIS CHAPTER. THIS
16 AGREEMENT SHALL RUN TO THE BENEFIT OF THE INJURED PERSON SO TREATED, AND
17 SHALL BE AVAILABLE AS A DEFENSE IN ANY ACTION BY SUCH ACUPUNCTURIST FOR
18 PAYMENT FOR TREATMENT RENDERED BY SUCH ACUPUNCTURIST AFTER BEING REMOVED
19 FROM THE LIST OF ACUPUNCTURISTS AUTHORIZED TO RENDER ACUPUNCTURE
20 SERVICES UNDER THIS SECTION. THE ACUPUNCTURE PRACTICE COMMITTEE IF IT
21 DEEMS SUCH ACUPUNCTURIST DULY QUALIFIED SHALL RECOMMEND TO THE CHAIR
22 THAT SUCH PERSON BE AUTHORIZED TO RENDER ACUPUNCTURE SERVICES UNDER THIS
23 SECTION. SUCH RECOMMENDATIONS SHALL BE ONLY ADVISORY TO THE CHAIR AND
24 SHALL NOT BE BINDING OR CONCLUSIVE.

25 (B) THE CHAIR SHALL PREPARE AND ESTABLISH A SCHEDULE FOR THE STATE OR
26 SCHEDULES LIMITED TO DEFINED LOCALITIES OF CHARGES AND FEES FOR ACUPUNC-
27 TURE TREATMENT AND CARE, TO BE DETERMINED IN ACCORDANCE WITH AND BE
28 SUBJECT TO CHANGE PURSUANT TO RULES PROMULGATED BY THE CHAIR. BEFORE
29 PREPARING SUCH SCHEDULE FOR THE STATE OR SCHEDULES FOR LIMITED LOCALI-
30 TIES THE CHAIR SHALL REQUEST THE ACUPUNCTURE PRACTICE COMMITTEE TO
31 SUBMIT TO SUCH CHAIR A REPORT ON THE AMOUNT OF REMUNERATION DEEMED BY
32 SUCH COMMITTEE TO BE FAIR AND ADEQUATE FOR THE TYPES OF ACUPUNCTURE
33 SERVICES TO BE RENDERED UNDER THIS CHAPTER, BUT CONSIDERATION SHALL BE
34 GIVEN TO THE VIEW OF OTHER INTERESTED PARTIES. THE AMOUNTS PAYABLE BY
35 THE EMPLOYER FOR SUCH TREATMENT AND SERVICES SHALL BE THE FEES AND
36 CHARGES ESTABLISHED BY SUCH SCHEDULE.

37 (C) IN DETERMINING THE SCHEDULE OR SCHEDULES AS PROVIDED IN PARAGRAPH
38 (B) OF THIS SUBDIVISION, THE CHAIR SHALL MAKE A DISTINCTION BETWEEN
39 TREATMENT RENDERED BY A DULY LICENSED AND REGISTERED ACUPUNCTURIST
40 SUBJECT TO THE PROVISIONS OF ARTICLE ONE HUNDRED SIXTY OF THE EDUCATION
41 LAW AND A CERTIFIED ACUPUNCTURIST SUBJECT TO THE PROVISIONS OF SECTION
42 EIGHTY-TWO HUNDRED SIXTEEN OF THE EDUCATION LAW, AND THE CHAIR SHALL
43 PREPARE AND ESTABLISH A SCHEDULE OR SCHEDULES REFLECTING FEES AND CHARG-
44 ES APPROPRIATE TO THE NATURE AND SCOPE OF THE TREATMENT RENDERED BY EACH
45 TYPE OF PRACTITIONER, GIVING DUE CONSIDERATION TO ALL RELEVANT FACTORS
46 INCLUDING, BUT NOT LIMITED TO, THE LEVEL OF EDUCATION OF THE PRACTITION-
47 ER, THE TYPE OF TREATMENT RENDERED, WHETHER THE ACUPUNCTURE TREATMENT IS
48 BEING PROVIDED AS THE PRINCIPAL TREATMENT OR AS AN ADJUNCT TREATMENT,
49 AND THE BILLING PRACTICES ENTAILED, INCLUDING WHETHER THE PRACTITIONER
50 SUBMITS ONE COMPREHENSIVE BILL OR BILLS SEPARATELY FOR THE ACUPUNCTURE
51 TREATMENT, OFFICE VISITS AND OTHER ITEMS.

52 4. NO CLAIM FOR ACUPUNCTURE SERVICES SHALL BE VALID AND ENFORCEABLE AS
53 AGAINST THE EMPLOYER OR EMPLOYEES UNLESS WITHIN FORTY-EIGHT HOURS
54 FOLLOWING THE FIRST TREATMENT THE ACUPUNCTURIST GIVING SUCH CARE OR
55 TREATMENT FURNISHES TO THE EMPLOYER AND DIRECTLY TO THE CHAIR A PRELIMI-
56 NARY NOTICE OF SUCH INJURY AND TREATMENT, AND WITHIN FIFTEEN DAYS THERE-

1 AFTER A MORE COMPLETE REPORT AND SUBSEQUENT THERETO PROGRESS REPORTS AS
2 REQUESTED IN WRITING BY THE CHAIR, BOARD, EMPLOYER OR INSURANCE CARRIER,
3 AT INTERVALS OF NOT LESS THAN THREE WEEKS APART OR AT LESS FREQUENT
4 INTERVALS IF REQUESTED ON FORMS PRESCRIBED BY THE CHAIR. THE BOARD MAY
5 EXCUSE THE FAILURE TO GIVE SUCH NOTICES WITHIN THE DESIGNATED PERIODS
6 WHEN IT FINDS IT TO BE IN THE INTEREST OF JUSTICE TO DO SO.

7 5. FEES FOR ACUPUNCTURE SERVICES SHALL BE PAYABLE ONLY TO A DULY
8 LICENSED OR CERTIFIED ACUPUNCTURIST PURSUANT TO ARTICLE ONE HUNDRED
9 SIXTY OF THE EDUCATION LAW, OR TO THE AGENT, EXECUTOR OR ADMINISTRATOR
10 OF THE ESTATE OF SUCH ACUPUNCTURIST. NO ACUPUNCTURIST RENDERING TREAT-
11 MENT TO A COMPENSATION CLAIMANT SHALL COLLECT OR RECEIVE A FEE FROM SUCH
12 CLAIMANT WITHIN THIS STATE, BUT SHALL HAVE RECOURSE FOR PAYMENT OF
13 SERVICES RENDERED ONLY TO THE EMPLOYER UNDER THE PROVISIONS OF THIS
14 SECTION.

15 6. WHENEVER HIS OR HER ATTENDANCE AT A HEARING IS REQUIRED, THE
16 ACUPUNCTURIST OF THE INJURED EMPLOYEE SHALL BE ENTITLED TO RECEIVE A FEE
17 FROM THE EMPLOYER IN AN AMOUNT TO BE FIXED BY THE BOARD, IN ADDITION TO
18 ANY FEE PAYABLE UNDER SECTION EIGHT THOUSAND ONE OF THE CIVIL PRACTICE
19 LAW AND RULES.

20 7. (A) UNLESS WITHIN THIRTY DAYS AFTER A BILL HAS BEEN RENDERED TO THE
21 EMPLOYER BY THE ACUPUNCTURIST WHO HAS TREATED AN INJURED EMPLOYEE, SUCH
22 EMPLOYER SHALL HAVE NOTIFIED THE CHAIR AND SUCH ACUPUNCTURIST IN WRITING
23 THAT SUCH EMPLOYER DEMANDS AN IMPARTIAL EXAMINATION OF THE FAIRNESS OF
24 THE AMOUNT CLAIMED BY SUCH ACUPUNCTURIST FOR HIS OR HER SERVICES, THE
25 RIGHT TO SUCH AN IMPARTIAL EXAMINATION SHALL BE DEEMED TO BE WAIVED AND
26 THE AMOUNT CLAIMED BY SUCH ACUPUNCTURIST SHALL BE DEEMED TO BE THE FAIR
27 VALUE OF THE SERVICES RENDERED. IF THE PARTIES FAIL TO AGREE AS TO THE
28 ACUPUNCTURE CARE RENDERED UNDER THIS CHAPTER TO A CLAIMANT, SUCH VALUE
29 SHALL BE DECIDED BY THE ACUPUNCTURE PRACTICE COMMITTEE AND THE MAJORITY
30 DECISION OF SUCH COMMITTEE SHALL BE CONCLUSIVE UPON THE PARTIES AS TO
31 THE VALUE OF THE SERVICES RENDERED. THE BOARD MAY MAKE AN AWARD FOR ANY
32 SUCH BILL OR PART THEREOF WHICH REMAINS UNPAID IN THE SAME MANNER AS AN
33 AWARD FOR BILLS RENDERED UNDER SUBDIVISIONS ONE AND THREE OF SECTION
34 THIRTEEN-G OF THIS ARTICLE, AND SUCH AWARD MAY BE COLLECTED IN LIKE
35 MANNER AS AN AWARD OF COMPENSATION. THE CHAIR SHALL ASSESS THE SUM OF
36 FIFTY DOLLARS AGAINST THE EMPLOYER FOR EACH SUCH AWARD MADE BY THE
37 BOARD, WHICH SUM SHALL BE PAID INTO THE STATE TREASURY.

38 (B) WHERE AN ACUPUNCTURIST'S BILL HAS BEEN DETERMINED TO BE DUE AND
39 OWING IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE BOARD MAY
40 IMPOSE A PENALTY OF NOT MORE THAN ONE AND ONE-HALF PERCENT INTEREST PER
41 MONTH PAYABLE TO THE ACUPUNCTURIST IN ACCORDANCE WITH THE RULES AND
42 REGULATIONS PROMULGATED BY THE BOARD.

43 (C) THE PARTIES TO SUCH PROCEEDING SHALL EACH PAY TO THE CHAIR A SUM
44 EQUAL TO FIVE PER CENTUM OF THE AMOUNT PAYABLE UNDER THE DECISION OF
45 SUCH COMMITTEE OR A MINIMUM OF FIVE DOLLARS, WHICHEVER IS GREATER. THE
46 SUMS SO COLLECTED SHALL BE TRANSFERRED TO THE STATE TREASURY TO REIM-
47 BURSE IT ON ACCOUNT OF THE EXPENSE OF ADMINISTERING THIS SECTION.

48 8. WITHIN THE LIMITS PRESCRIBED BY THE EDUCATION LAW FOR ACUPUNCTURE
49 SERVICES, THE REPORT OR TESTIMONY OF AN AUTHORIZED ACUPUNCTURIST
50 CONCERNING THE CONDITION OF AN INJURED EMPLOYEE AND TREATMENT THEREOF
51 SHALL BE DEEMED COMPETENT EVIDENCE AND THE PROFESSIONAL OPINION OF THE
52 ACUPUNCTURIST AS TO CAUSAL RELATION AND AS TO REQUIRED TREATMENT SHALL
53 BE DEEMED COMPETENT BUT SHALL NOT BE CONTROLLING. NOTHING IN THIS
54 SECTION SHALL BE DEEMED TO DEPRIVE ANY EMPLOYER OR INSURANCE CARRIER OF
55 ANY RIGHT TO A MEDICAL EXAMINATION OR PRESENTATION OF MEDICAL TESTIMONY
56 NOW CONFERRED BY LAW.

1 9. THE CHAIR SHALL PROMULGATE RULES GOVERNING THE PROCEDURE TO BE
2 FOLLOWED BY THOSE RENDERING ACUPUNCTURE SERVICES UNDER THIS SECTION,
3 WHICH RULES SO FAR AS PRACTICABLE SHALL CONFORM TO THE RULES PRESENTLY
4 IN EFFECT WITH REFERENCE TO MEDICAL CARE FURNISHED TO CLAIMANTS IN WORK-
5 ERS' COMPENSATION. IN CONNECTION WITH THE PROMULGATION OF SUCH RULES THE
6 CHAIR MAY CONSULT THE ACUPUNCTURE PRACTICE COMMITTEE AND MAY TAKE INTO
7 CONSIDERATION THE VIEW OF OTHER INTERESTED PARTIES.

8 10. THE CHAIR SHALL APPOINT FOR AND WITH JURISDICTION IN THE ENTIRE
9 STATE OF NEW YORK A SINGLE ACUPUNCTURE PRACTICE COMMITTEE COMPOSED OF
10 TWO LICENSED ACUPUNCTURISTS, AND ONE DULY LICENSED PHYSICIAN OF THE
11 STATE OF NEW YORK. EACH MEMBER OF SUCH COMMITTEE SHALL RECEIVE COMPEN-
12 SATION EITHER ON AN ANNUAL BASIS OR ON A PER DIEM BASIS TO BE FIXED BY
13 THE CHAIR WITHIN AMOUNTS APPROPRIATED THEREFOR. ONE OF SUCH LICENSED
14 ACUPUNCTURISTS SHALL BE DESIGNATED BY THE CHAIR AS A CHAIR OF SUCH
15 ACUPUNCTURE PRACTICE COMMITTEE. NO MEMBER OF SUCH COMMITTEE SHALL RENDER
16 ACUPUNCTURE SERVICES UNDER THIS SECTION NOR BE AN EMPLOYER OR ACCEPT OR
17 PARTICIPATE IN ANY FEE FROM ANY INSURANCE COMPANY AUTHORIZED TO WRITE
18 WORKERS' COMPENSATION INSURANCE IN THIS STATE OR FROM ANY SELF-INSURER,
19 WHETHER SUCH EMPLOYMENT OR FEE RELATES TO A WORKERS' COMPENSATION CLAIM
20 OR OTHERWISE. THE ATTORNEY GENERAL, UPON REQUEST, SHALL ADVISE AND
21 ASSIST SUCH COMMITTEE.

22 11. THE ACUPUNCTURE PRACTICE COMMITTEE SHALL INVESTIGATE, HEAR AND
23 MAKE FINDINGS WITH RESPECT TO ALL CHARGES AS TO PROFESSIONAL OR OTHER
24 MISCONDUCT OF ANY AUTHORIZED ACUPUNCTURISTS AS PROVIDED IN THIS SECTION
25 UNDER RULES AND PROCEDURES TO BE PRESCRIBED BY THE CHAIR AND SHALL
26 REPORT EVIDENCE OF SUCH MISCONDUCT, WITH THEIR FINDINGS AND RECOMMENDA-
27 TIONS WITH RESPECT THERETO, TO THE CHAIR. THE FINDINGS, DECISION AND
28 RECOMMENDATION OF SUCH ACUPUNCTURE PRACTICE COMMITTEE SHALL BE ADVISORY
29 TO THE CHAIR ONLY, AND SHALL NOT BE BINDING OR CONCLUSIVE UPON HIM OR
30 HER. THE CHAIR SHALL REMOVE FROM THE LIST OF ACUPUNCTURISTS AUTHORIZED
31 TO RENDER ACUPUNCTURE SERVICES UNDER THIS CHAPTER THE NAME OF ANY
32 ACUPUNCTURIST WHO HE OR SHE SHALL FIND AFTER REASONABLE INVESTIGATION IS
33 DISQUALIFIED BECAUSE SUCH ACUPUNCTURIST:

34 (A) HAS BEEN GUILTY OF PROFESSIONAL OR OTHER MISCONDUCT OR INCOMPETEN-
35 CY IN CONNECTION WITH THE RENDERING OF ACUPUNCTURE SERVICES,

36 (B) HAS EXCEEDED THE LIMITS OF HIS OR HER PROFESSIONAL COMPETENCE IN
37 RENDERING ACUPUNCTURE SERVICES UNDER THE LAW, OR HAS MADE FALSE STATE-
38 MENTS REGARDING QUALIFICATIONS IN THE APPLICATION FOR AUTHORIZATION,

39 (C) HAS FAILED TO SUBMIT TIMELY, FULL AND TRUTHFUL ACUPUNCTURE EVALU-
40 ATION AND TREATMENT REPORTS OF ALL FINDINGS TO THE EMPLOYER AND DIRECTLY
41 TO THE CHAIR OF THE BOARD WITHIN THE TIME LIMITS PROVIDED IN THIS
42 SECTION,

43 (D) HAS RENDERED ACUPUNCTURE SERVICES UNDER THIS CHAPTER FOR A FEE
44 LESS THAN THAT FIXED IN THE FEE SCHEDULE,

45 (E) HAS SOLICITED OR HAS EMPLOYED ANOTHER TO SOLICIT FOR HIMSELF OR
46 HERSELF OR FOR ANOTHER PROFESSIONAL TREATMENT, EXAMINATION OR CARE OF AN
47 INJURED EMPLOYEE WITH ANY CLAIM UNDER THIS CHAPTER,

48 (F) HAS REFUSED TO APPEAR BEFORE OR ANSWER UPON REQUEST OF THE CHAIR,
49 BOARD, ACUPUNCTURE PRACTICE COMMITTEE OR ANY DULY AUTHORIZED OFFICER OF
50 THE STATE, ANY LEGAL QUESTION OR PRODUCE ANY RELEVANT BOOK OR PAPER
51 CONCERNING CONDUCT UNDER AN AUTHORIZATION GRANTED UNDER LAW, OR

52 (G) HAS DIRECTLY OR INDIRECTLY REQUESTED, RECEIVED OR PARTICIPATED IN
53 THE DIVISION, TRANSFERENCE, ASSIGNMENT, REBATING, SPLITTING OR REFUNDING
54 OF A FEE FOR, OR HAS DIRECTLY OR INDIRECTLY REQUESTED, RECEIVED OR PROF-
55 ITED BY MEANS OF A CREDIT OR OTHERWISE VALUABLE CONSIDERATION AS A

1 COMMISSION, DISCOUNT OR GRATUITY IN CONNECTION WITH THE TREATMENT OF A
2 WORKERS' COMPENSATION CLAIMANT.

3 12. ANY PERSON WHO VIOLATES OR ATTEMPTS TO VIOLATE, AND ANY PERSON WHO
4 AIDS ANOTHER TO VIOLATE OR ATTEMPTS TO INDUCE HIM OR HER TO VIOLATE THE
5 PROVISIONS OF PARAGRAPH (G) OF SUBDIVISION ELEVEN OF THIS SECTION SHALL
6 BE GUILTY OF A MISDEMEANOR.

7 13. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING IN ANY
8 RESPECT THE POWER OR DUTY OF THE CHAIR TO INVESTIGATE INSTANCES OF
9 MISCONDUCT, EITHER BEFORE OR AFTER INVESTIGATION BY THE ACUPUNCTURE
10 PRACTICE COMMITTEE, OR TO TEMPORARILY SUSPEND THE AUTHORIZATION OF ANY
11 ACUPUNCTURIST BELIEVED TO BE GUILTY OF SUCH MISCONDUCT. THE PROVISIONS
12 OF SUBDIVISION ONE OF SECTION THIRTEEN-D OF THIS ARTICLE WHICH ARE NOT
13 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION SHALL BE APPLICABLE AS
14 IF FULLY SET FORTH IN THIS SECTION.

15 14. NOTHING CONTAINED IN THIS SECTION SHALL PROHIBIT ACUPUNCTURISTS
16 WHO PRACTICE AS PARTNERS, IN GROUPS OR AS A PROFESSIONAL CORPORATION
17 FROM POOLING FEES AND MONEYS RECEIVED, EITHER BY THE PARTNERSHIP,
18 PROFESSIONAL CORPORATION OR GROUP OR BY THE INDIVIDUAL MEMBERS THEREOF,
19 FOR PROFESSIONAL SERVICES FURNISHED BY ANY INDIVIDUAL PROFESSIONAL
20 MEMBER, OR EMPLOYEE OF SUCH PARTNERSHIP, CORPORATION OR GROUP, NOR SHALL
21 THE PROFESSIONALS CONSTITUTING THE PARTNERSHIPS, CORPORATIONS, OR GROUPS
22 BE PROHIBITED FROM SHARING, DIVIDING OR APPORTIONING THE FEES AND MONEYS
23 RECEIVED BY THEM OR BY THE PARTNERSHIP, CORPORATION OR GROUP IN ACCORD-
24 ANCE WITH A PARTNERSHIP OR OTHER AGREEMENT.

25 S 2. Subdivision 1 of section 8213 of the education law, as added by
26 chapter 772 of the laws of 1990, is amended to read as follows:

27 (1) There is hereby established within the department a state board
28 for acupuncture. The board shall consist of not less than eleven members
29 to be appointed by the board of regents on the recommendation of the
30 commissioner for the purpose of assisting the board of regents and the
31 department on matters of professional licensing and professional conduct
32 in accordance with section sixty-five hundred eight of this [chapter]
33 TITLE, four of whom shall be licensed acupuncturists, four of whom shall
34 be licensed physicians certified to use acupuncture and three of whom
35 shall be public members representing the consumer and community. Of the
36 acupuncturists first appointed to the board, one may be a registered
37 specialist's assistant-acupuncture provided that the term of such regis-
38 tered specialist's assistant-acupuncture shall not be more than four
39 years. Of the members first appointed, three shall be appointed for a
40 one year term, three shall be appointed for a two year term and three
41 shall be appointed for a three year term, and two shall be appointed for
42 a four year term. Thereafter all members shall serve for five year
43 terms. In the event that more than eleven members are appointed, a
44 majority of the additional members shall be licensed acupuncturists. The
45 members of the board shall select one of themselves as [chairman] CHAIR-
46 PERSON to serve for a one year term.

47 S 3. This act shall take effect on the one hundred eightieth day after
48 it shall have become a law. Provided, that effective immediately, the
49 addition, amendment and/or repeal of any rules and regulations necessary
50 to implement the provisions of this act on its effective date are
51 authorized and directed to be completed on or before such effective
52 date.