

Averting a Legislative Crisis in California: How You Can Protect Our Profession

Monday, April 25. It's another sunny day in Southern California. For the acupuncture profession, though, those sunny skies might turn dark soon, if a few legislators have their way. In particular, I want to talk to you about two bills making their way through the California legislature that could spell disaster for the profession - and what you can do about it.

The first piece of legislation, Senate Bill 233, was introduced on February 15 by Liz Figueroa (D-Fremont), who also chairs the Joint Committee on Boards, Commissions, and Consumer Protection. The current version of the bill would amend the scope of practice so that acupuncture "also includes the diagnosis of a person for the purpose of providing acupuncture treatment." It would also authorize licensed acupuncturists to "diagnose for the purposes of" performing or prescribing the use of Oriental massage, acupressure, breathing techniques, herbs, dietary supplements, and other modalities to promote, maintain and restore a person's health.

As it is written, the bill could call into question exactly what authority licensed acupuncturists have in terms of patient diagnosis. While the Department of Consumer Affairs has provided a legal opinion that licensed acupuncturists are authorized to diagnose disease, the language contained in the current bill does not mention the diagnosis of disease directly, and is vague enough to be interpreted otherwise.

More importantly, though, Senate Bill 233 would move up the "sunset" termination dates for the California Acupuncture Board. Currently, the provisions that establish the board are set to become inoperative on July 1, 2006, and to be repealed January 1, 2007. SB 233 would move the inoperative and repeal dates to January 1, 2006 and July 1, 2006, respectively, unless a later enacted statute either deletes or extends those dates.

The responsibilities of the board would be transferred to a bureau within the Department of Consumer Affairs. SB 233 would also allow for a single executive officer to be appointed by the board, who would have the ultimate decision-making authority with regard to the board's regulatory actions. This would rip control of our future from us and put the fate of the acupuncture profession in California in the hands of a bureaucrat.

The second bill in question is Assembly Bill 1113, introduced by Leland Yee (D-San Francisco) and, interestingly enough, co-authored by Sen. Figueroa. As with SB 233, AB 1113 addresses the issue of an acupuncturist's ability to diagnose patients. While the bill is a step in the right direction, it also suffers from language problems that could have unintended consequences for the acupuncture profession.

The current version of AB 1113 would update the state's Business and Professions Code to authorize a licensed acupuncturist "to diagnose within his or her scope of practice." That's all well and good, but the same problem with SB 233 also exists in AB 1113. Simply put, the language in the current version of AB 1113 is too vague. It could jeopardize the profession's access to third-party payer systems such as workers' compensation and MediCal, and could seriously hinder the

ability of acupuncturists to seek insurance and workers' compensation reimbursement for patients. Needless to say, this too would be disastrous.

What You Can Do

Now is the time for all acupuncturists and acupuncture associations in the state of California to put aside their differences and come together to voice their concerns over SB 233 and AB 1113. I urge you to express your concerns to the members of the joint committee, along with Sen. Figueroa and Assemblyman Yee, and ask that they amend their bills to include more acupuncture-friendly language. Please use the contact information below so that you can get in touch with them by phone, fax and e-mail. The main points you want to get across to our legislators is that as they exist now, these laws:

- Are poorly written;
- Can severely damage the practice of acupuncture
- Were crafted without consulting the profession thoroughly.

This is about the future of acupuncture in California, and the effect the passage of these laws could have across the country. The existence of the acupuncture profession as we know it is at stake.

Margaret Mead, the famed anthropologist, once wrote, "Never doubt that a small, group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has."

We can make a difference. It's time for us to work together, and to take action here and now.

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