

# HOUSE BILL REPORT

## SSB 6280

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### As Passed House - Amended:

March 10, 2010

**Title:** An act relating to East Asian medicine practitioners.

**Brief Description:** Concerning East Asian medicine practitioners.

**Sponsors:** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Murray, Shin, Kohl-Welles, Marr, Jacobsen and Kline).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 2/19/10, 2/23/10 [DPA].

#### Floor Activity:

Passed House - Amended: 2/28/10, 96-0.

Senate Refuses to Concur.

House Amended.

Passed House: 3/10/10, 97-0,

### Brief Summary of Substitute Bill

- Changes "Acupuncture" and "Acupuncturist" to "East Asian Medicine" and "East Asian Medicine Practitioner."
- Expands the scope of practice for Licensed Acupuncturists/East Asian Medicine Practitioners.
- Expands the types of health care practitioners with whom a Licensed Acupuncturist/East Asian Medicine Practitioner must consult when seeing a patient with a potentially serious disorder.
- Allows a licensed Acupuncturist/East Asian Medicine practitioner to continue to treat a patient with a potentially serious disorder who refuses a consultation if the patient has signed a waiver.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

**Staff:** Jim Morishima (786-7191).

## **Background:**

### Acupuncturists.

Acupuncturists are licensed by the Department of Health (DOH). Acupuncture is defined as a health care service based on an Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians. Acupuncture includes the following techniques: use of acupuncture needles to stimulate acupuncture points and meridians; use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians; moxibustion; acupressure; cupping; dermal friction technique; infra-red; sonopuncture; laserpuncture; point injection therapy; and dietary advice based on Oriental medical theory.

In December 2009 the DOH completed a sunrise review regarding acupuncture. As part of the review, the DOH recommended that Licensed Acupuncturists should be allowed to use lancets; provide dietary advice; use breathing, relaxation, and exercise techniques; practice Qi Gong; provide health education; use massage and Tui Na; use heat and cold therapies; and dispense herbs, vitamins, minerals, and dietary and nutritional supplements. The DOH did not take a position on whether the title of "Acupuncturist" should be changed to "Asian Medicine Practitioner."

### Consultation with Other Practitioners.

When a Licensed Acupuncturist sees a patient with a potentially serious disorder (e.g., cardiac conditions, acute abdominal symptoms), the Acupuncturist must immediately request a consultation or recent written diagnosis from a licensed Physician or a licensed Osteopathic Physician and Surgeon. If the patient refuses the consultation or diagnosis, the Acupuncturist must discontinue treatment. In its sunrise review, the DOH did not consider a request to change this requirement because it was outside the scope of the Legislature's sunrise review request.

### Immunity.

Under the statutes regulating Licensed Acupuncturists, the Secretary of Health (Secretary) and individuals acting on his or her behalf are immune from suit in a civil action based on any certification, disciplinary proceedings, or other official acts. Similarly, under the Uniform Disciplinary Act, the Secretary and individuals acting on his or her behalf are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts.

## **Summary of Bill:**

### Acupuncturists/East Asian Medicine Practitioners.

"Acupuncture" and "Acupuncturists" are re-named "East Asian Medicine" and "East Asian Medicine Practitioner." Any person licensed as an Acupuncturist prior to the effective date of the act will, at his or her next renewal date, be given the title of East Asian Medicine Practitioner. Licensed East Asian Medicine Practitioners are not prohibited from holding themselves out as Acupuncturists. A license to practice East Asian Medicine is not required to sell herbal products.

East Asian Medicine (formerly Acupuncture) is expanded to include:

- health education;
- the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;
- breathing, relaxation, and East Asian exercise techniques;
- Qi Gong (an ancient Chinese system of postures, exercises, and breathing techniques to improve one's qi);
- East Asian massage and Tui Na (East Asian bodywork characterized by the kneading, pressing, rolling, shaking, and stretching of the body); and
- superficial heat and cold therapies.

A person is not required to be licensed as an East Asian Medicine practitioner in order to perform any of the new techniques and services in the expanded scope of practice.

### Consultation with Other Practitioners.

The types of health care practitioners with which a licensed East Asian Medicine Practitioner must consult when seeing a patient with a potentially serious disorder are expanded to include:

- Physician Assistants;
- Osteopathic Physician Assistants;
- Naturopaths; and
- Advanced Registered Nurse Practitioners.

If the patient refuses the consultation, the licensed East Asian Medicine practitioner is not required to discontinue treatment if the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must include: (1) an explanation of an East Asian Medicine practitioner's scope of practice, including the types of services and techniques East Asian Medicine practitioners are authorized to provide, and (2) a statement that the services and techniques will not resolve the patient's underlying potentially serious disorder.

### Immunity.

The immunity provisions in the statutes regulating licensed East Asian Medicine Practitioners are eliminated (the similar provisions in the Uniform Disciplinary Act are unaffected).

**Appropriation:** None.

**Fiscal Note:** Requested on February 17, 2010.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 17, relating to listing disciplining authority under the Uniform Disciplining Act, which because of prior double amendments, takes effect on July 1, 2010, and section 18, relating to listing disciplining authority under the Uniform Disciplinary Act, which because of prior double amendments, takes effect on August 1, 2010.

**Staff Summary of Public Testimony:**

(In support) This bill is consistent with the DOH's sunrise review. A lot of work went into changing the name of the profession, including consultation with the Asian community. Practitioners will still be able to call themselves "Acupuncturists." The current scope of practice has not been updated in 24 years; the changes made in this bill to the scope of practice are consistent with growth in education, science, and technology as well as current practice. This bill will help consumers in Washington to have better health care and help make Washington a national leader in natural medicine while adding to the health and safety of the public. It does not make sense to require care to cease if a patient refuses a consultation; the language allowing such a patient to sign a waiver was therefore worked out with the DOH.

(Opposed) None.

**Persons Testifying:** Leslie Emerick, George Whiteside, and Lisa VanHaagen, Washington Acupuncture and Asian Medicine Association; and Ezra Eickmeyer, Advocates for the Advancement of Asian Medicine.

**Persons Signed In To Testify But Not Testifying:** None.