

Florida Acupuncturists Professional Titles Florida House Bill (HB 583)

Presented by: Florida State Oriental Medical Association (FSOMA)

Presenter: David Bibbey, MSOM, Dipl.Ac., L.Ac

Welcome Everyone

Tonight's Focus

- ▶ Intro: FSOMA Professional Advocacy
- ▶ Background: Statutory v. Regulatory Auth
- ▶ Existing: Clarify F.S. 457 & 64B1-9.007
- ▶ Concerns: Language in HB 583
- ▶ Summary: Actions & Talking Points

FSOMA Professional Advocacy

- ▶ FSOMA has served as Florida's professional association since the 1980's
- ▶ The Assoc is supported by student and licensed members / business partners
- ▶ Dues and other income are used to provide many services to the members and the profession at large - Including Prof ADVOCACY and LEGISLATIVE Advocacy.
- ▶ **FSOMA has 570 licensed members and 262 student members**
- ▶ **Florida has 2,657 active licensee**
- ▶ Leadership Team: Galina Roofener, MSOM, Dipl. Ac. & C.H.
- ▶ Sandra Kahn, A.P., R.N.
- ▶ Dan Litwin, A.P., L.Ac
- ▶ Teresa Gilmore, L.Ac
- ▶ Exec Director: Ellen Teeter, A.P.
- ▶ Communications Dir: Natalia Morrison, L.Ac, A.P.

Talking Points

- ▶ **All advocacy efforts directed to State Representatives**
 - ▶ Local Reps - [Find My State Representative](#)
 - ▶ Committee - [FL House Health Regulations Subcommittee](#)
 - ▶ HB 583 - [House Rep Ralph Massullo M.D. \(Sponsor\)](#)
- ▶ **TALKING POINTS:**
- ▶ Calling to request that HB 583 is amended to include:
 - ▶ Acupuncturists' Professional Titles and Abbrev.
 - ▶ Because they are currently permitted through statute and rule
 - ▶ Restricting professional titles in this way hurts small businesses

Statutory vs. Regulatory Authority

Statutory Auth: Fla Legislature

Senate & House of Reps

Elected by Floridians to:

Create - Change - Repeal

Statutes - Chapters - Laws

Acupuncturists regulated under

F.S. 456 - Gen. Prov. Health Occup

F.S. 457 - Acupuncture Practice Act

Primary Language of the Law

Regulatory Auth: FL Exec Branch

FL DOH: Board of Acupuncture

Appointed by Governor to:

Approve/Discipline licensees

Approve CEU courses

Rulemaking Authority to:

“Clarify” existing terms and language found in F.S. 457

Rules in FL Admin Code 64B1-9

Secondary language: to clarify ONLY

Practice Act: F.S. 457

- ▶ 457.102 Definitions.—As used in this chapter:
- ▶ (1) “Acupuncture” means a form of primary health care, (**direct access**)
- ▶ (2) “**Acupuncturist**” means any person licensed as provided in this chapter to practice acupuncture as a primary health care provider. (**NOT A PCP**)
- ▶ (3) “Board” means the Board of Acupuncture.
- ▶ (4) “License” means the document of authorization issued by the department for a person to engage in the practice of acupuncture.
- ▶ (5) “Department” means the Department of Health.
- ▶ (6) “Oriental medicine” means the use of acupuncture, electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.
- ▶ (7) “Prescriptive rights” means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.
- ▶ **F.S. 457 contains no title definition that includes “physician” or “doctor”**

Acupuncture Practice Act

F.S. 457

- ▶ 457.116 Prohibited acts; penalty.—
- ▶ (1) A person may not:
 - ▶ (a) Practice acupuncture unless the person is licensed under ss. 457.101-457.118;
 - ▶ (b) Use, in connection with his or her name or place of business, any title or description of services which incorporates the words “acupuncture,” “acupuncturist,” “certified acupuncturist,” “licensed acupuncturist,” “oriental medical practitioner”; the letters “L.Ac.,” “R.Ac.,” “A.P.,” or “D.O.M.”; or any other words, letters, abbreviations, or insignia indicating or implying that he or she practices acupuncture unless he or she is a holder of a valid license issued pursuant to ss. 457.101-457.118;
- ▶ **Again: No definition “Physician” or “Doctor” in F.S. 457**

Understanding “Prohibited Acts”

- ▶ 457.116 Prohibited acts; penalty.—
- ▶ (1) A person may not:
- ▶ (b) Use, in connection with his or her name or place of business, any title or description of services which incorporates the words “acupuncture,” “acupuncturist,” “certified acupuncturist,” “licensed acupuncturist,” “oriental medical practitioner”; the letters “L.Ac.,” “R.Ac.,” “A.P.,” or “D.O.M.”; or any other words, letters, abbreviations, or insignia indicating or implying that he or she practices acupuncture unless he or she is a holder of a valid license issued pursuant to ss. 457.101-457.118
- ▶ Prohibits Acts Section does not expressly Authorize use of titles and letters.
- ▶ “Prohibits” the practice of acupuncture unless a person is licensed under F.S. 457
- ▶ “Prohibits” use of the specified titles, initials, and use of words that imply a person is “practicing acupuncture” if that person is not licensed under F.S. 457.

Let's say that again: Important Point

- ▶ **The Prohibited Acts** in F.S. 457.116 prohibits unlicensed persons and non-acupuncturists from using the titles and initials mentioned, including, A.P & D.O.M.
- ▶ That section does not expressly authorize the use of any titles or initials for Acupuncturists.
- ▶ The use and purpose of the Prohibited Acts section is to prohibit certain acts: not to authorize anything, including - titles and initials.
- ▶ **Title, initials, & Abbrev are to be defined in “Definitions”**
- ▶ This is why Acupunctuists need an amendment that preserves use of the professional titles, initials & Abbrev

HB 583 Requires titles & initials to be “Authorized” in the Practice Act

HB 583 2023

125 (g) All other health care practitioners may use only the
126 titles and abbreviations “authorized” by their respective practice
127 acts and this paragraph. Any nonphysician health care
128 practitioner who has obtained a doctoral degree under the
129 profession governed by the applicable practice act may use the
130 letter "D." in front of the abbreviations authorized by the
131 health care practitioner's respective practice act. However, a
132 nonphysician health care practitioner may not use the title
133 "doctor" in any form of advertisement, telehealth interaction,
134 text message, or verbal communication without clearly
135 identifying himself or herself as a "doctor" of a specific
136 profession, citing the applicable chapter under which the health
137 care practitioner is licensed.

The Practice Act defines Licensees' Authority to Act

- ▶ Authority to Act is typically granted in “Definitions”
- ▶ This language expressly grants limited and specific permissions needed for a licensee to perform under their license.
- ▶ “Definitions” section is used to identify and define:
 - ▶ Terms / Terminology
 - ▶ Modalities / Procedures
 - ▶ **Titles**
 - ▶ Authorized Acts
 - ▶ Prescribing Drugs
 - ▶ Signing Health/Death Certificates
 - ▶ Performing Surgery
 - ▶ “Practice of Medicine” - “Practice of Nursing” - “Practice of PT”

Problems with F.S. 457

- ▶ There are MANY
 - ▶ **But let's focus on titles, initials and abbrev's**
 - ▶ Only the title “acupuncturist” is currently defined in Practice Act
 - ▶ No initials or abbreviations are defined in the Practice Act
 - ▶ HB 583: Any nonphysician health care practitioner who has obtained a doctoral degree under the profession governed by the applicable practice act may use the letter "D." in front of the abbreviations **authorized by** the health care practitioner's respective **practice act.**
 - ▶ **Emphasis: No initials or abbreviations are defined in F.S. 457**
 - ▶ **Meaning** - No licensee licensed under F.S. 457, irrespective of their terminal degree can advertise using D.xxx, Doctor of xxxx, or Acupuncture Physician.
 - ▶ Only the title “acupuncturist” with NO initials permitted.
- ▶ **What does that look like? David Bibbey, Acupuncturist**

How are Titles and Initials defined by Board of Acupuncture

- ▶ The BOA updated the “Advertising” rule (64B1-9.007) in 2006 and 2018 to clarify the follow statute:
 - ▶ 457.109(1)(d) - False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.
- ▶ The Advertising Rule states that use of “Acupuncture Physician” and “Doctor of Oriental Medicine” titles and initials in advertising is NOT considered false, deceptive, or misleading for any persons licensed or certified under Chapter 457, F.S.

The BOA Advertising Rule 64B1-9.007(3)

- ▶ **Nothing in the Rule expressly authorizes use of titles, initials or terms.**
- ▶ It simply provides: “It shall not be considered false, deceptive, or misleading for any persons licensed or certified under Chapter 457, F.S., to use the following initials or terms.”
- ▶ (a) L.Ac.;
- ▶ (b) R.Ac.;
- ▶ (c) **A.P.;**
- ▶ (d) **D.O.M.;**
- ▶ (e) Licensed Acupuncturist;
- ▶ (f) Registered Acupuncturist;
- ▶ (g) **Acupuncture Physician; and,**
- ▶ (h) **Doctor of Oriental Medicine.**

Why Acupuncturists need an Amendment to HB 583

- ▶ Because the new language in HB 583 will forbid Acupuncturists from using “Doctor” and “Physician” titles.
- ▶ This new law will conflict with BOA Rule 64B1-9.007
- ▶ **As a result, the BOA will have to repeal the portion of the Rule that allows advertising with “Acupuncture Physician” and “Doctor of Oriental Medicine”**
- ▶ **Legislators can provide this exemption with a stroke of their pen**
- ▶ Protecting Acupuncturist’s titles under HB 583 in F.S. 456 will not weaken or compromise the goals of this new legislation - **unless the goal also includes weakening or harming the Florida Acupuncture profession.**

Talking Points

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 - ▶ Restricting professional titles in this way hurts small businesses
- ▶ End of Presentation - Thank you for supporting this profession.