

P U B L I C H E A R I N G

before

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

on

SENATE BILL NO. 835
ASSEMBLY BILL NO. 520

(Practice of Acupuncture)

Held:
May 7, 1974
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Edward J. Hughes, Jr. (Chairman)

Senator Carmen A. Orechio

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SENATE, No. 835

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1974

By Senators MENZA, FAY, MERLINO, GREENBERG
and SKEVIN

Referred to Committee on Labor, Industry and Professions

AN ACT regulating the practice of acupuncture, providing standards, qualifications and certification of practitioners with respect thereto, and supplementing Title 45 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Acupuncture" means an experimental medical procedure
3 performed by the insertion of needles, with or without the applica-
4 tion of small pulses of electric current to the needles, through the
5 skin into the underlying tissues at a certain indicated point or com-
6 bination of points on the surface of the body, for the purpose of the
7 alleviation or cure of painful bodily disorders, or for other medical
8 procedures for an undetermined period of time;

9 b. "Board" means the State Board of Medical Examiners;

10 c. "Certified acupuncturist" means a person who is a graduate
11 of an approved program and who is certified by the board as
12 possessing the skills that the board determines necessary for the
13 individual to perform acupuncture services;

14 d. "Approved program" means a training program approved by
15 the board;

16 e. "Direction" means responsible direction and control, whereby
17 a licensed physician certified to practice acupuncture in the State
18 assumes legal responsibility for the services rendered by certified
19 acupuncturists;

20 f. "Acupuncture center" means a facility, center, or institution,
21 whether public or private, engaged principally in providing acu-
22 puncture services.

1 2. An applicant for certification to practice acupuncture shall:

2 a. Submit an application to the board on forms provided by the

4 b. Have a diploma or certificate acceptable by the board which
5 acknowledges that the applicant has successfully completed a course
6 of study and training of 36 months in acupuncture approved by the
7 board, or has practiced acupuncture for 10 years. Any false in-
8 formation in the application or any diploma or certificate that shall
9 have been illegally obtained or shall have been signed or issued
10 unlawfully or under false representations, shall constitute cause
11 for denial of a certificate to practice acupuncture in this State. The
12 board may alter or amend the standards to be less stringent, and in
13 altering or amending the standards for approving programs of
14 education and instruction shall consult with the acupuncture advisory
15 committee;

16 c. Be of good moral character as determined by the board;

17 d. Pass an examination in acupuncture; and

18 e. Pay a fee of \$100.00 to the board for admission to the initial
19 examination and \$50.00 for each reexamination.

20 Examinations shall be given twice a year. Every application shall
21 be filed with the secretary of the board by March 31 for the June
22 examination and by September 30 for the December examination.
23 The board may grant without examination a certificate to practice
24 acupuncture to any person licensed in this State to practice medicine
25 and surgery provided said person has completed a satisfactory
26 course of study and training in acupuncture in any college or insti-
27 tution approved by the board in any country, territory, province or
28 state, or has had not less than 3 years experience in acupuncture
29 acceptable to the board, following a personal appearance by the
30 candidate before a committee of designated representatives of the
31 board. Any false information in the application or any diploma or
32 certificate that shall have been illegally obtained or shall have been
33 signed or issued unlawfully or under false representations, shall
34 constitute cause for denial of a certificate to practice acupuncture
35 in this State.

1 3. Every person holding a certificate shall pay a biennial registra-
2 tion fee of \$30.00 to the board on or before July 1 of the year in
3 which his certificate expires. The holder of a certificate who fails
4 to pay the registration fee for his certification shall be suspended
5 from the practice of acupuncture. Any practitioner of acupuncture
6 whose certificate has been suspended under this section may be
7 reinstated by the payment of all past due annual registration fees,
8 and in addition thereto, the payment of \$25.00 to cover the cost of
9 reinstatement.

1 4. It shall be a violation of this act for any person who is not

2 certified under this act as an acupuncturist, whose certification has
3 been suspended or revoked, or whose certification has lapsed and
4 has not been renewed, to render acupuncture services within this
5 State; to use in connection with his name the letters or words
6 "C. A.," "Certified Acupuncturist," "Acupuncturist," or any
7 other letters or words or insignia, implying that he is a certified
8 acupuncturist; or, in any way, orally, in writing, in print, by sign,
9 or by implication, to present or hold himself out as a certified
10 acupuncturist.

1 5. There is hereby created in the Division of Professional Boards
2 of the Department of Law and Public Safety, under the State Board
3 of Medical Examiners, an Acupuncture Advisory Committee. The
4 committee shall consist of six members, including three certified
5 practitioners of acupuncture, one licensed physician, one educator
6 who is bilingual (English and Chinese) and holds a doctorate or
7 equivalent degree in a nonmedically related subject which relates
8 to the understanding of the principles, theory and practice of
9 acupuncture, and one member of the general public. The members
10 of the committee shall be appointed by the Governor from a list of
11 three names furnished by the board for each membership to the
12 committee, and from the names thus submitted, the Governor shall
13 select one person to be a member of the committee. Their terms of
14 office shall be as follows: two members shall hold office for 1 year;
15 two members for a term of 2 years; and two members for a term of
16 3 years. Members shall thereafter be appointed for terms of 3 years.
17 Each member shall hold office after the expiration of his term until
18 his successor shall be duly appointed and qualified. A vacancy in
19 the office of any member shall be filled in the same manner as
20 original appointments and shall be filled for the unexpired term
21 only. The three acupuncturists initially appointed to the advisory
22 committee need not be certified acupuncturists at the time of
23 appointment, provided, however, they satisfy the qualifications set
24 forth by the board and have at least 10 years experience in the
25 practice of acupuncture. The board shall make provisions for their
26 examination and certification as soon as possible after their appoint-
27 ment. The advisory committee shall meet quarterly and shall also
28 meet upon the call of the board or of the Attorney General. The
29 board, with the approval of the Attorney General, may authorize
30 reimbursement of the members of the advisory committee for their
31 actual expenses incurred in connection with the performance of their
32 duties as members of the advisory committee. The advisory com-
33 mittee shall advise the board regarding certification and school or

34 college curricula and shall carry out the responsibilities assigned to
 35 it under this act and such matters as the board may require. The
 36 advisory committee shall annually elect from its members a presi-
 37 dent, vice president and secretary.

1 6. The board, by rules and regulations, and after consultation
 2 with the acupuncture advisory committee, shall establish standards
 3 governing the practice of acupuncture, which standards shall be
 4 adhered to by persons certified under this act.

5 Each person certified to administer acupuncture shall be re-
 6 quired to attend courses of study approved by the board for not
 7 less than 25 hours per annum.

8 The initial acupuncture treatment shall be performed on presen-
 9 tation by the patient of a referral from a licensed physician after a
 10 physical examination, including the necessary and appropriate
 11 laboratory and radiologic parameters, has been performed, and a
 12 complete patient history has been provided. A diagnosis and pre-
 13 evaluation of the patient shall be made available in writing to the
 14 treating certified acupuncturist by the referring physician.

15 In each case, an accurate and detailed clinical record shall be
 16 kept by the certified acupuncturist, which shall include a preevalua-
 17 tion and postevaluation of the patient.

18 Certified acupuncturists shall obtain informed consent from each
 19 patient before performing acupuncture, and shall give each patient a
 20 full explanation of the procedure, and at the same time, make the
 21 patient aware of the possibility of complications.

22 Only acupuncture devices labeled in accordance with United
 23 States Food and Drug Administration guidelines may be used by
 24 certified acupuncturists.

1 7. A certified licensed physician, group of certified licensed
 2 physicians, or an acupuncture center may not employ certified
 3 acupuncturists unless an application to do so has been submitted
 4 to and approved by the board. A separate application shall be filed
 5 by each prospective employer for each certified acupuncturist that
 6 he desires to employ. The board shall approve application to
 7 employ certified acupuncturists by qualified employers where the
 8 board is satisfied;

9 a. That the certified acupuncturist to be employed has been
 10 registered by the board;

11 b. That the prospective certified licensed physician has con-
 12 formed to all pertinent rules and regulations of the board with
 13 regard to the employment of certified acupuncturists; and

15 puncture center that the employer has provided to the board the
16 name of the certified licensed physician or group of certified
17 licensed physicians to direct the certified acupuncturist named in
18 the application.

19 The board shall not approve an application for employment of a
20 certified acupuncturist whether by a certified licensed physician, a
21 group of certified licensed physicians, or an acupuncture center
22 wherein such approval would result in a single certified licensed
23 physician having responsibility for the direction of more than two
24 certified acupuncturists. The board shall not approve an application
25 by a certified licensed physician, a group of certified licensed
26 physicians or an acupuncture center for the employment of certified
27 acupuncturists unless a named directing certified licensed physician
28 is physically present on the location while the care is being
29 delivered.

1 8. The board may revoke the certificate of approval for employ-
2 ment of certified acupuncturists by a certified licensed physician, a
3 group of certified licensed physicians or an acupuncture center when
4 in its judgment this act has been violated. A certified licensed
5 physician, a group of certified licensed physicians, or an acupunc-
6 ture center utilizing certified acupuncturists shall be liable for any
7 acts or omissions by acupuncturists while such acupuncturists are
8 acting under its direction.

9 The board may either refuse or may suspend or revoke any
10 certificate issued pursuant to this act upon proof to the satisfaction
11 of the board that the holder of such certificate:

12 a. Has been adjudicated insane;

13 b. Habitually uses intoxicants or habitually uses controlled
14 dangerous substances;

15 c. Has been found guilty of violating the standards established
16 by the board under this act; or engaging in any dishonorable, un-
17 ethical or unprofessional conduct which may deceive, defraud or
18 harm the public, or which is unbecoming a person certified to
19 practice acupuncture. The lack of informed patient consent or the
20 use of unlabeled or improperly labeled devices shall be considered
21 unprofessional conduct;

22 d. Has been convicted of a crime involving moral turpitude, or
23 has pleaded nolo contendere, non vult contendere or non vult to an
24 indictment, information or complaint alleging the commission of a
25 crime involving moral turpitude;

26 e. Has been determined to be physically or mentally incapaci-
27 tated;

28 f. Has presented to the board any diploma, license, or certificate
29 that has been illegally obtained or has been signed or issued un-
30 lawfully or under fraudulent representations, or has obtained a
31 certificate to practice acupuncture in this State through fraud of
32 any kind;

33 g. Has been guilty of employing uncertified persons to perform
34 work which can legally be done only by persons certified to practice
35 acupuncture in this State;

36 h. Has been guilty of gross malpractice or gross neglect in the
37 practice of acupuncture which has endangered the health or life of
38 any person;

39 i. Has been demonstrated professionally incompetent to practice
40 acupuncture;

41 j. Has treated or undertaken to treat ailments of human beings
42 otherwise than by acupuncture and as authorized by this act, or has
43 undertaken to practice independently of the written prescription or
44 written referral of a duly licensed physician; or

45 k. Has advertised in any unethical or unprofessional manner,
46 whether as an individual, through a professional service corpora-
47 tion or through a third party on his behalf, the practice of acu-
48 puncture; provided, however, that the following shall not be deemed
49 to be advertising prohibited under this chapter:

50 (1) Newspaper publication of a brief announcement, not more
51 than 2 inches high and two columns wide, of the opening of an office
52 or the removal to a new location, containing name, title, address,
53 telephone number, and office hours.

54 (2) The use of small signs on the doors, windows and walk of an
55 office or on the building in which he maintains an office setting out
56 his name, type of practice, and office hours in lettering no larger
57 than 4 inches in height for street-level offices, and no larger than 6
58 inches in height for offices above street level.

1 9. Because of the experimental nature of the procedure of acu-
2 puncture, the board shall have the right in accordance with law to
3 enter into premises being used for the conduct of the procedure, and
4 to inspect and remove such records as the board deems appropriate.
5 The board shall further have the authority to hold hearings on three
6 days notice to consider the entry of temporary orders pending a
7 full hearing to be held in not less than 60 days.

1 10. The prohibitory provisions of this act shall not apply to the
2 following:

3 a. A person licensed to practice medicine and surgery in this
4 State while engaged in the study of acupuncture and its application

5 to appropriately selected patients in an educational or medical
6 research facility approved by the board.

7 b. A person deemed knowledgeable in acupuncture by an approved
8 educational or medical research facility with whom he becomes
9 associated for research purposes.

10 Each research facility approved by the board shall report at least
11 annually to the board concerning its progress in the field of acu-
12 puncture research, and shall inform the board of the names of all
13 individuals involved in such research.

1 11. The board may employ attorneys, investigators and other
2 professional consultants and other clerical personnel to discharge
3 its duties. For the purpose of conducting its examination, the
4 board may call to its aid persons of established reputation and
5 known ability in acupuncture.

1 12. Any person violating the provisions of this act shall, in
2 addition to being subject to the sanctions provided herein, be guilty
3 of a misdemeanor, and shall be liable to a penalty of not less than
4 \$500.00 nor more than \$1,000.00 for each offense. The board may
5 suspend or revoke a license to practice medicine and surgery, upon
6 proof to the satisfaction of the board that the holder of such license
7 has practiced acupuncture without proper certification, or has been
8 guilty of employing persons performing acupuncture without
9 proper certification.

1 13. This act shall take effect immediately.

STATEMENT

It is time that acupuncture be made available to the citizens of the State of New Jersey. The proposed legislation was prepared and formulated by a committee representing the State Board of Medical Examiners, the Medical Society of New Jersey, the College of Medicine and Dentistry of New Jersey, the New Jersey Osteopathic Society and a nonprofessional public member. Dr. Edwin H. Albano, President, State Board of Medical Examiners was chairman of the ad hoc committee.

[OFFICIAL COPY REPRINT]
ASSEMBLY. No. 520

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman KLEIN

AN ACT regulating the practice of acupuncture, requiring licenses for the practice thereof, ***[creating a State Board of Acupuncture in the Division of Consumer Affairs in the Department of Law and Public Safety,]*** and supplementing Title 45 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Definition of practice of acupuncture. a. The practice of acu-
2 puncture is defined as treating by means of mechanical, thermal
3 or electrical stimulation effected by the insertion of solid needles
4 or the application of heat or electrical stimulation at a point or
5 combination of points on the surface of the body predetermined
6 on the basis of the theory of the physiological interrelationship
7 of body organs with an associated point or combination of points
8 for diseases, disorders and dysfunctions of the body for the pur-
9 pose of achieving a regular therapeutic or prophylactic effect.

10 b. A license to practice acupuncture shall not permit the holder
11 thereof to use radiotherapy, fluoroscopy, or any form of ionizing
12 radiation, to operate, to reduce fractures or dislocations, or to use
13 diagnostic or therapeutic methods involving chemical or biological
14 means.

15 c. A license to practice acupuncture shall permit the holder
16 thereof to treat any human disease, pain, injury, deformity or
17 physical condition not prohibited by the provision of this section
18 provided the patient to be treated presents a prior referral ob-
19 tained from a licensed physician after appropriate medical exami-
20 nation.

1 2. Practice of acupuncture and use of title ***[“doctor of acupunc-**
2 **ture.”** Only a**]*** *. No* person*, unless* licensed or exempt under
3 this act*,* shall practice acupuncture or use ***[the]*** *a* title

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill

4 *~~doctor of acupuncture.~~* **or description including the term*
 5 *"acupuncture" or any of its derivatives in a manner which would*
 6 *imply that he is licensed under this act.**

1 3. *~~[State Board of]~~* Acupuncture **Advisory Committee.** a.
 2 ~~*[A State Board of]~~* ~~*An*~~ Acupuncture **Advisory Committee**
 3 is hereby created in the Division of Consumer Affairs of the De-
 3A partment of Law and Public Safety ~~*[of the State of New Jer-~~
 3B ~~sey]*~~*, *under the State Board of Medical Examiners*.*

4 Within 30 days after this act takes effect, the members of the
 5 *~~[State Board of]~~* Acupuncture **Advisory Committee** shall be
 6 appointed by the Governor with the **advice and** consent of the
 7 Senate for the purpose of assisting the ~~*[department]*~~ **board**
 8 on matters of professional licensing and professional conduct. The
 9 ~~*[board]*~~ **committee** shall be composed of seven members, in-
 10 cluding three **licensed** practitioners of acupuncture, two licensed
 11 physicians, ~~*[one educator who is bilingual (English and Chinese)~~
 12 ~~and holds a doctorate or equivalent degree in a nonmedically re-~~
 13 ~~lated subject which relates to the understanding of the history,~~
 14 ~~theory and practice of acupuncture; and one member]*~~ **and two*
 14A *members** of the general public ~~*[who holds a graduate degree in~~
 14B ~~any of the biological sciences]*~~.*

15 Each member of the ~~*[board]*~~ **committee**, except the members
 16 first appointed, shall serve for a term of 3 years. Each member
 17 shall hold office until the appointment of his successor. The initial
 18 appointments to the board shall be three members for a term of 1
 19 year, two members for a term of 2 years, and two members for a
 20 term of 3 years. Vacancies shall be filled for the unexpired term
 21 only. No member may be appointed for more than 2 ~~*[years]*~~
 21A **terms**.

22 b. Each member of the ~~*[board]*~~ **committee** shall serve with-
 23 out compensation, but shall be entitled to be reimbursed for his
 24 necessary travel expenses in connection with the business of the
 24A board.

25 ~~*[Each practitioner of acupuncture who is a member of the~~
 26 ~~board shall be the holder of a license issued pursuant to this act.]*~~
 27 **The three acupuncturists initially appointed to the committee need*
 28 *not be licensed acupuncturists at the time of their appointment,*
 29 *provided, however, they satisfy the requirements for licensure*
 30 *within a reasonable time after such requirements are established*
 31 *by the board.**

32 c. In accordance with the provisions of this act the ~~*[board]*~~

34 and after appropriate hearings and investigation, "[issue]"
 35 *transmit* their initial recommendations for the establishment of
 36 standards for professional education, experience and licensing ex-
 37 aminations *to the board. Based upon the recommendations and*
 38 *subject to the approval of the committee, the State Board of Medi-*
 39 *cal Examiners shall establish, by rules or regulations adopted in*
 40 *accordance with the "Administrative Procedure Act," P. L. 1968,*
 41 *c. 410 (C. 52:14B-1 et seq.), the education, experience and exam-*
 42 *ination requirements for a license to practice acupuncture, and such*
 43 *other requirements with respect to the practice of acupuncture*
 44 *and the conduct of practitioners thereof as the board may deem*
 45 *advisable to effectuate the provisions of this act.**

1 4. Requirements for a professional license. To qualify for a
 2 license "[as a doctor of]" *"to practice"* acupuncture an applicant
 3 shall fulfill the following requirements:

4 a. Application: file an application with the board;

5 b. Education: have received an education satisfactory to the
 6 board and in accordance with "[the commissioner's]" *"its"* regula-
 6A tions*, *but in no event, less than 36 months of study and training in*
 6B *a school approved by the board**;

7 c. Experience: have experience satisfactory to the board and
 8 in accordance with "[the commissioner's]" *"its"* regulations;

9 d. Examination: pass examination satisfactory to the board and
 10 in accordance with "[the commissioner's]" *"its"* regulations, in
 11 "[the theory and practice of pulse diagnosis and]" *"the theory and*
 12 *practice of acupuncture;*

13 "[e. Age: be at least 21 years of age;

14 f. Citizenship: be a United States citizen, or file a declaration
 15 of intention to become a citizen in accordance with the board's
 16 regulations]"

17 "[g.] *e.* Character: be of good moral character as determined
 18 by the board; and

19 "[h.] *f.* Fees: pay a fee to the board for admission to the ex-
 20 amination and for initial license of \$40.00, for each reexamination
 21 \$15.00, and for each biennial registration \$15.00.

22 *"No license to practice acupuncture shall be issued pursuant to*
 23 *this act unless the applicant therefor shall submit proof satisfac-*
 24 *tory to the board that he has or will have on the effective date of*
 25 *his license a professional liability insurance policy with coverage*
 26 *of not less than \$200,000.00 for any one claimant.**

1 *5. The board may waive the education, experience and exam-

3 by endorsement to any applicant who holds a current license or
 4 certificate to practice acupuncture issued by the licensing agency
 5 of another state or country which, in the opinion of the board, has
 6 licensure requirements for the practice of acupuncture equivalent
 7 to or higher than those in effect pursuant to this act.*

1 *6. Any person licensed to practice medicine and surgery in this
 2 State may engage in the practice of acupuncture, provided said
 3 person shall have passed the examination provided for in subsec-
 4 tion 4 d. of this act and shall have received such training in the
 5 practice of acupuncture as the board shall require in its rules or
 6 regulations.*

1 *7. Any person licensed to practice medicine and surgery in this
 2 State who is engaged in the practice of acupuncture on the effective
 3 date of this act may continue to engage in such practice and shall
 4 not be in violation of this act thereby for a period not to exceed 6
 5 months from the effective date of the rules or regulations prescrib-
 6 ing examination and training requirements for any such person.*

1 ***[5.]*** *8.* The board may refuse to grant or may suspend or re-
 2 voke a license issued pursuant to this act upon proof to the satisfac-
 3 tion of the board that the holder of such license (a) has been adjudi-
 4 cated insane, or (b) habitually uses intoxicants, or (c) has been
 5 convicted of crime involving moral turpitude, or has pleaded nolo
 6 contendere, non vult contendere or non vult to an indictment, in-
 7 formation or complaint alleging the commission of crime involving
 8 moral turpitude, or (d) has been determined to be physically or
 9 mentally incapacitated, or (e) knowingly becomes employed by
 10 any physician, surgeon, chiropractor, or osteopath, who advertises,
 11 or (f) shall have presented to the board any diploma, license or
 12 certificate that shall have been illegally obtained or shall have
 13 signed or issued unlawfully or under fraudulent representations,
 14 or obtains or shall have obtained a license to practice in this State
 15 through fraud of any kind, or (g) has been guilty of gross mal-
 16 practice or gross neglect in the practice of acupuncture which has
 17 endangered the health or life of any person, or (h) has been dem-
 18 onstrated professionally incompetent to practice acupuncture.

19 Before any license to practice acupuncture shall be suspended
 20 or revoked, except in the case of convictions of crime involving
 21 moral turpitude or plea of nolo contendere, non vult contendere
 22 or non vult to indictment, information, or complaint alleging com-
 23 mission of crime involving moral turpitude, ***[**For convictions of
 24 violations of or pleas of nolo contendere, non vult contendere or
 25 non vult.**]*** the accused person shall be furnished with a copy of the

26 complaint and be given a hearing before said board in person or
 27 by attorney, and any person whose license shall be suspended or
 28 revoked in accordance with this section shall be deemed an un-
 29 licensed person during the period of such suspension or revocation,
 30 and as such shall be subject to the penalties hereinafter prescribed
 31 for persons who practice acupuncture without first having ob-
 32 tained a license so to do. Any person whose license to practice
 33 acupuncture has been suspended or revoked pursuant to this sec-
 34 tion may, at the discretion of the board, be relicensed at any time
 35 to practice without an examination or application made to the
 36 board.

37 The record of conviction or the record of entry of a plea of
 38 nolo contendere, non vult contendere or non vult in any of the
 39 courts of this State, or any other state of the United States, or
 40 any of the courts of the United States, or the court of any foreign
 41 nation, shall be sufficient warrant for the board to refuse to grant
 42 or to suspend or revoke the license to practice acupuncture.

1 ***[6.]*** *9.* Exempt persons. Nothing in this act shall be con-
 2 strued to affect or prevent a student from engaging in clinical prac-
 3 tice under the supervision of a licensed ***[doctor of acupuncture]***
 4 **acupuncturist** in an educational or research institution or hos-
 5 pital in this State registered by the State***[**; nor shall anything
 6 herein be construed to affect or prevent a licensed physician of this
 7 State from practicing acupuncture subject to such regulations as
 8 may be promulgated by the board of medical examiners]*.

1 ***[7.** All applicants in order to qualify for a license as a doctor of
 2 acupuncture shall fulfill all the requirements of this act; however,
 3 education, experience and examination requirements for the pro-
 4 fessional license may be waived and licenses issued by a licensing
 5 board of another state or country may be endorsed.]*

1 *10. *Any person violating the provisions of this act shall, in*
 2 *addition to any other sanction provided herein, be liable to a pen-*
 3 *alty of not less than \$500.00 nor more than \$1,000.00 for each*
 4 *offense. The penalty shall be collected and enforced by a summary*
 5 *proceeding pursuant to the "Penalty Enforcement Law" (N. J. S.*
 6 *2A:58-1 et seq.).**

1 ***[8.]*** *11.* This act shall take effect immediately.

SENATOR EDWARD J. HUGHES, JR. (Chairman):

Good morning, ladies and gentlemen. I'd like to bring this hearing to order. I am Senator Hughes and to my right is Senator Orechio. We are on the Labor, Industry and Professions Committee. To set up a form for this, anyone who would like to speak on this, I would suggest that they file a written request with either Mr. Bryan or his assistant so that they can be heard. Anyone who doesn't do that, can speak extemporaneously. Now, in the interest of brevity, we would like everyone to be concise with their thoughts and not be repetitious. We would not like anyone, who is going to talk, to be repetitious, so that we can expedite the hearings as far as time is concerned.

We have a schedule of those who have requested to be heard and they, in turn, will be heard in the order of their request. We do want to thank you prior to the open hearing - before discussion is made - for appearing here. I am sure it is going to be informative to the Committee and will help us decide what action we are going to take on these bills.

I'd like to open up the discussions by calling on Senator Joseph McGahn.

SENATOR JOSEPH L. MCGAHN: Mr. Chairman, Senator Orechio, thank you very much. Thank you for the privilege of being here this morning to discuss S-499.

Frankly, it is not S-499 that is being discussed today, but I think when I finish speaking you will see they are comparable.

Let me address myself, first of all, to Assembly bill #520.

Section 1, "The practice of acupuncture is defined as treating. . ." This is to be considered as a practice of medicine.

Subsection c. - "A license. . ." - which is not prohibited by the provision of this section - ". . .shall permit the holder thereof to treat any human disease, pain,

injury, deformity or physical condition not prohibited by the provision of this section. . ."

The prohibition section - which is Section B - is extremely vague and certainly does not delineate the treatment administered by a licensed acupuncturist, similar to the insertion of needles. This section is very vague. By the same token, it would be necessary to have ". . .prior referral, obtained from a licensed physician after appropriate medical examination." Again, we are extremely vague as to what is meant by an "appropriate medical examination" in Sub-section c.

We must realize, in essence, what this is all about. Basically, acupuncture is a technique - it is an experimental technique - that is undergoing investigative review at the present time - research. Generally speaking, it is used in cases of anesthesia and in cases of pain.

Ofttimes, there are no clear-cut indications of what the patient's problem is, per se. The point is this: Any licensed physician, who is not necessarily a specialist, may simply give a cursory examination to an individual and then pass him on to an acupuncturist. But you must remember, in a number of circumstances, he may require a full armamentary of tests to be carried out by a specialist, etc. I think we all recognize and realize that patients have been treated as psychoneurotics, and patients have been treated one way or another, only to discover - three, four, five or six months later - that they had a brain tumor, or something similar to this. So that, very frankly, in the interest of protecting the public, we cannot simply have a licensed M.D. give a cursory examination and then pass the patient on to a licensed acupuncturist.

In Section 3 - assuming that an Advisory Committee is set up, it should not be in the Division of Consumer Affairs of the Department of Law and Public Safety. It should be in the Division of Professional Boards of the

Department of Law and Public Safety. The Committee is comprised of several members, including three licensed practitioners of acupuncture.

Incidentally, on line 27, "The three acupuncturists initially appointed to the Committee need not be licensed acupuncturists. . . ." This is in direct conflict to what the above says. You are simply putting unlicensed acupuncturists in the position of being committee members who are going to make recommendations. You are putting a fox in to guard the henhouse.

On page 3, line 38, it says, ". . . the State Board of Medical Examiners shall establish, by rules or regulations adopted in accordance with the 'Administrative Procedure Act', P.L. 1968, c. 410 (C. 52:14B-1 et seq.), the education, experience and examination. . . ." etc., while further down on line 6, subsection 'b., under Education, it says, ". . . its regulations, but in no event, less than 36 months of study and training in a school approved by the board." This, again, is in direct conflict because in Section 3 c. - through the Administrative Procedures Act - the legislature has delegated the authority to the board to set up the rules and regulations concerning education.

In Section 5, they are taking this away by stating that it will require 36 months of study and training.

On page 3, subsection f., line 14 - the citizenship aspect has been eliminated and I would like to question why, because at the present time, under the Medical Practice Act, foreign medical school graduates - despite the fact that they may be American citizens - are not permitted, without additional study, to be licensed as physicians to practice medicine in the State of New Jersey.

Finally, on page 5, Section 9, under exempt persons, "nothing in this act shall be construed to affect or prevent a student from engaging in clinical practice under the supervision of a licensed acupuncturist in an educational or research institution or hospital . . . registered by the State. . ." Now, this is perfectly fine. This is the only area, in this bill, in which I can find any reference to it being under the supervision of a licensed acupuncturist, not a physician.

There are two points, gentlemen, I would like to bring up concerning this particular bill. Number one, I will not address myself directly to acupuncture. I know nothing about it. I think you will have testimony by men that are experts on it. But I think that we are now dealing with two things: We are dealing with acupuncture, which must be considered under the practice of medicine and we are also considering a person - a non-physician - who is to be licensed to practice acupuncture. Nowhere in this particular bill do I find the words, "under the supervision of a physician".

Now, the policy of this State has always been one of acting in the public interest, in the interest of their health, welfare, and safety. Licensure laws have been drawn up. These licensure laws are to demand of the person who is granted the license a certain degree of competency. By licensing an individual, you are permitting him the independent practice of that profession. You are saying to the public, this man is qualified in that particular area. I hold that this is actually not the case, because under the Medical Practice Act, there are exemptions where an individual, because of skills attained in a particular area, or particular field, is permitted under the direction of, or the supervision

of, a physician to perform that particular act. This is the difference between licensing and permitting this practice under the exemption to the Medical Practice Act.

This bill, to me - the Assembly bill - is totally unclear as to whether this would permit independent clinics to practice the technique of acupuncture and not necessarily require the direct supervision of physicians in a medical school, research facility, or certain designated hospitals. What I am talking about is the commercialization of what might actually be a medical fad, where you would have proliferation of clinics throughout the State in a procedure which, as you will see in Senate bill #835, is clearly defined as an "experimental medical procedure."

I think it's important to realize that the public policy of the State of New Jersey has not been to permit commercialization of the medical practice. It has not permitted - if you will - corporations to be formed to practice medicine, to hire doctors, and to have this type of thing occur. We are now talking about non-physicians performing what we permit, under the Medical Practice Act, physicians to perform. This, to me, is an extremely important thing.

This bill makes no mention, whatsoever, about informed consent on the part of the patient. This is an extremely important thing from the standpoint of liability. How do you have informed consent when you are dealing with an experimental procedure where there are no strict regulations set down? The only thing you can tell the patient is that this is an experimental procedure - and it is. I feel that if the testimony data doesn't bear me out, at least you will be able to answer questions concerning this.

This, I think, is an important thing. This procedure, if permitted, should be considered as a research and investigative treatment procedure.

Let me now go on to Senate bill #835. As I mentioned before, as part of this act, "Acupuncture means an experimental medical procedure. . ." In subsection c., "Certified acupuncturist means a person. . ." I would suggest here that if this language is to be used, that person would be a non-physician.

"Acupuncture center means a facility, center, or institution, whether public or private. . ." - now, underline "private" - ". . . engaged principally in providing acupuncture services." If it is a facility, it would then come under the Health Care Facility Act and would require a certificate of need.

I think, however, the thing, again, we are confronted with in this bill - the principal question that this Committee must answer - is, should the scope of this bill allow a non-physician to perform acupuncture under a physician's supervision in a New Jersey Medical school, approved research facility, or hospital program, for the purpose of scientific research? This technique will then be - the continuation of this - contingent on a progress report and evaluation of the above programs.

Subsection b., on top of page 2 - I think that the requirements - the educational requirements - whether they be 36 months, ten years, or what not, should, basically, be the determination of the Committee and the Board of Medical Examiners.

Page 3, Section 5, line 1 - again, I would simply ask you, gentlemen, in considering an advisory committee - an acupuncture advisory committee - not to consider putting certified practitioners of acupuncture on a board on which they are regulating themselves.

Line 21, again, says, "The three acupuncturists initially appointed to the advisory committee need not be certified acupuncturists at the time of appointment. . ." This, again, is inconsistent, to a large degree, and certainly should not be permitted.

On page 4,- "A diagnosis and preevaluation of the patient shall be made available in writing to the treating certified acupuncturist by the referring physician." All of this is perfectly fine. I think it takes care of the "informed consent" that I mentioned before. This is perfectly fine, if this is confined to the practice of medicine by a licensed physician. We are not - in either one of these bills - considering this to be performed by a practicing physician, licensed in this State. We are talking about a non-physician who is licensed to carry out a medical procedure which is "experimental in nature", as the bill says.

I am extremely concerned - on page 4 - about Section 7, in which it says, "A certified licensed physician, group of certified licensed physicians, or an acupuncture center. . ." An acupuncture center means the "facility, center, or institution, whether public or private, engaged principally in providing acupuncture services". Is this service one that is performed exclusively by doctors who are licensed? Is this simply a ploy to come up with commercialized acupuncture centers, staffed by non-physicians and with, possibly, the hint of one physician, licensed, to be present? We are talking about, gentlemen, a very dangerous trend at this time; there has not been, as yet, a sufficient base of knowledge concerning this procedure. This procedure is a valid procedure that should be investigated. It should not be completely eliminated from the armamentarium of American medicine.

There may be something to it, but it should be under controlled circumstances, in the interest of the people of this State.

Section 7 is, really - the way I read this bill, and unless the sponsor or somebody else can convince me otherwise - setting up a commercialized venture which can proliferate throughout the State like a chain of MacDonald's Hamburger Stands. It says here, "by the prospective employer". Who is the prospective employer? Is he a physician or is it a group organized simply for this purpose, for the business of commercialization of acupuncture in the State of New Jersey? Who is a qualified employer?

Line 14, Section 7 c. says, "That in the case where the prospective employer is an acupuncture center that the employer has provided to the board the name of the certified licensed physician or group of certified licensed physicians to direct the certified acupuncturist named in the application." Senators, as far as I am concerned, this simply proves that the prospective employer provides the board with the name of the certified licensed physician. This is not the practice of medicine. This is commercialization and, again, as I say, the State has a policy against commercializing the practice of medicine in the State of New Jersey. That must be taken into consideration.

"Informed patient consent", page 5, line 19 - again, as I say, I would like a clear explanation of what is informed patient consent in an experimental procedure. The bill makes provision that there be \$100,000 liability. I would like somebody here - subsequent to this hearing - to explain how simple it is for a non-licensed physician - an acupuncturist - to obtain that. I would also like to address myself to the fact that in this bill it shall be under the

direction of licensed physicians since, basically, we are talking about something that I feel goes beyond the scope of medical practice. I think the two sponsors of the bills - who are attorneys - can address themselves to this. Does this mean that the licensed physician is also vicariously responsible for any malpractice or negligences that may result? Or, since it is an experimental procedure, does the patient - upon coming in - have to waive his right to informed consent, because it is going to be impossible to simply tell the individual what informed consent is in this particular circumstance.

Page 6, Section 9 - "Because of the experimental nature of the procedure of acupuncture. . ." Now, I agree with the statement here. It says that it is time that acupuncture be made available to the citizens of the State of New Jersey.

I cannot address myself to the statement that this was prepared and formulated by a committee representing the State Board of Medical Examiners, the Medical Society of New Jersey, the College of Medicine and Dentistry of New Jersey and the New Jersey Osteopathic Society. I would certainly hope that the members present today say whether that statement is 100% correct or not. I do not represent any vested interest today. I am speaking today as a legislator. But if this statement is correct, then I say to these groups that I think they better go back and read the bill a little bit more thoroughly.

Gentlemen, there are two more points here. Number one, when we are dealing with acupuncture, as such, I think this is something that must be considered - as it's said here - as an experimental technique and it does require research and investigative technique before - through a type of custom and usage - we can make a

determination of what place it plays in the role of medicine in New Jersey. There is no question concerning the right of a physician, licensed to practice medicine in this State, to utilize this technique that is being done. It is being done in hospitals and medical centers today, generally, by anesthesiologists. However, what we are dealing with today is the determination, "are we going to permit a non-physician the right to be licensed to practice what is considered the practice of medicine?"

Now, I laughingly referred to S-499. I think you realize what I was referring to at that time. Very frankly, this is an "Assistant to the Physician Act", and this would permit certain skilled types of people - after a job description has been submitted to the Board of Medical Examiners - to be approved to do this under the exemption of the Medical Practice Act. There is a big difference between the two.

In the interest of the people of this State, very definitely, acupuncture should be permitted. It should be permitted by physicians. It should be restricted, as an experimental procedure, to the medical school. A curriculum should be set up in the medical schools so that this could be taught. Research facilities, I feel, should be permitted to utilize this technique. I feel, also that certain hospitals should be approved by the board and/or by the acupuncture board to utilize this technique. This bill goes far beyond anything in California or New York State law. It is something that should not be denied the people, but it should not be commercialized. It should not be utilized to come up with clinics that are going to simply take in and boot out - in a number of instances - patients who are looking, as a last resort, for freedom from pain, because maybe - for one reason or another - the medical profession, as such, has not been able to give them that

relief.

Gentlemen, thank you very much for the opportunity of appearing before you. If you have any questions, I'd be happy to answer them.

SENATOR HUGHES: Thank you, Dr. McGahn. We appreciate you taking the time to appear before this Committee.

The next speaker on the agenda would be Senator Menza, the prime sponsor of Senate Bill #835.

A L E X A N D E R J. M E N Z A:

Senator Hughes, Senator Orechio, let me preface my remarks by saying, one, I am not a physician and, two, that this bill was prepared for my introduction in accordance with the statement which is attached to the bill. It is my understanding - after speaking with Dr. Albano, and receiving a letter from him to that effect - that this bill was prepared by ten people representing the State Board of Medical Examiners, the Medical Society of New Jersey, the College of Medicine and Dentistry of New Jersey, New Jersey Osteopathic Society, and a non-professional public member. Dr. Albano was President of the Ad Hoc Committee.

Let me also give you, very briefly, the background to this bill. Perhaps, it might help the Committee. Sometime ago when I was in the Assembly, I introduced a bill similar to the one that is now a law in the State of California, and that permitted acupuncture in medical schools for the purpose of research. The bill also provided that the medical schools would report back to the State Legislature as to its findings, etcetera. I understand a similar law has been passed in New York. But in New Jersey we have neither bill. We don't have a bill permitting acupuncture medical schools; we don't have a bill with regard to the criteria for practicing acupuncture

by physicians or by laymen. The bill that I introduced in the Assembly had a public hearing in Elizabeth and I was, to say the least, quite surprised at the number of people that showed up and overwhelmed by the number of phone calls and the correspondence that I received. I had no idea about acupuncture prior to that time, and I must confess that I know very little about acupuncture now, except, I should add as an aside, that my back is killing me right now. If there is anybody here who is a physician, layman, or acupuncturist, who can help me, I'd be eternally indebted. The hearing demonstrated that the people of the State of New Jersey want acupuncture made available to them. It demonstrated to me that perhaps it is another modality of treatment. It is very difficult - when I speak of acupuncture - to make a firm statement because, quite honestly, I myself don't know if it is experimental in nature, or whether it is a cure, or whether it just does away with pain, whatever it may be. What I have understood so far from it, and what I am convinced that it does, is that, to some extent, it does work. Now, therefore, I think it should be available to the people of the State of New Jersey. What is happening in New Jersey - up to approximately one year ago - is people are going to Washington, D.C., and before that they were going to Taiwan. Some of them go to New York where laymen are practicing acupuncture, mostly orientals. In the last year or so we have seen a lot of physicians take courses in acupuncture, mostly out of the country, and they have come back and studied and specialized in acupuncture.

The intent of the bill, very simply is to insure that those persons who practice acupuncture receive the proper education and also the proper supervision - proper supervision if you are a layman -

by a physician, and proper supervision if you are a physician by the State Board of Medical Examiners.

You will note -- I should add, by the way, that Senator McGahn makes some very good points, and the first point to determine is the basic philosophy. You are going to have to make a determination as to whether we want only physicians to practice acupuncture or the laymen. Who is qualified, with appropriate education, to practice acupuncture? The position of the State Board of Medical Examiners at that hearing we had in Elizabeth, backed by a letter sent to me from Dr. Albano, was that the practice of acupuncture is the practice of medicine. It should be limited to physicians. However, Dr. Albano did help prepare this bill with the Committee, and I see now that the bill permits laymen, under certain circumstances, to practice acupuncture. You could argue with either side, either way. A chiropractor is not a physician, and yet he practices some form of medicine, or at least his practice helps relieve people of their ailments. So you could say, under those circumstances, a layman should also be able to practice acupuncture using criteria, of course, that he receives the proper courses of study and training. The bill requires no less than 36 months of study which I would imagine is a great length of time. It's almost four years. On the other hand, you can very well argue - you can see, gentlemen, that I have an open mind on this - that it should be more than that. Acupuncture, perhaps, is experimental. It belongs with a physician who has the necessary medical qualifications.

You notice also in the bill on Page 2, Lines 23 through 31, that we provide that a physician would be able to

practice acupuncture providing he obtains a proper course of study and training which would be determined by the board, or has had at least three years experience in acupuncture. I received a lot of phone calls on this provision. The argument being, where are we to take these courses of study and training other than overseas? Suppose the board does not think that the courses we took are proper? Suppose the board says to us, "well, you should have had one year or 36 months or two months, or whatever it may be." Many physicians are going overseas for a period of a month or two months and coming back and practicing acupuncture, and I can't - in good conscious - say whether this qualifies them or not. I really don't know. I would think it should be up to the Board of Medical Examiners - as stated in this bill - to set forth the course of study and training they require. In addition to that, the other provision is that they would not need to take an exam if they have had at least three years of experience in acupuncture. The problem with this, quite frankly, is that acupuncture has really come forward and, as in our scene in the State of New Jersey, I would say in the last year or two. So, those physicians who have been practicing acupuncture have not been practicing for three years. Most of them - at the very most - have been practicing a year, a year and one-half. The question the Committee might want to consider - and I just pose this question - is whether we should, in fact, think about a grandfather's clause to cover these persons.

I spoke to Dr. Albano prior to this hearing today and he indicated to me that - I believe he did - even physicians should take an examination in this subject, even with their qualifications - their educational qualifications - and even though

they have practiced it for three years.

I have no comment on Section 3 - the advisory board. The Committee may change that any way it so desires. Keep it in mind that the ultimate authority, obviously, must be the Board of Medical Examiners.

You will notice on Page 4, Line 5, "Each person certified to administer acupuncture shall be required to attend courses of study approved by the board for not less than 25 hours per annum." I understand, also, that all physicians who are members of the State Medical Society must have 150 hours of study, every three years.

The crux of Page 4, Line 8 is simply that acupuncture shall be performed as a result of a medical examination, meaning that the referral has to be from a licensed physician. In other words, it will be similar to a podiatrist or a chiropractor; you will not just go to an acupuncturist, you will go to your physician and your physician will say, "well, perhaps acupuncture would help you". He will then refer you to an acupuncturist with your diagnosis, after doing a workup or whatever physicians do to charge you that enormous amount of money. I'm only joking, physicians.

The intent of Line 7 is not the way Senator McGahn interpreted it; at least that was not my intent. The intent is to prohibit large acupuncture centers and not have them exist as they do, for example, in Washington, D.C., where you might have one physician and ten or fifteen acupuncturists. The idea is to limit it to two under a licensed physician. The idea is to prohibit commercialization of the practice of medicine, which Joe McGahn eluded to. As far as the words, "prospective employer" -- obviously, the intent of the statute - perhaps the aides can work this out -

is to make a prospective employer a physician, as such. Now, when I say prospective employer, I don't mean an acupuncturist who is not a physician, and I don't mean a fellow who is just an optometrist, I mean a physician - he would be the employer.

I believe that Senator McGahn discussed Section 12 with regard to the penalties that exist. I point out to you that the fine is not only \$500.00 or \$1,000.00, but it is also a misdemeanor which carries, therefore, a maximum penalty of three years in jail for violation of the statute.

Let me, first of all, conclude by saying this, I'm amenable to any recommendations that the members of the audience may have or any suggestions the Committee may have for changing this bill. I would also have no reluctance, whatsoever, to have my bill merge with Assemblyman Klein's bill. I'm not concerned with authorship by any means. I am concerned with two things. I'm concerned - excuse the expression, but it's very appropriate - that "quacks" - whether they be physicians or laymen - do not practice acupuncture and, therefore, possibly harm our citizens.

Two, I want to insure that, in fact, acupuncture is available to the citizens of the State of New Jersey. There are many, many people undergoing acupuncture. Many people swear by it as I swear by chiropractors. As an aside, I should add that my father is going for acupuncture and, quite seriously, I'm thinking right now of going for acupuncture. Now, you know, it's funny in a way and it's not funny in a way. I've been suffering from a bad back since the army and I tell the kids it's from an old war injury. The fact is that I was playing softball one day in the army and I hurt my back.

SENATOR HUGHES: Senator, may I ask one question relative to that?

SENATOR MENZA: Yes.

SENATOR HUGHES: From your background, do you feel that you are being, in any way, led by the indirect exposure and, I would say, publicity of acupuncture or is it by the advice of a physician?

SENATOR MENZA: I didn't understand that question.

SENATOR HUGHES: In other words, you mentioned that you, in turn, thought you were going to solicit the aid of an acupuncturist?

SENATOR MENZA: Frankly, I'm thinking of it, yes.

SENATOR HUGHES: Well, are you saying then that you would do it on your own without consulting a physician or --

SENATOR MENZA: Good point. Frankly, I'd be afraid to go to an acupuncturist without first going to my physician. But the point I was making is that there are an awful lot of people who are in desperate straits, not that they have any monster illness, or grave illness or terminal illness - that's not the point - there are many persons, for example, that have a -- I've been to chiropractors. I've been to osteopaths, I've been to orthopedists. I have had heat treatment. I have had traction, and so forth. Now, I'm not dying of this, don't misunderstand me. It's just plain annoying, and I've gotten to the point where I'm saying to myself, "why not go to an acupuncturist." When we had the hearings I heard so many people who had been in pain for so many years say they finally went to an acupuncturist. They call it a cure. The physicians say it's not a cure and some people may say it is a cure. But the simple fact does arise that those people do not have pain.

people do not have pain. I've seen people, here, that testified some years ago before the Assembly Committee and these people very simply said, "look, I had crutches my entire life, and so forth and so on, and now I can walk." I don't know how it works and I can't say whether it's curing or just taking care of the symptoms. The fact is that acupuncture has helped an awful lot of people in our State - an awful lot - and many more people want to be helped through the treatment modality of acupuncture. I'm merely saying that, perhaps, what we ought to do is stop messing around with these bills - to a certain extent we are, you know. Not you, not this Committee. I'm saying this has been knocking around for a few years. Get a meaningful bill which will insure proper education and will insure proper qualification and insure, very simply, that the citizen - the patient - is going to get what he's bargained for, fairly and safely. That's really all I'm saying. I'll go along, Senator, with any amendment which is reasonable.

SENATOR HUGHES: Senator, I'd like to ask one question. Would you then, in turn, be in agreement to establish a school of acupuncture under the supervision of the American Medical Association?

SENATOR MENZA: Sure, of course. If we're able to do that.

SENATOR HUGHES: Would you be in agreement with the establishment of standards, other than the length of experience, rather than, have a grandfather clause, where they would have to undergo an examination in order to qualify themselves under the AMA?

SENATOR MENZA: I would also be in accord with that, Senator, I understand that chiropractors go to a chiropractor school, a podiatrist goes to

a podiatrist school and if a --

SENATOR HUGHES: A podiatrist is a medical doctor, I assume.

SENATOR MENZA: A podiatrist is not a medical doctor.

SENATOR HUGHES: Yes.

SENATOR MENZA: No, he's a foot doctor.

SENATOR HUGHES: I don't know. I understand that most podiatrists are medical doctors.

SENATOR MENZA: Well, all right.

SENATOR HUGHES: But that's beside the point. In any event, continue with your --

SENATOR MENZA: Frankly, -- to continue with the examples, you know in order to specialize in something a physician usually takes a residency or he takes courses. He may not wind up being a diplomate, he may just take courses in a particular area. The point is, in order for him to practice acupuncture, I would presume that he has to take courses. It seems nonsensical to me that in order to take these courses you have to go to Taiwan. I would think that it's incumbent upon the Board of Medical Examiners, or whoever deals with this subject, to require that courses be available in medical schools for the student, or for the practicing physician.

I reiterate, Senator, you have got to make a very important determination here and, apparently, the Board of Medical Examiners has already made this determination. I represent the view that Dr. Albano and his board initially took; that the practice of acupuncture is the practice of medicine. Under those circumstances, only a physician should practice it. That's one philosophy.

Then I would also like to tell you that Dr. Albano, with

his Ad Hoc Committee, helped prepare this bill. He not only helped prepare this bill but, in fact, he prepared this bill for my introduction. You will notice from Page 2, on the top, that we doubt that we will permit laymen to practice acupuncture, under certain circumstances. I would be inclined to think that both physicians and laymen should be able to practice acupuncture. Basically, that is all I have to say.

SENATOR HUGHES: Under, you would say, certain control, though?

SENATOR MENZA: Strict control, I would say.

SENATOR ORECHIO: Senator Menza, on Page 1, acupuncture is described as an experimental medical procedure. You testified before that you know little about it since you are not a physician. Dr. McGahn has been a physician, I think, for over 20 years. He said he didn't know anything about it. What I'm wondering is, how can somebody's personal physician know when they require, or might, even investigate the possibility of going to, an acupuncturist to resolve their problems, whatever they may be?

SENATOR MENZA: I can't directly answer your question, Senator. The reason that the word "experimental" is used is because no one knows how it works, -- or apparently don't know how it works. You can get some very elaborate lectures on how it works but I never understood them and I am quite convinced that the legislature doesn't understand them either.

I hate to admit it, and there are many physicians who won't admit it, but they'll say, "go to your chiropractor, I can't help your back." You know the relationship, generally, between physicians and chiropractors, but they'll do it. They'll say go to your chiropractor. I have known physicians that have

recommended acupuncture treatment. I know of a young lady who -- They're very reluctant to make out a form - don't misunderstand me - or diagnose, or even write a letter, but I know of a young lady who had severe headaches for a long time who went to an acupuncturist. The physician says, "I can't help you anymore." I get a feeling that physicians, as a whole are sometimes a little jealous of their profession. They, perhaps, don't want to expand the treatment modalities to other persons to give them the right to treatment. In addition, I get the feeling that they are not very enlightened in the area of acupuncture.

These bills do not come about - Herb Klein's bill and my own bill - because of the pressure of the medical profession by any means. What I'm saying is absolutely correct, they have come about by the pressure of the people of the State of New Jersey who are crying out for another modality of treatment. I mean, really, literally, crying out for it. They want it. They want it to be available to them, and since it apparently does work to some extent -- I don't know how to put those words, you see. I've got to be careful with the way I say it. Since it apparently does work with certain ailments, on certain people, under those circumstances, why not make it available. It really should be available. Many people are just going to too many quacks, no kidding. They really are. I know a politician friend of mine who's mayor, as a matter of fact, who's son could not walk and had braces and could barely walk with the braces. He underwent acupuncture and he now walks. He, himself, has taken busloads of people down to Washington, D.C. It's unfair to our citizens that they have to go to Washington, D.C.

SENATOR HUGHES: Well, Senator Menza, in summing up what both you and Dr. McGahn have mentioned, it

seems that both of you are in agreement that acupuncture is something worthwhile for the citizens of the State of New Jersey. There are differences in both of your presentations. I would suggest that, relative to these differences, you and Dr. McGahn - and possibly other people who may speak in this public hearing - give some transmittal to the Committee so that we can make a good adjudication of how far these bills should go before they're enacted into the law. I'd appreciate it if you would do that. Apparently there is an agreement, but not what you would call a complete agreement. I think that these points - just from what I've heard from you and Dr. McGahn - are both valid points. I think it can be worked out for the benefit of the citizens of the State if you got together and brought back - without going into any undue trouble on your part - to the Committee a concise, evaluation of both of your presentations.

SENATOR MENZA: Let me just say this. First, you premise your remarks on the fact that I'm not busy enough, Senator.

SENATOR HUGHES: No, I didn't.

SENATOR MENZA: You know, I don't know if Assemblyman Klein is going to testify too, but to be honest with you, I am out of my area right now. I'm a lawyer, I'm not a physician. I'm very reluctant to set fourth qualifications and criteria for acupuncture. Perhaps the better approach would be to get input from people who know - that is, laymen who are practicing acupuncture and physicians who are practicing acupuncture. Or, you could say, "the heck with all that" and just take Dr Albano's Ad Hoc Committee's recommendations. I really don't know. I don't know, honestly, what input I can give you. I can read over this bill and

point out some technical difficulties with it, but that's a legal approach. We're not really interested in the legal approach in this particular bill. I can't give you that information. I don't know how. I'll be honest with you, I don't know how. I can send you some needles in the mail and you and the Committee can try them out. I don't know.

SENATOR ORECHIO: I have a question. I think that we can probably acknowledge to you - especially with the renowned Dr. Albano who's done so much in preparation of this bill - that acupuncture is certainly another cure for medical problems that many people have. The only question that I have is the approach. Now, you mentioned, and indicated before, what California has done and, I think, Hawaii. What I'm wondering is whether or not we are trying to move too fast, too soon. When your own physician, for example, isn't in a position to really recommend a patient to an acupuncturist, I'm just wondering about the suggestion that medical schools should be used for research, to determine whether or not the questions that are unanswered now can be answered, and to affirm that acupuncture is a cure and has relevance to many people that are afflicted with various ills.

SENATOR MENZA: That's an extremely legitimate point. However, in response, I have to say this, in California and New York - and I don't know about Hawaii - they do it already. They have a law that says you can practice acupuncture for the purpose of research in medical schools. I'm inclined to think, Senator, that it's not enough. Now, we are faced with something that we think is experimental and new and, perhaps, we are

right. It is experimental and new to us here in the United States. It is not experimental and new to other parts of this world. I understand that the oriental people have been practicing it for hundreds of years, or thousands of years. They practiced it in France for many years and in England for many years. I personally think that if you limit it to medical schools, you would be researching this thing from now until doomsday. The busloads will still be going down to Washington, D.C. I think, with all due respect to your point of view - although, it is a legitimate point of view, Senator, it really is - I think that it should be made available now, under very stringent strict qualification criteria.

SENATOR HUGHES: Senator, if it is as you proposit it to be, an exact science --

SENATOR MENZA: Oh, no, no.

SENATOR HUGHES: Although it says in your bill "experimental medical procedure", you indicated from your statement just now that it has been practiced and proven; therefore, to some degree it is what we would term an exact science. The evaluation of this, I think could be very expediently brought about by presentations of that nature to the Committee, and then if there are still reservations about the licensing and so forth, as far as the AMA is concerned, I think they, in turn, could be convinced. Now, I'm sure there are going to be other people here that are going to talk and give us more input on this subject from the standpoint of the exactness of the science, such as Dr. Albano. But I too wonder - relative to what Senator Orechio has just mentioned - are we going too quick, too far, too fast?

SENATOR MENZA: Well --

SENATOR HUGHES: This is a matter of question. I'm sure that we will all be enlightened by these public hearings. I'm sure I will be wiser for it and everyone on our Committee will be.

SENATOR MENZA: Senator, first of all let me say this, I don't know if it is an exact science. I'm inclined to think that it's not an exact science because an exact science, to me, means force equals mass, times acceleration. It's something that you can see and something that necessarily evolves and it is something you know all the answers to. I don't think it's an exact science. It's like psychiatry -- Some medicine is not an exact science.

Then, the next argument is, is it experimental? Well, maybe so, but it's been going on for a thousand years in the oriental countries; therefore, is it still experimental? These are very good questions you pose to me that I can't answer. I must say this, however, I would personally oppose only permitting the practice of acupuncture in medical schools for the purpose of research because that would be completely founded on the fact that, one, it is not an exact science, at all, and two, that it is experimental. I think you've got to look further than that because the people -- I'll bet you that if you took a survey of the number of people in the State of New Jersey that have undergone acupuncture treatment - Jersey or without - you'd be shocked at the numbers, particularly the ones without. So now the question is, do you want them to continue to have the burden - as we are doing now - of going to other places for treatment - Canada, Washington, D.C., foreign countries? I don't think so, I don't think it's fair.

SENATOR ORECHIO: Senator, I have one final

question. Under Section 7, page 4, there is reference made to "acupuncture center". Now, you indicated it would be your feeling that there would be two acupuncturists in this center, I guess, with a qualified physician. But that isn't prescribed in this section of the bill number.

SENATOR MENZA: Well, it may be on Page 5, Senator, Line 19, "The board shall not approve an application . . .", etc., and Line 23, " . . . physician having responsibility for the direction of more than two certified acupuncturists." It may be bad - it is bad language. As a matter of fact, the paragraph should be the same, it should be a little more sic sic; a little more concise. But you can change it any way you like. The intent is not to have large acupuncture clinics.

SENATOR HUGHES: It would be a one to two situation in this case, right?

SENATOR MENZA: A physician in charge.

SENATOR HUGHES: Right.

Thank you, Senator. We appreciate your taking the time to appear before the Committee.

SENATOR MENZA: Thank you.

SENATOR HUGHES: I would like to mention, again, in case anyone is here relative to the PERC Public Hearing, that it is being held in the Assembly Chamber.

I also would like, again, to say that, in the interest of brevity, if anyone has a statement, I would like them, rather than read it, to summarize the statement, because they are before the Committee and we will have ample opportunity to study them.

Assemblyman Klein.

H E R B E R T C. K L E I N: Senators, it's been some two years since James Reston of the New York Times brought acupuncture to the attention of the American public by his account of his personal

experience with that ancient Chinese healing method. Since then, interest in the subject in this country has grown with explosive force.

Last year when a constituent of mine asked if he could discuss acupuncture with me, I admit that my reaction was one of skepticism. But I listened and then read everything that I could find on the subject. As a result I soon was convinced of two things: first, that countless thousands of citizens of our State have sought out and benefitted from acupuncture in various forms; second, that many would-be practitioners are totally unqualified and untrained in acupuncture. The need for legislation became apparent, both to license and regulate the qualified practitioners and to exclude the unqualified from the practice.

Last year I sponsored a bill - which passed the Assembly - providing for the regulation and licensing of practitioners

Soon after sponsoring a bill on the subject, I was deluged with letters, telephone calls, and personal comments. They came from old friend and from strangers. But they had one common theme and that was a testimonial as to the benefits each individual had received from acupuncture.

That bill passed the Assembly last year, but because of the lateness of its passage it did not receive consideration in the Senate. A-520 has similarly been passed in the Assembly and is now before your Committee.

Some of the conditions for which the therapy had been beneficial were arthiritis, migraine headache, slipped disc and deafness. It has been used for anesthesia in surgery,

dentistry and even obstetrics.

Acupuncture or traditional Chinese medicine, has been extensively practiced in the Orient for many centuries and flourished in Western Europe, particularly France and England, for approximately 100 years. In China and other oriental countries it is on a par with Western Medicines and requires training of comparable duration. A seven year program is typical.

At the present time in this State it is considered part of the practice of medicine. Accordingly, any medical doctor or osteopathic physician licensed to practice in this State can practice acupuncture without any training whatsoever in this healing discipline. Three and five days courses are presently being offered to physicians; and there are some who after such a course actually commence practicing. By contrast, someone who has completed a seven year course in the orient in traditional Chinese medicine and has practiced acupuncture there would be barred from practicing in this country unless he was a licensed medical doctor. This situation seems totally wrong. We should be permitting those who are trained in acupuncture to practice it; while those who are lacking in acupuncture training should be barred regardless of whether or not they are licensed medical doctors.

A-520 would license and regulate practitioners for the protection of the public. It's key provisions are as follows:

- 1- It prohibits anyone from engaging in the practice of acupuncture unless he has first met the educa-

tional requirements established by the licensing board and has passed an examination. This requirement applies to physicians as well as non-physicians.

2- It provides that the rules and regulations for licensing shall be established by the State Board of Medical Examiners with the approval of an acupuncture advisory Board to be appointed by the Governor. The advisory Board would have at least three members trained in acupuncture and thus would provide expertise in this healing discipline.

3- It requires that practitioners who are not physicians cannot treat a patient unless referred by a licensed physician.

I might say that, like Senator Menza, I am flexible and one of the areas of flexibility is that if the Committee deems it appropriate that periodic examination by a licensed physician be conducted, I certainly would have no objection to that.

The purpose, of course, is to insure that the patients be examined and diagnosed by a medical doctor who would determine that acupuncture treatment could be beneficial and not harmful.

4- It requires all practitioners to have professional liability insurance with limits of not less than \$100,000. This is to protect the public and to assure financial responsibility in the event of improper treatment.

I might say, in response to a comment made by Senator McGahn, that I understand such liability insurance is available and it presently can be obtained in this State.

There were a number of comments made by Senator McGahn that I feel should be picked up at this time

First of all, with regard to the placement of the Board of Acupuncture and the Division of Consumer Affairs - I point out that the bill specifically provides that it is under the Board of Medical Examiners. There is some problem about the language. I think that can be easily corrected.

Secondly, with regard to the establishment of a 36 month period of training - this is intended as a minimum period. The actual requirements would be established by the licensing board through its rules and regulations. Whether a minimal period is advisable or not is something that I think should be left with the discretion of the Committee. If the Committee feels that no minimum period is appropriate and that the entire subject of qualification should be left to the licensing board, I have no objection.

Senator McGahn commented about the requirement of citizenship. I understand this to be - that is, the dispensing with the requirement for citizenship - for constitutional reasons, it cannot be required, and there have been judicial decisions on that subject.

The comments of Senator McGahn with regard to independent clinics I think are more appropriate to Senator Menza's bill. I think, except in this one area - and they're not too many different areas - I don't think there are great differences in these bills.

The provision for independent clinics - frankly, my thought would be that someone who is licensed to practice should be thoroughly and fully qualified by both examination and training. I think that anybody with a lesser requirement and lesser education and lesser training should not be licensed and should not be permitted to practice under any circumstances.

Senator McGahn's feeling that there should be research in hospitals, I think, is an admirable one.

I think - as in all areas of healing - we should go on and go forth with healing and with research. But that is no reason why we should not provide the public with what it very desperately wants and needs today, and that is trained and qualified practitioners.

Senators, this is an idea whose time has come. The Public needs protection now and I urge you to act promptly. Thank you for permitting me to appear at this hearing and I would be pleased to attempt to answer any questions that you may have.

SENATOR HUGHES: I have one question. Are there any statistics available? You had mentioned in your earlier statement about countless thousands and so forth. Are there some varified statistics available - rather than just going on a generalization - that could be presented to the Committee either by yourself or in some other manner through solicitations of the public? Is this possible?

ASSEMBLYMAN KLEIN: Senator Hughes, I know of no statistics. There may be some available, but I rather doubt it for this reason, that the people who are seeking out acupuncture treatment today are seeking it wherever they can find it. They go to sub rosa clinics in Washington and even out of the country. Some of them are receiving treatment from qualified practitioners, but many are not. My estimate - and I'm confident that the statement of countless thousands is not an exaggeration - is based upon those who have personally advised me that they were receiving acupuncture treatment. It's an amazing thing, having sponsored this bill -- it was amazing to me, the number of people who I had known for many, many years who came forth and said to me, I've been receiving acupuncture treatment, and there were a dozen or more such personal experiences that were

accounted to me by people who I had known well for a number of years. If my own personal circle of acquaintances could contain so many people who would volunteer that kind of information - obviously, not known to others - if we could compile such statistics, the figure of countless thousands would be a conservative - in my opinion - estimate.

SENATOR HUGHES: Just relative to that, those people that did receive acupuncture treatment - those people that actually revealed this to you - did they go to , what you call, a clinic or to someone -- what type of a professional person did they go to? Would this, in any way, convey to you?

ASSEMBLYMAN KLEIN: Yes, all sorts of situations. Some of them had gone to New York before the less qualified practitioners were flushed out of that State. Some of them had gone to Washington. Some of them had received treatment from people practicing in New Jersey, some of them were licensed and some of them were not licensed. When I say licensed, I mean licensed M.D.s who are permitted at this time to practice. There were just a wide vairyety of sources from which they had attempted to obtain treatment. But the thing that struck me most was that, virtually, everyone said they had great difficulty obtaining the treatment. If they went to someone who was licensed, they found they had to wait long periods of time. If they went to someone who was unlicensed, there was the problem of finding them, there was, of course, the discomfort and uncertainty about going to someone who might not be fully qualified and that, of course, is the thing that most concerns me and is the reason, really, behind this bill.

SENATOR HUGHES: Assemblyman, did they in any way imply to you as to whether or not they were ad-

vised by a physician to go, or did they do it out of, we'll say, almost desperation because of the lack of help they felt they received through the medical profession? Just what made them turn to acupuncture? Do you have any kind of information on that?

ASSEMBLYMAN KLEIN: Again, I have no reliable statistics. I can tell you, though, that they went -- there were both situations that prevailed; that is, people who had been referred by physicians and those who had gone to a great round of physicians without any help whatsoever and, out of simple desperation sought out acupuncture treatment.

I might, at this point, if I could, respond to a question that you directed to Senator Menza and that is as to whether a licensed physician -- as Senator Orechio pointed out -- who might not have knowledge of acupuncture, could competently make a referral to an acupuncturist. I think that the purpose behind the requirement that the individual be referred by a licensed physician, I regard as a negative purpose; that is, it assures that the patient has been given a thorough medical examination and a diagnosis and that the medical practitioner has determined that he cannot provide treatment for the individual. The medical practitioner has made a determination that the individual isn't suffering from some illness or malady from which he could receive benefit as a result of medical treatment. I think that is the prime purpose of the referral. Hopefully, and I would expect that medical practitioners -- before making such a referral -- would make a determination of all of those things.

SENATOR ORECHIO: Assemblyman Klein, Most of the proponents, who advocate the practice of acupuncture in New Jersey, tell us countless stories about the

great numbers who benefited by this practice. I wonder if you could tell me, do we know of any who have been affected adversely because of the practice of acupuncture?

ASSEMBLYMAN KLEIN: I'm sure there have been. I must say I know of no personal situations, with one exception and that one exception was not so much by way of having any adverse effect from the treatment, but simply from an improper administration of the treatment, the kind of things that can happen in almost any kind of treatment.

SENATOR HUGHES: I have no further questions. Assemblyman Klein, we appreciate your appearing before this Committee, and I must say that your statement was very complete and we appreciate your comments.

ASSEMBLYMAN KLEIN: Thank you very much. I would only make one final comment and this is that at the present time, since we have no law or regulation, whatsoever, we do have a problem of practitioners continuing to proliferate. I would hope that the Committee could see fit to act at the earliest possible date. I think it is in the public interest that they do so.

SENATOR HUGHES: You mean in order to put it under regulation?

ASSEMBLYMAN KLEIN: Pardon me?

SENATOR HUGHES: In order to bring it under regulation?

ASSEMBLYMAN KLEIN: That's correct.

Thank you very much.

SENATOR HUGHES: Thank you.

Dr. Albano.

D R. E D W I N A L B A N O: I have with me, Senator Hughes and Senator Orechio, Dr. Edward Ornas, who is Secretary to the State Board of Medical

Examiners. He may have a few comments to make.

SENATOR HUGHES: Doctor, if you would, would you come up here. I think it would more convenient for the reporter to record it, really.

DR. ALBANO: Good morning, sir.

There has been a question as to the truth and authenticity of the statement in Senate Bill #835. If the statement is read carefully, it reads exactly as it's stated. The proposed legislation was prepared - and it was prepared by me and it took several months before I had it formulated - and presented to the State Board of Medical Examiners on three occasions for their approval. With each presentation and change in the legislation, a copy, then, was again presented to the State board and further changes were made until, finally, the State Board of Medical Examiners agreed to let an Ad Hoc Committee review the legislation for their consideration. Now, that Ad Hoc Committee consisted of two members from the State Board of Medical Examiners, two from the Medical Society of New Jersey, two from the Osteopathic Society, and a non-professional public member. There are about ten members in all. We met at least on three occasions. On each occasion certain changes in the bill were made. At the final meeting of the Ad Hoc Committee, a vote was taken and the bill was approved as presented with one exception, and that was by Dr. Ornas who took exception to parts of the bill. The bill, again, was brought back to the State Board of Medical Examiners - that had fifteen members - and it was approved fourteen to one and Dr. Ornas, again, took a position in objecting to certain parts of the bill. That is his personal privilege. But fourteen members of the State Board of Medical Examiners approved the bill in its final form.

The bill --

SENATOR HUGHES: Doctor, not to interrupt you, but what points did Dr. Ornas object to?

DR. ALBANO: He'll state that. I can tell you very briefly. All he wants is that licensed physicians qualify to practice acupuncture and that it should not be left in the hands of unprofessional, unlicensed physicians. That's it in a nutshell.

Both Assembly Bill #520 and Senate Bill #835 are good. There are certain omissions in Senate Bill #835 which could be included with those as stated in Assembly Bill #520; that is, physicians, in order to be certified to practice acupuncture, must have the proper qualifications, a period of training, and experience, subject to the approval of the State Board of Medical Examiners, and most important, that they also subject themselves to an examination. There is no provision for the examination of licensed physicians in Senate Bill #835.

Also, Senate Bill #835 should include - as it does in Assembly Bill #520 - malpractice insurance of at least \$100,000.00 for the protection of the patient. I also agree that in Senate Bill #835 we should have a grace period of about six months in order to have the advisory committee set up rules and regulations for the certification of individuals.

SENATOR HUGHES: Doctor, just one question here relative to the malpractice insurance.

DR. ALBANO: Yes, sir.

SENATOR HUGHES: What is the standard today? I believe it's even higher today, isn't it?

DR. ALBANO: The members of the State Medical Society who wish to practice acupuncture may get malpractice insurance. It is provided by the Britton

Agency who represents Chubb Insurance of Short Hills. The premium is high. It averages about three thousand dollars for those who practice acupuncture.

SENATOR HUGHES: What is the limit of insurance?

DR. ALBANO: One hundred to three hundred thousand. That is the limit. Then there is another firm in Jersey City who will provide malpractice liability insurance with a premium of four hundred dollars per limits of fifty to one hundred thousand, six hundred and fifty dollars per limits of one hundred to three hundred thousand, and eight hundred and eighty dollars per limits of two hundred to six hundred thousand. So, malpractice insurance is available.

SENATOR HUGHES: I wonder if you would be good enough to give the Committee a transcript of that for our information.

DR. ALBANO: Yes, of the Jersey City --

SENATOR HUGHES: Of the insurance rates and so forth. Would you?

DR. ALBANO: Yes, I would be glad to let you have it, sir. Incidentally, there are men practicing acupuncture in this State who are not covered by malpractice insurance. I know that as a matter of fact, and there is a certain risk to the patients.

Senate Bill #835 presents a number of items in the bill for the protection of the patient; particularly, it sets up an advisory committee made up of three experienced acupuncturists and one physician, a public educator, and a public member. "The initial acupuncture treatment, by a certified acupuncturist, shall be performed on presentation by the patient of a referral from a licensed physician after a physical examination, including the necessary and appropriate laboratory and radiologic parameters, has been performed, and a complete patient history . . ."

The good Senator McGahn objects to the status of a certified acupuncturist, unless he be one who is licensed to practice medicine in this State and that acupuncturists should operate and serve under the supervision of a licensed physician. Well, there are exemptions in the Medical Practice Act whereby physical therapists - and that is a modality of the practice of medicine like any other branch of medicine - are registered by the State Board of Medical Examiners and can only treat patients on referral. That is no different than if we provide legislation for the certification of non-professional acupuncturists who meet the qualifications provided by the board. We have registered nurses - professional nurses - who are exempted under the provision of the State Medical Practice Act. They can serve independently but at the direction - the specific direction - of a licensed physician. So, there is nothing new about referrals and there is no infringement, actually, on the practice of medicine by a physical therapist, a professional nurse and, possibly in the future, of a certified non-licensed, unprofessional acupuncturist.

There are many safeguards in the bill. An informed consent patient should know what the treatment consists of - the risks involved - and this should be in writing and signed by the patient.

Acupuncture centers - We don't want any mills in the State of New Jersey. An acupuncture center may be owned by an unlicensed, unprofessional individual. That is nothing new in the State of New Jersey. There are health centers all over this State owned by corporations in which there are no physicians participating as members of the corporation. They, in turn hire physicians to carry out the functions of their clinics. The unions have them all over the State. That is nothing

new. To have acupuncture centers may be nothing new, but the bill restricts the number of certified acupuncturists that may serve under a qualified-certified physician, to two. Otherwise, we would have the same situation that you have in Washington, D.C., and that now exists in Massachusetts, where you may have one and, probably, two physicians supervising ten, twenty, or thirty uncertified acupuncturists.

Now, the bill also states that the qualified certified physician-acupuncturist must be physically present on the premises where the acupuncture treatment is given so he can't go off and leave the patient in the hands of certified acupuncturists.

Now, the thing I want to emphasize is that, about a year ago, I presented a ruling to the State Board of Medical Examiners - which was approved - that acupuncture was the practice of medicine and no one, other than a licensed physician, could practice acupuncture. I had second thoughts about that because of the things that were going on. Unqualified physicians were taking advantage of that, treating patients with acupuncture; physicians who probably took a 24 or 48 hour course and others who probably took a week or two - they had many lectures. They had very little training and experience with actual patients. Their patients actually served as guinea pigs. After the course they would go back and practice and learn on our patients. They exploited these patients for large amounts of money. It is a conservative estimate that this is going to be a two or three billion dollar business, and it's really up for grabs. I maintain that we need acupuncture for the patients in this State, where they are being treated by qualified, certified acupuncturists, whether they be licensed physicians or non-licensed physicians,

who meet the requirements and the qualifications for certification.

I must agree with Assemblyman Klein that, hopefully, we can get together a bill so that it may be presented to the present legislature for its adoption.

Thank you very much, sir.

SENATOR HUGHES: Doctor, I have one question. You did mention numbers there where you inferred that there would be an objection, or at least I want to clarify this point - -

DR. ALBANO: Yes, sir.

SENATOR HUGHES: - - that the study - if I read you correctly - should be concentrated on small classes rather than a school? Did I misinterrupt you?

DR. ALBANO: No, sir. I don't foresee any school of acupuncture in this State which would provide courses in acupuncture, of four to six years, as they do in the oriental countries. I do foresee the incorporation of courses as part of the medical school curriculum. I also foresee, as part of a residency program, that they have periods of instruction, training, and the treatment of patients during their residency program. But I cannot see where there will ever be a school for acupuncture certification in this State.

SENATOR HUGHES: How would you qualify those, who are teaching, as having expertise in this field? Where did they gain this knowledge?

DR. ALBANO: As a matter of fact, in Senate Bill #835, sir, these individuals are exempted from the practice of acupuncture because they work in schools and research.

SENATOR HUGHES: No. I'm speaking now, for example, any new individual who would like to enter

this field of training, or profession; how would he go about gaining the knowledge which would be required? In other words, what I'm saying is that you say "under a licensed physician." Now, this is a new science so to speak. Where do these licensed physicians get their expertise?

DR. ALBANO: They can get it through courses which are accepted by the State Board Medical Examiners. I don't speak of a 48hour, 2 or 3 day wonder course. I am speaking of several hundreds of hours; at least that.

SENATOR HUGHES: In other words, you're saying then that the physician should be qualified, first, by the board?

DR. ALBANO: Oh, absolutely, sir, in order to practice acupuncture, sir.

SENATOR HUGHES: And they, in turn, could be teachers? Is this what you're saying?

DR. ALBANO: No, not teachers, no, sir. Some of them even get the idea that they are as good as teachers after a short course. I've been told that.

SENATOR HUGHES: I think you've answered my question.

SENATOR ORECHIO: Dr. Albano, I wonder if you've heard of risks involved in the submissions of a patient to an acupuncturist.

DR. ALBANO: The risks are always there like they are in any other medical procedure.

One, there is always a risk of shock from the insertion of a needle. I have seen it, not as a result of acupuncture, I have seen it as a result of an intervenous injection, an intramuscular injection, or even the use of a needle in a thoracentesis where they stick a needle into the chest cavity to

draw out fluid or air. Just a reaction to the needle will send them into a state of shock. There have been cases of cardiac arrest reported as the result of acupuncture therapy. There have been cases of hemorrhage, in spite of the very fine solid needles that are being used, patients with a blood dyscrasia, patients who bleed very easily as a result of trauma, whether it be from a blow or fall or even from the injection of a needle. This occurs especially in hemophiliacs. I know of a number of cases where acupuncture has been given, and the patients end with a hematoma and that means there is hemorrhage in the subcutaneous tissues. Also, if not properly administered, it may weaken an organ that is already weakened, and it may set off a not fully developed disease already existing in the body. But the most common complications are shock and cardiac arrest, even though they are extremely rare - but it may happen.

SENATOR HUGHES: I have no further questions.

SENATOR ORECHIO: I just have one other question. Wouldn't you say that, as you outline the number of situations that could develop after treatment, a patient is really handicapped because of the non-professional, the man who is not a physician and who is actually doing the treatment, knowing these situations arise? Is he really competently apprised of --

DR. ALBANO: No, he is not and that is the risk that is taken. But it is rare - extremely rare. It may happen in the Doctor's office, and he may not have the material and the equipment to resuscitate the patient. So, these are -- When the patient goes into cardiac shock, the doctor does the best he can to resuscitate the patient, but the actual equipment is not there, that we would expect to find in a hospital.

Now, I also learned that the fees are so

exorbitant that the patients are being exploited to no end, and that there are physicians practicing acupuncture - physicians who are qualified in many areas of medicine, physicians who are qualified in specialty fields of medicine - who have given up their practices and now practice acupuncture. I know there are many who average anywhere from seven hundred and fifty to a thousand dollars a day - and I'm not exaggerating one bit - and that means a quarter of a million dollars a year - Exploitation in capital letters, believe me. The combination of both bills would, I hope, remedy that situation.

SENATOR HUGHES: Doctor, one question - which I posed to Assemblyman Klein and which, possibly, you might be able to give the Committee some input on relative to you own personal knowledge as to the statistics of, we'll say, beneficial treatment. Is there any way that this Committee can be informed of that?

DR. ALBANO: If there are statistics available, they are available on a very limited scale where the work is being done in university centers and research centers. But that is a very small practice of acupuncture. Most of the work is being done outside of these areas, and there is no way whereby these statistics are available.

SENATOR HUGHES: I have no further questions, do you Senator Orechio?

SENATOR ORECHIO: What is the average fee that they charge?

DR. ALBANO: The average fee -- there are many physicians who charge \$75.00 for their first visit, T h a t includes a physical examination, a history, blood examination, and X-rays, if necessary, and the treatment, the insertion of needles.

Their second visit may be \$50.00, \$35.00, or

\$25.00. I understand it is either "cash on the line" or bank checks.

SENATOR HUGHES: One other question, Doctor, relative to the statistic question, which naturally goes a little bit further. Do you feel very strongly about this, we'll say, new science or profession? On what do you base your findings?

DR. ALBANO: That it's a science?

SENATOR HUGHES: By that I mean, if there are no statistics available, how did you arrive at this conclusion yourself?

DR. ALBANO: I've been involved in acupuncture, now, for the past three years.

SENATOR HUGHES: You have practiced it?

DR. ALBANO: No, sir. I'm afraid of needles, - taking or giving. I've been before many public hearings, I have been to seminars. I have seen many patients who have been treated, and patients who have benefited from acupuncture. But I also know of many who have not benefited who have not made worse, with a few exceptions.

You speak of it as a science, sir?

SENATOR HUGHES: Science or profession, regardless of which --

DR. ALBANO: You can call it a profession, sir, but it is far from a science. It is the next experimental medical procedure, and it is a science as much as medicine is an art, period.

SENATOR HUGHES: All right. Thank you, Dr. Albano. We appreciate --

DR. ALBANO: Would you mind listening to Dr. Ornas for just a few moments?

D R. E D W A R D O R N A S: Senator, I gave your secretary my name and he stated since I am the Secretary of the Board of Medical Examiners --

SENATOR ORECHIO: I think since he sent in the report, I think we should hear from him, Senator.

SENATOR HUGHES: All right, Dr. Ornas.

DR. ORNAS: I would just like to clarify a few points, Senator, especially since you speak about controlled studies and so forth and so on. For quite a long time I, fortunately, have been in communication with the National Institute of Health, and they have been having some experts, throughout the country, meeting in conferences and doing experimental work. At the present time, under NIH grants, there are 26 experimental - so-called experimental - medical acupuncture centers in the United States. I presume under grants - grants from NIH - several conferences have held on this particular subject, and I have been getting the literature as it comes from these conferences.

It might interest you, for example, -- I'll just read one conclusion. It said that, "On the basis of results presented at the conference, the Ad Hoc Committee on acupuncture of the National Institutes of Health, concluded that acupuncture holds some promise as an anesthetic for certain surgical operations and for the treatment of some acute and chronic painful conditions. From these preliminary studies, however, it is not possible to specify how acupuncture works or even to say how well it compares with drug induced anesthesia or with well established methods of treating painful conditions.

What they are actually saying there is that there is something to acupuncture, but there are not enough controlled studies on the subject.

I might also state how difficult it is to get controlled studies. Now, for example, I have

been a part of controlled drug studies that were conducted in our clinics, where I didn't know whether the patient was getting the drug for high blood pressure or whether he was getting the placebo - a milk sugar drug - so we could find out, with a couple thousand cases, how these came out. These were controlled studies.

I have also talked to numerous patients and find that some patients have benefited and others have not. But to do this from a scientific standpoint is very, very difficult. A lot of people say, well, this was the place of last resort. I don't know how many of you have been to Lourdes or how many of you have been to Ste. Anne de Beaupre's in Quebec, but I have been there too and I can see on the walls, hundreds of braces, thousands of crutches of people who have come there, and through faith, have been healed. So, that is what I mean when I say it is so difficult, as far as controlled studies are concerned.

Now, another factor in this whole proposition here is that under this Conference Study - that is going on through the NIH - in the long run you would come out with, what I call, American acupuncture because a lot of the gibberish with yin and yang, and old stuff in Chinese acupuncture, does not hold to scientific grounds. Now, because of neuroanatomists, neurophysiologists, neurologists, and so forth, who are exactly finding these points anatomically correct - there are more accurate points being found, since real experimental medicine has been introduced in the United States.

I would also like to make emphasis on one thing, gentlemen, and that is in reference to Senator Menza's bill, 835. On Page 4, Lines 8 to 14, there is an in-

ference that a certified acupuncturist - who is not a licensed M.D. - may practice acupuncture without the supervision of a licensed physician. I object to this, and I think one of the best points - to prove a point in the testimony that Dr. Albano just gave - is that it is possible to have a reaction; that cardiac arrest has occurred; that fainting and dropping to the floor has occurred; that complications have occurred; where a fast shot of adrenalin or some other medication is absolutely necessary, and where it would not be available. Under our American system of medicine, we have to take all of these precautions. This is not the practice in the provinces of China; therefore, I say that this certified acupuncturist should only practice under a qualified licensed M.D. Now, by qualified I mean that this M.D., himself, must qualify under this act to have the necessary credentials to be an acupuncturist, not under just any M.D. That's the only way that you can get the protection.

SENATOR HUGHES: Dr. Ornas, not to interrupt, but I think it gets back to my question which I posed to Dr. Albano. Naturally, the question comes to mind, where do these qualified physicians get their expertise? Who is going to teach them if it is not a science that's been perfected in this country? Would they have to study outside the country?

DR. ORNAS: Not necessarily. There are quite a number of Chinese physicians in this country with M.D.'s.

SENATOR HUGHES: Licensed M.D.'s.

DR. ORNAS: Yes, sir. There are quite a number, and they have appeared -- Now, I have studied the different programs for postgraduates that have appeared

throughout the entire country, and they usually manage to have one or two Chinese physicians, not necessarily Chinese, gentlemen, because there are Japanese who have practiced acupuncture. These are people from oriental countries.

Secondly, as you may know, in some countries of Europe, and chiefly in Germany and in France, there are very many M.D.'s who have licensed degrees in those countries who have come, say, from North Viet Nam, for example, and gone to France. Some of them have migrated to the United States. They are licensed M.D.'s who are experienced in acupuncture.

SENATOR HUGHES: May I ask one further question? We could go a step further. Inasmuch as this is, we'll say - as you say it - an obvious input to this profession, how, in turn, does the AMA qualify them? In other words, basically, what I'm saying is there has to be an origination of standards. How are these set up, or what is the proposal for setting up these standards by the AMA?

DR. ORNAS: To date, Senator, to my knowledge there have been no standards because the position has been taken that these gentlemen are licensed to practice medicine.

SENATOR HUGHES: In other words, you're going under what we term the grandfather's clause?

DR. ORNAS: Right, up to this time. I'd like to make another emphatic point if I may.

I do not consider acupuncture a specialty of medicine, like orthopedics or obstetrics or internal medicine. It is just another modality to treat medicine. Drugs are a modality; physiotherapy is a modality; psychiatry is a modality; so is acupuncture a modality. I have one or two textbooks on the subject. I'm an internist, I've never practiced acupuncture.

But from the standpoint of interest, I don't see the great difficulty for a graduate of an American medical school - who knows his neuroanatomy and nerve pathways - to acquire the necessary knowledge, in 100 hours or so, to practice acupuncture - that is my opinion. But I think it is extremely necessary, because of the complications that may follow, that this acupuncturist - if he's certified - must, be, once again, under a qualified M.D. -- not any M.D. who has a license to practice medicine. That, to me, is a very important point.

The section on liability has been covered.

One thing that we're going to run into a lot of difficulty with - and you gentlemen may have this in the Committee - is, what should be the regulations? What should be requirements? My recommendation, gentlemen, is that this be left to the advisory committee, to the board - and to the board itself - because I find, as I study this subject, it is very complicated; there are so many opinions on it that it is difficult to arrive at a conclusion. I think only after we have all this knowledge together, can we set down what we consider the necessary regulations, the necessary expertise, in order to become a certified acupuncturist. Not only that, we may learn by experience that even what we have originally set down is not correct and we may wish to modify it by regulation.

One last statement, if I may. In this brochure that I have and in some of these reports that I have from the MIH, there is one interesting letter here from a physician who is Chinese - an oriental - who is an M.D. and who teaches at the Chicago School of Medicine. He presents a letter from a friend of his from Shanghai, in China. In this letter, this professor from China makes the statement that he is a little bit alarmed that acupuncture is getting so much hysterical attention

in the United States because, in his opinion, it is of limited - limited - benefit for certain individuals and should not be thought of as a panacea. That is why I think that this controlled study is exceedingly important.

SENATOR HUGHES: All right. Thank you, Dr. Ornas. Are there any questions?

SENATOR ORECHIO: Yes. I would just like to ask a question. According to what Dr. Albano had alluded to earlier, about some of these M.D.'s making a killing, giving up their practices and going into this wholesale, are you saying that time is of the essence, where we should be moving legislation to implement this kind of program, with modification of these two bills?

DR. ORNAS: Some modification, yes. I say this to you, gentlemen, sure, this excess practice exists in a few isolated instances. It surely exists in all professions. It surely exists in our profession. Certainly, being on the Legal Practices Committee of the Medical Board, many instances exist where illegal medicine is practiced, in our opinion. But I have found that the number of such incidents, in proportion to the thousands of physicians in the State, is exceedingly small. It is my opinion that no matter what kind of legislation you get, no matter what profession it controls -- be it medicine, law, or any other profession - you'll always find a few clever guys that try to run around and find the loopholes.

SENATOR HUGHES: As an adjunct to that question, relative to implementing some legislation of this nature, have any provisions been made by the medical profession to qualify or set up some type of instruction? How long a time would be required to

implement something of this nature?

DR. ORNAS: Nothing has been done concretely, Senator. That is why this advisory committee has been suggested in here, to go in depth into this study and come up with recommendations. There have been these flitting things, but nothing concrete enough in order for the board -- That should be one of the first jobs of the board, to get this advisory committee to bring in as much material as is necessary in order to provide the criteria.

SENATOR HUGHES: Thank you, Dr. Ornas.

We are going to recess for ten minutes. We will come back and continue until one o'clock, then we will recess for lunch and continue the hearing after that.

(Short Recess)

SENATOR HUGHES: Ladies and gentlemen, the public hearing will come to order again. We will resume the hearing by requesting Dr. Jackson W. Riddle to speak.

D R. J A C K S O N W. R I D D L E:

Mr. Chairman, Senator Orechio, ladies and gentlemen, I am here as an expert witness on behalf of the New Jersey Physicians' Ad Hoc Committee for The Practice of Acupuncture and the Acupuncture Society of New Jersey, which is also composed of licensed physicians.

Just a word or two about my credentials before speaking to you on this topic. I am Executive Secretary for the New York State Board for Medicine and have been for three and one-half years. For at least two and one-half of those years, the New York Medical Board has been concerned with the problems of acupuncture. I have devoted a large part of my

time to eliciting all of the facts that I could on this topic. My own background is that of an M.D. and a Ph.D. in Medical Microbiology and Virology. I have spent my entire life in medical education, medical research, and administration.

In addition to serving as the Executive Secretary of the State Board for Medicine, just a year ago acupuncture became such a problem in the State of New York that Governor Rockefeller appointed a 23 member Commission to study acupuncture and to make recommendations, from its findings, to the Governor and to the legislature. I was appointed the Chairman of that Commission. We have worked for a year and our report, which is comprised of 132 pages, has been turned over, within the last two weeks, to the New York Legislature and the Governor. Legislation incorporated in that report - as recommended legislation - is now before the New York Legislature. It has passed the Senate, and I believe it is on the calendar of the Assembly either for today or tomorrow.

The New York Commission on Acupuncture has worked for a year. We have taken testimony from about 40 acupuncturists and physicians, some licensed, some unlicensed, from all over the world - whom we've met at meetings and so on - who have c o m e and testified before the Commission in formal hearings. Four members of our Commission had been to China - mainland China - before they were appointed to the Commission. We had the benefit of their personal observations and experience. We also interviewed others who had been there. We've seen films. We've gone through all the medical literature on this subject, provided by a print-up from the National Library of Medicine and read translations

of scientific papers published in Chinese and Japanese, as well as in other nationalities. On the basis of some 40 hours or more of hearings, the Commission has come up with a series of recommendations, and it is from this background of information that I speak to you today. I appreciate the opportunity to come down and speak to you gentlemen, who represent our neighbors to the south.

SENATOR HUGHES: We appreciate your coming, Doctor.

DR. RIDDLE: I am as interested in seeing the people of New Jersey get the proper medical care as I am of those in New York because if they don't, they'll come to New York and if we don't get it in New York, then they'll come to your State.

First of all, I, as a medical scientist, am convinced that there is something in acupuncture. The Commission is convinced that there is value here. We are also aware of the fact that it is not the panacea that the public has been led to believe and expect as the result of the public press. Acupuncture is an additional treatment modality. It is not a special branch of medicine. It is useful in many special fields of medicine. It requires special education and training, but it is still experimental. Despite the fact that it's been known and practiced in the orient for five thousand years, it is still experimental there. We've had testimony presented to us and we've seen pictures. We've talked to people who know that the Chinese physicians - in the major medical centers in China - are "practicing" acupuncture; they are still experimenting with it to see what it can do. It is experimental in this country, by federal regulation, by the Food and Drug Administration.

I find myself in agreement with much of what has been said here this morning. I find it very interesting. I disagree with some of the comments, but I would like to point out - in my testimony - some facts which have not been brought out to you today, and which I think you need to have.

Given the fact that acupuncture is probably here to stay in this country, and that it can produce benefits in some patients, under some conditions, - not in all but in some - how can we make this modality available to the people of New York and New Jersey, and elsewhere? The numbers of people who are qualified to practice acupuncture at the present time -- the number is small. Now, there are only two ways in which I know of that you can widen the availability of acupuncture.

First of all, you can import acupuncturists from abroad in large numbers. I am told that they're waiting on the borders ready to come and, secondly, we can train our own.

Now, let me expand a little bit on each of these two themes. There is something serious that bothers me about the best doctored states, in the best doctored nation in the world, robbing health personnel from the underdeveloped countries. But beyond that, there are enormous problems involved with importation of acupuncturists from the orient. In the first place, there are all kinds of acupuncturists. There are men who have been trained from generation to generation in their own families; there are those who have been trained as barefoot doctors, in a three or six month course, comprising other topics besides acupuncture; and on top of the spectrum you have the herb doctors, - the doctors of traditional Chinese medicine, the doctors of oriental medicine - they have a variety of titles - who have gone through a

program of four years of education at the college level - not six. The two years before that are equivalent to upper high school or junior college, but their medical education has been four years. Not all of that is based on acupuncture. In fact, very little of the medical curriculum, of the oriental physician, is based on acupuncture. I have studied the curricula of such schools and one-eighth of the courses, given throughout the four years, are devoted to acupuncture and moxibustion.

SENATOR HUGHES: May I ask, Doctor, what that is?

DR. RIDDLE: Moxibustion is simply the stimulation of an acupuncture point by, by burning a small pledget of moxa - which burns at a fairly constant rate - either near the skin, or attached to the head of the needle that is inserted in the acupuncture point, so that the heat is transmitted slowly down to the acupuncture point.

Now, there are problems, therefore, because of the variety of training of these individuals. There are severe problems in finding out precisely what that training is and how expert they are. Under my other hat, as Executive Secretary of the State Board for Medicine, we license physicians who are trained abroad, and we have had severe problems with the number of physicians coming from the orient, as far as verification of their credentials are concerned. When the People's Republic of China was formed, Chairman Mao could care less about credentials, and credentials were burned pretty thoroughly throughout. We've had people tell us that their birth certificates, their marriage certificates, have all been thrown in the fire - so have their diplomas, and their transcripts of their medical education. Because of the eruption in the

revolution, medical schools closed and reopened, and changed locations, and changed the curricula, and so forth; so that the problems of verification of credentials - even of doctors of medicine - is an enormous and extremely difficult task fraught with all kinds of difficulty and forgeries. Now, if you bring that problem down to trying to verify the training of acupuncturists who have not had formal institutional instruction - or even those who have - this staggers the imagination. Their training - and I'm, now, speaking of those who have gone through the four year collegiate program and come out as a doctor of oriental medicine - is western medicine, in terms of basic anatomy and neurology and biochemistry and so on; but physiology - which is underlining all of the practice of medicine - is oriental physiology. All of their clinical medical courses are not western medical courses; they are oriental medicine, which have very little, if any, relationship to western medicine. So, the emphasis, therefore, in the training of the oriental acupuncturists is based on the old taoist philosophy. You've heard a little bit about yin and yang this morning. Physicians believe in yin and yang too - I mean western physicians. We don't call it by that term. Yin and yang are in balance, and the western physician refers to homeostasis, when the body is in a balanced healthful state. But there are many aspects of the training of oriental acupuncturists which have been proven - by scientific studies - to be valueless. Much of the time has been spent on pulse diagnosis. This was a technique that was developed because of the inherent, exaggerated, modesty of the Chinese people. Rather than undress, they simply stuck their wrists out through a curtain, or through a

sleeve, and the only way that the traditional or oriental physician had - for many years - to make a diagnosis, was by checking the pulse. They had - for thousands of years - a very elaborate system of diagnosing conditions by alternations of the pulse. Now, their system of pulse diagnosis has been shown by western physicians and medical scientists, not to be correct. It cannot hold water.

Much of what you have been told and what you read about the training of acupuncture practitioners in the orient is true, but there is a great deal of myth about some of it. There is also a considerable myth about the numbers that are in this country. If you subtract the physicians who are licensed in this country, who are of oriental birth, and who may have had some training in traditional oriental medicine, or as an acupuncturist, before they came here, there are, at best estimates - and these have been given to our Commission by several people who are knowledgeable - between ten and thirty individuals in the United States - and more close to ten than thirty - who are trained in traditional oriental medicine through the four year curriculum, but who are not yet licensed to practice medicine in the United States. So, there are problems if you import the acupuncturists, already trained, from the orient.

Now, the only other alternative is to train our own, and how we do that? We do that by giving additional training, in this technique and procedure, to United States doctors of medicine, doctors of osteopathy and doctors of dentistry. After all, they've had from twelve to sixteen, or more, years of training in the sciences. They've studied anatomy and neurology,

in western terms. They have studied physiology, in western terms, and they are use to making a western medical diagnosis. I would remind the gentlemen of the Committee that you're talking now about extending the practice of acupuncture, not in the orient, but in New Jersey, not three, five hundred, or five thousand years ago, but in 1974, in conjunction with modern western medical science.

Now, our physicians and dentists, need only to learn how to choose the proper points. They don't need to learn all the old taoist philosophy. It's interesting from a historical point of view, but, from a medical point of view, it's not necessary. They need to learn how to identify the proper points, how to insert the needles, how to stimulate those needles, how long to continue the treatment, and all this can be taught to American physicians, and is being taught, and has been taught to American physicians and dentists through some very excellent courses that have been offered throughout the country. There are some that are not as good as others, but there are some that have been superb.

Now, let me address my remarks, next, to the issue of separate licensing for non-physician acupuncturists. Remember, we're speaking of licensing, in 1974, for practice on American citizens - utilizing only the techniques and the procedures-of acupuncture, not its basic philosophy. So, therefore, to create a separate group of licensees- that is, acupuncturists,- is not valid, and it would establish a very dangerous precedent if you do that. Then, ladies and gentlemen, how are you going to defend yourselves when proponents of the African witch doctor, or of voodoo, or the faith healers come to you and ask for special licenses in order to allow them

to practice? You have very little defense. To create a separate license for acupuncturists would set this treatment modality apart from the rest of medicine, and it would result in a situation wherein a foreign acupuncturist could be licensed to practice this modality of medicine without a medical license; although a United States citizen, with a medical license, could not practice acupuncture - which is a modality of medicine - without a special license. Now, such a circumstance would be clearly ridiculous and an intolerable contraposition, which is inconsistent with the historical precedence and practices of medical licensure. How, then, do you establish controls? You have the choice between statutory and regulatory controls. With the present indefinite state of our knowledge about acupuncture - not only about its mechanisms of action but, indeed, the extent to which it may be effective and the ideal circumstances for its use - in my considered judgment, it would be wrong to fix requirements and controls in law. It is still - under federal classification - an experimental procedure at this time. The time may come when that category will be lifted. The regulatory method of control, therefore, under a competent and authoritative jurisdictional body - such as the State Board for Medicine - seem a much more desirable choice than the law. Regulation provides controls but it provides it with flexibility, which you don't have in statute - at least not to the same extent.

Now, I am not against the qualified oriental acupuncturists, not in the least. I am all for them. There is - I can say with all due immodesty - not a person in the State of New York that's worked harder than I have for the last two and one-half years to

get these people a way to practice acupuncture under the appropriate circumstances, and to make their knowledge and their expertise available to the people of our State. So, I am not against them. They have much to teach western medicine. We also believe that they have much to learn about western medicine, and sometime, in the future, their expertise and western medical science will be fused, I believe. Until that time comes, the best place for the unlicensed acupuncturist is in association with physicians, in a research project, in a medical school, or a hospital, where they can teach their western counterparts, and the U.S. physicians can teach some western medicine to the acupuncturists, and together they learn more from each other about how best to benefit the patient. This is what we're all after.

It's quite possible that satisfactory salary and appropriate arrangements can be made for these people to function in that role, but they should not be in private practice as physicians where they can be exploited for commercial purposes, such as in acupuncture mills which we have in neighboring states and in other parts of this country.

In New York State, our Commission concurs that unlicensed acupuncturists - concurs with the federal point of view, by the way - must practice only under the supervision of a licensed physician or dentist, and only in an institutional setting. Now, what is meant by supervision by an M.D.? This has created a lot of misunderstanding and antagonism. People say, well, how can an American physician, who does not really know anything about acupuncture, supervise an expert acupuncturist? Well, that's not what supervision means. The American physician - who is going to supervise an oriental acupuncturist - is not going

to tell him what low side to pick in order to insert the needles. He's not going to tell him which way to rotate the needles or how to stimulate those points. Supervision, by the licensed physician, relates to the protection of the patient by, first of all, seeing that he has had a complete and thorough history and physical examination, and any appropriate diagnostic tests that might be indicated. After that, it's his responsibility to follow the progress of that patient during his acupuncture treatments and to decide - in conjunction with consultation - whether or not they need to be continued, expanded, or discontinued. Supervision by the physician, I repeat, does not mean that he dictates to the acupuncturist what he is to do, but it means that he protects the patient for whom he is legally and morally and professionally responsible.

SENATOR HUGHES: Doctor, one question here. You mentioned dentist before.

DR. RIDDLE: Right.

SENATOR HUGHES: Can you explain to what degree dentistry would enter into it?

DR. RIDDLE: Yes, this is very simple. It's been shown all over the world. We have had some excellent research done in New York City, at one of the dental schools there, which shows that acupuncture can produce effective analgesia - that is the absence of pain - for the performance of oral surgery, tooth extractions, and other dental procedures. It is a little more awkward than the traditional method of anesthetizing the patient for dental work, but it is effective and it's useful, particularly in those patients who are hypersensitive to the drugs that may be used as local anesthetics in dentistry,

and who could not take that, or would have to have a general anesthetic. So, it does have usefulness - limited usefulness - in dentistry.

I'd like to speak, very briefly, about the legal constraints on acupuncture, because these have not been mentioned here. The supervening law is the Federal Food, Drug, and Comestic Act, and the regulations of the FDA Commissioner which depend therefrom. I would like to read, if I may, just a couple of short paragraphs from the regulations of the Commissioner of the Food and Drug Administration. These were published in the Federal Register on March 9, 1973.

"The Commissioner of Food and Drugs is aware of the current interest in the United States, surrounding the use of acupuncture needles, stimulators, and other accessories for medical purposes. Acupuncture paraphernalia are being imported into this country and are also being manufactured, domestically, for various medical uses, including the treatment and diagnosis of serious diseases, anesthesia, and pain relief. These products are devices and must comply with all applicable provisions of the Federal Food, Drug, and Comestic Act.

"It is the position of the Food and Drug Administration that the safety and advocacy of acupuncture devices have not yet been established by adequate scientific studies to support the many and varied uses for which such devices are being promoted, including uses for analgesia and anesthesia. Although various theories have been advanced as to how medical results can be obtained through the use of acupuncture, none has been proved or generally accepted, and there is a body of scientific opinion which questions the safety and efficacy of acupuncture in many of the uses for which

it is now being applied "Then, Section F, the following statement: "Caution, experimental device limited to investigational use by or under the direct supervision of a licensed, medical, or dental practitioner." This refers to the labeling, now, of the needles and other devices. "This device is to be used only with informed consent, under conditions designed to protect the patient as a research subject, where the scientific protocol for investigation has been reviewed and approved by an appropriate institutional review committee, and where conditions for such use are in accordance with state law." Now that is the supervening law in the United States. You're attorneys, so you know that goes above any State statute that you may pass.

Now, the Federal government has taken action against licensed physicians who have been using acupuncture devices, not in accordance with those regulations. They've been seized. They've been hauled into court. The decision went against the practitioner. He could have been fined, criminally charged, and imprisoned. He was not. He was simply told to cease and desist and they took his equipment away. He appealed, and that case went to the Tenth Circuit Court of Appeals and was upheld. The government threw their top legal staff into this battle. They were determined to win, and they did.

Now, in New York State, the State Board for Medicine established a policy nine months before the federal regulations were established and printed, and our statement is an exact duplicate of the federal; that is, that it is an experimental procedure in this country, at this time. It must be performed in a research setting, under a research protocol that has had peer review. The patient must sign informed

consent forms, and appropriate record keeping must be maintained. That is still the standard of the practice of acupuncture in the State of New York.

SENATOR HUGHES: How long has this been in effect, Doctor?

DR. RIDDLE: That policy was promulgated in July of 1972. It was amplified in November of 1972. The Federal Food and Drug Administration called a conference in September of 1972, and out of that conference the regulations were published in the Federal Register in March, 1973. Now, under that policy, the first legal action in the United States, controlling acupuncture, was taken by closing an acupuncture center in New York City. Some of you may know about that. It was closed by the Attorney General who charged that the center was engaging in the illegal practice of medicine because the acupuncture procedures were being performed by persons who were unlicensed to practice medicine in New York State, and the center was not functioning under approved standards of practice in New York.

Now, I'd like to comment very briefly on the two bills, if I may, which are before you. The people of New Jersey deserve protection from the ignorant, the inexperienced, and the commercial exploiter, and they deserve the best available medical care. The bills, which are before you now - no matter how well intentioned they are, - I maintain, would do just the opposite of what you want. I agree with many of the points that have been made by my predecessors this morning, especially some of the points objected to by Senator McGahn.

My major objections - and I'll make these brief - are as follows: Senate Bill #835 - and I will not repeat those objections that have been voiced by

others - requires 36 months of training in acupuncture. Now, this is extremely excessive in terms of training a western-educated doctor of medicine, doctor of osteopathy, or doctor of dentistry. He does not need 36 months. No U.S. trained M.D. or D.O. could meet that requirement at the present time, unless he is an oriental who had that kind of training before he came to this country. So, in effect, what that requirement does, is to limit acupuncture - the practice of acupuncture - to between ten and thirty people - and closer to ten - in the whole United States, if you eliminate the western trained physician with less than 36 months of training. That's not going to help spread the benefits of acupuncture to the people of New Jersey.

I also object to the constitution of the acupuncture advisory committee. This includes a bilingual. - that is, someone who speaks English and Chinese both, - a person with a doctoral degree in a non-medically related subject to acupuncture, which relates to the understanding and principles in the theory and practice of acupuncture. Now, I find it very difficult to resolve what sort of an individual this would be, and I can only come up with somebody who has a degree in Chinese history - ancient Chinese history - and what benefit that would be to medical care of the people of New Jersey I have yet to fathom. It includes three certified acupuncturists. Apparently, these are non-physicians because the bill further specifies that a single licensed M.D. should be on the committee. I'm not sure that the State of New Jersey can get three people who would qualify. There aren't that many throughout the country. I'm not sure that you can get three, maybe you can.

The State of Nevada, last year, passed an

acupuncture law which had somewhat related stipulations to yours. They found that it was unworkable because there weren't enough people qualified - according to their bill - to staff the board, and they had to fall back on assistance from the State of California in order to get something under way. That bill has been shown to be so unworkable, it is my understanding that the legislature is attempting to change it at the present time. Senate Bill #835 also requires 25 hours per year of continuing education in acupuncture. This also is an excessive amount. This is a technique and a procedure, and there are not going to be that many new developments in acupuncture that an individual can take 25 more hours of instruction in it each year. The physicians are going to - I predict - get some credit toward their continuing medical education requirements, for taking certain approved courses in acupuncture, I think that will come.

SENATOR HUGHES: What would you say is the length of time an approved course would take?

DR. RIDDLE: This is a matter that the Commission did not take a stand on. We all have our personal beliefs. The bill, which we have in New York, would delegate the authority to set those standards to the State Boards for Medicine and Denistry, based on their consultation with individuals from our State and other States, who are both licensed physicians and dentists as well as qualified acupuncturists, by virtue of their training in the orient. We intend to impanel such a group to advise us. My own personal feelings are that something in excess of one hundred hours - and I'm not willing to say how much in excess of one hundred hours, at this point - would be adequate to learn the techniques of needle insertion, point location, and stimulation.

Another objection - and this is the last of Senate Bill #835 - is that it allows the acupuncturist to make the post evaluation of the patient's progress. This ought to be in the hands of the physician.

In regard to Assembly Bill #520, I have many of the same objections to this bill as I have mentioned above - the length of training, the 36 months, the construction of the advisory committee, and so forth. It also confers a license to practice acupuncture, and I have expressed myself on that thought. It contains a grandfather's clause for six months, which is really meaningless because no physician or dentist is going -- If the 36 month requirement is left in that bill, nobody can qualify within the next six months after it's passed. It's impossible to get that kind of training. Despite the stringent requirements in the bill, all of the education, experience, and examination requirements may be waived, and an out-of-state or out-of-country license to practice acupuncture may be endorsed. Now, this is just incredible. You either have standards and you stick by them or you don't have standards. In my interpretation of what these two bills would do is, they would restrict the practice so tightly that no physician in New Jersey would be able to practice acupuncture, and the persons who would be able to practice it would have to be brought in from abroad, and these people - with all due respect to them - are not western trained physicians and ought not to be practicing medicine - with or without a license - on the people of your State anymore than they should on the people of my State.

This concludes my testimony, gentlemen. I appreciate, very much, the opportunity to come and be with you, and I'll be happy to answer any questions

that you may have.

SENATOR HUGHES: Getting back to my original question, you gave an approximation of one hundred hours. That would be for --

DR. RIDDLE: I said in excess of one hundred hours. We envision -- may I elaborate just a bit on this. We envision at least two levels of instruction for the treatment of patients by acupuncture. First of all, there has to be a basic course, and I think it's quite possible, I have participated in one - more than one. I've sat in on several basic courses of about fifty hours, which I think are quite adequate. Now this does not mean that people who have a certificate - at the end of that time - can call themselves acupuncturists, in my opinion, but it gives them a good foundation. On top of this, they should have some advanced study and training, and the amount of that will depend on their field of practice. If they are in anesthesiology, they would need to have a different amount of training than a dentist, who's only going to use two points from which he can obtain total analgesia in the oral cavity. An orthopedist - who's going to treat all kinds of muscular-skeletal disorders - is going to need more instruction than other specialists. An obstetrician who is going to use it to reduce the time of labor may not have to have as an extreme amount of instruction as some other practitioners. So, the extent to which advanced instruction is necessary will depend pretty much on the specialty field of practice in which the physician is going to use acupuncture. Bear in mind, again, - let me emphasize the fact - that this is an additional therapeutic modality that goes into the armamentarium of the physician, to be used within the scope of his

practice. It is not a special field of medicine.

SENATOR HUGHES: Do you have any questions?

SENATOR ORECHIO: No.

SENATOR HUGHES: All right. There are no further questions, Dr. Riddle. We appreciate your taking the time to come and visit with us.

DR. RIDDLE: Thank you very much.

SENATOR HUGHES: Thank you.

We're going to recess, now, until two o'clock.

(Recess for lunch)

AFTERNOON SESSION

SENATOR HUGHES: Ladies and gentlemen, I would like to call this public hearing to order.

I would like to make one initial statement. I made it in the beginning, at the outset of the hearing, and I would like to repeat myself in the interest, again, of brevity. We are going to have to be very concerned with repetition. If there is repetition, the Chair is going to request that they move on to some additional information rather than the input that we have already had.

Our next witness is Dr. Frederick Gangemi. Would you identify yourself to the stenographer.

D R. F E D E R I C K G A N G E M I:

Yes. Frederick Gangemi, M.D. It is very hard to follow somebody like Dr. Riddle who has given the true picture of acupuncture, its background, and the procedure necessary to become an acupuncturist. He is extremely well informed, but I would like to add a few comments mainly in defense of acupuncture and, also, to assert my right and privilege to practice acupuncture. I think, in order to do that, I would like

to give a little background about myself. I practice in Newark, and have for the last twenty years. I have a general practice. My practice, I guess, could be considered ghetto type practice - mostly welfare patients. Around the end of last year I decided - I got curious about acupuncture - to go to Taiwan and take a course in acupuncture which I did for the entire month of February. I took an extremely good course which lasted one month, and which was sponsored by the Chinese Acupuncture Science Research Foundation. This is a foundation that was set up by the Nationalist Government in China, and it is established for the purpose of joining the efforts of both eastern and western medicines. In this course I attended lectures for approximately 168 hours, and I probably got just as much time, although it was unofficial, as far as a practical experience was concerned.

I become a little bit irritated when I continually here the word experimental with respect to Chinese medicine. I think this is typical of our American attitudes - that anything that isn't American is just no good. It seems, now, that the Chinese have been practicing acupuncture for five thousand years. Our medicine is only four or five hundred years old and we have the audacity to call theirs experimental medicine. Throughout the course that I took, every lecturer just about started his lecture with the fact that it was not a panacea. Acupuncture does not claim to be a panacea, but it does work in certain conditions, and it works very well. I think you have to take into consideration the type of patients that come to acupuncture. They're the type of patients who have been had by just about every other kind of doctor, with no relief. So, they

come in desperation to an acupuncturist and, yes, there are statistics available that I can supply the Committee with, from this research foundation, that I have. They guarantee in the area, generally speaking, of fifty percent success to ninety percent in some areas, particularly pain.

I think, also, the Committee ought to be aware about the training that one undergoes in becoming a traditional doctor - or western doctor - in China - particularly in Taiwan. I think this is the most progressive area in both fields. There, upon graduation from what would be the equivalent of high school, a boy then decides - or man decides - whether he wants to become an eastern traditionalist physician or a western trained physician. He goes to the same university. His first year is approximately the same, and then he branches off into the different doctrines. They have a separate Board of Medical Examiners, and they do not study, actually, acupuncture, per se, for seven years. So, therefore, in both these bills I think it is highly unjust and unfair to require 36 months of training, or several hundred hours. What they are telling me, in effect, is if I want to practice acupuncture, I have to go back to medical school and go to a Chinese medical school because there is no other place to get it.

SENATOR HUGHES: Doctor, may I ask one question? Relative to your schooling in Taiwan, was there any certification given to you along those lines?

DR. GANGEMI: Yes, there was. I have a diploma and I have the complete curriculum - week for week - of everything we were lectured on, everything we did. We needled people in the clinics in three of the largest hospitals in the east, which are the Tri-Services Hospital - that would be army-

navy, Taiwan University, and Veterans Hospital.

SENATOR HUGHES: Is this recognized by the New Jersey Medical Association?

DR. GANGEMI: Nothing is recognized by the New Jersey Medical Association, at this point. However, I can agree with their position because every day I get literature from these fly-by-night - I call them - groups who are offering courses. There is one course, for example, in California. It is a three day course. The second thing on the agenda in the morning - after you get there and get your welcome and introduction - is that you go out and have your class photo taken so you can take it back with you and put it up on your wall. The last thing is on Sunday afternoon. You spend most of Sunday afternoon at graduation, where they have presentation of diplomas, and certificates. They give you a kit and your charts and you go back and do acupuncture. It's impossible to be able to do acupuncture with this kind of training. I think the public should have some protection against this type of practitioner.

I have another one here where you can go to Italy. You can combine it with a trip to Italy. It is another three day course, in Torino, to practice acupuncture. They give you the kit, they give you the certificate, and get your picture taken as well. This qualifies you to be an acupuncturist, and it's just impossible with this kind of timing to be able to practice acupuncture.

I also feel that the field of acupuncture should not be opened in New Jersey, to non-licensed medical doctors. The reason is, I think, that you would have a tremendous influx in this

area as you had in Nevada, where they opened it up to everybody. There were a thousand people who took the exam, and these were people who had absolutely no formal training. There were many people who had practiced under a master for seven years and then, by Chinese law, were allowed to take their State Board Examination. This is no longer the case. Now, in Taiwan, you must attend a university. But I think that most of the people who would be coming here to take this exam - and who, incidentally, know acupuncture well, many of them - would not have had any formal training at all.

SENATOR HUGHES: Doctor, one question, relative to the State of Nevada, which you just mentioned, Who set up the format for the examinations that were taken there?

DR. GANGEMI: I would imagine the Board of Medical Examiners of Nevada, in conjunction with acpuncturists.

As I said, I think it is inconceivable to require 36 months of training. This would be absolutely impossible. I would have to go back to an eastern traditional medical school and start all over again, which really would require seven years of training.

I don't feel that there should be any restriction, where I am concerned, because when I received my license five years ago, there were no restrictions. I was able to practice physiotherapy, which is a treatment used for many of these same conditions; it's just another modality. I do agree that there should be some kind of control. Exactly what it is, I don't know, possibly, validating certain courses that are given in certain areas.

As far as acupuncture being an exact science -- When I went to Taiwan I was being told by everybody that it was a form of hypnosis. I think this is a stand that a majority of the people in the AMA have taken. Well, this wasn't important to me because I've practiced hypnosis - successfully - as well. I've even done surgery under hypnosis. I felt that if I gained nothing else but the forty percent, that was forty percent more that I could offer to my patients, which - prior to that - had been a failure with medication. And, incidentally, even medications do not work all the time with everybody.

I already mentioned the statistics. I will make those available to you. As far as the exploitation by doctors, I think that Dr. Albano, to a certain respect, is right here. But I think, too, that all the ills of medicine are now being dumped on acupuncture because these same people are the same people who were exploiting medicare, medicaid, and all the other programs. I mean, it's just a matter of their basic nature. In many cases I think their fees are justified because in my first treatment of a patient, I have to spend about an hour treating that patient. I have to do what amounts to about, maybe, twenty-five different analysis, blood and urine. I spend about an hour doing both a western and a Chinese method of diagnosis. So I don't think the fees are very, very high. However, they are high enough so that it is not available to some people. I think the only way you're going to control this is by the eventual acceptance of acupuncture by the medical carriers who are going to have to establish fees for that area.

That's about it. I thank you for giving me

an opportunity to speak before you. I will make those statistics available to you if you want.

SENATOR HUGHES: I'd appreciate that, Doctor. Do you have any questions?

SENATOR ORECHIO: No questions.

SENATOR HUGHES: Dr. Gangemi, we appreciate your appearing before the Committee.

Dr. William Vilensky.

D R. W I L L I A M V I L E N S K Y:

I am Dr. William Vilensky, D.O. I'm representing the Acupuncture Society of New Jersey, which is a group of New Jersey licensed physicians who are practicing acupuncture. I'm also representing the New Jersey Physicians Ad Hoc Committee for the practice of acupuncture.

I stayed up approximately ~~two~~ days preparing a five page statement, most of which has been already covered, and in respect to your plea for brevity, I'm going to completely eliminate the reading of this and pick out certain points. At this point, it may seem helter-skelter, but it would be impossible to extrapolate, from a five page document, all the points.

SENATOR HUGHES: We appreciate that Doctor. Inasmuch as we just received this transcript, the Committee would like make a further study of it, themselves. If you would point out the highlights, that you mentioned, it would be very much appreciated.

DR. VILENSKY: Also, Doctor Mong, who is the Secretary of the Acupuncture Society of New Jersey, will defer from presenting his paper, and you do have a copy of that. (Dr. Mong's statement can be found on page 123.)

I was a member of the twelve-man Commission appointed for the study of acupuncture in the State of New Jersey, which was headed by Dr. Albano. This

was a Committee which was to devise and propose legislation for acupuncture in this State. A week or two prior to the very first meeting, I was sent a copy of the entire bill, which I was called upon to help prepare - which was somewhat of a surprise. I took this in stride and felt that, perhaps, this was a good stepping-stone and this was a basic place from which we could start, add, or delete.

At the first meeting, we discovered that of the twelve members - and this included three members from the New Jersey Medical Society, three members from the New Jersey Association of Osteopathic Physicians and Surgeons, three members from the New Jersey Medical College, and three members from the New Jersey Board of Medical Examiners - only three were practicing acupuncture. Much to my surprise, not only did the three physicians who were practicing acupuncture agree on certain inequalities in the proposed bill that was sent to us a week or two ahead of time, prior to that first meeting, but other physicians, who did not practice acupuncture, shared the same feeling. There were many disagreements. I have to disagree with Dr. Albano, who made some statements today, that this was a unanimous decision, with the exception of one negative vote. In addition, there was a misleading statement made that there was a fourteen-to-one, or fifteen-to-one vote, with Dr. Ornas dissenting. However, I must clarify that this was at a level of the State Board of Medical Examiners who did not prepare this bill. This was not the vote of the Commission who was charged with preparing this proposed law. I can tell you that there were disagreements on Senator Menza's bill, and we had a total of three meetings. We had stated that, number one - many of the physicians on this panel stated - that we

did not think that there was need for a separate law for acupuncture since everyone agreed that this was the practice of medicine and, quite naturally, belonged under the jurisdiction of the State Board of Medical Examiners, that has jurisdiction over the practice of medicine in all phases in this State. We felt that non-physicians should not be given a license to practice medicine in this State. We agreed that the number of hours of training, for an already licensed physician in this State, was excessive. As a result, we called in three expert witnesses - two at the second commission meeting - and they were Dr. Saul Heller, who is the former Chairman of the New York State Board of Medical Examiners, and Dr. Lester Marx who is a anesthesiologist in New York City and who practices acupuncture. At the third meeting, we had Dr. Frank Warren, M.D., anesthesiologist, who is also the Executive Director of the National Acupuncture Research Society. Without prior consultation, coincidentally, all three expert witnesses at these Commission meetings had the same opinion as many men on the Commission; specifically the three points I mentioned before about no law needed, no non-physicians practicing medicine in this State, and the number of hours of training that would be deemed necessary to practice acupuncture. All three of these were completely ignored by the Chairman of this Commission.

At the last meeting, we were told, at the time of the meeting, that this was the final meeting. There would be no more meetings of this Commission, and we must come up with a bill that day and have something to submit. Unfortunately, I know of at least two or three physicians that were unable to attend this last meeting. They had attended the previous ones. They were not notified nor was there any recommendation

that there should be "x" number of meetings, nor was there any notification that a vote would be taken on this particular bill. I also know that these two or three physicians were in agreement with the three witnesses that were called in as experts, and with several other physicians on this Commission, who disagreed with the Menza bill. Nevertheless, a vote was taken, and it was passed because of certain compromises, and this entire thing represents a compromise. I simply state all of this to be on record because of the statement made at the end of the Menza bill - which I think implies to most people who have read this and, perhaps, to you that this was unanimous decision.

I agree with Dr. Albano on a lot of points, especially on the complications that can result as the result of acupuncture. I also agree with him that it's rare, and these complications are extreme. But complications can occur at any time in medical practice, either because of misjudgment, or some error - and this is precisely why we have malpractice laws and insurance. But being human, mistakes are made, and if they can be made, why license non-physicians who will increase this potential one thousand fold.

I object to some implications made that because you practice acupuncture you're going to become a millionaire. It's a slur, and I resent it. I practice acupuncture, part-time. I'm a general practitioner, and I would greatly benefit by having non-physician acupuncturists, licensed in this State, to practice acupuncture, even under the restrictions in the Menza bill - which would allow only two acupuncturists per licensed physician, supervising those acupuncturists on the premises at all times. It would be financially benefit me because I

could sit in my office and not do anything and allow two physicians to work for me at a much less salary than any other type physician. But I do not want non-physician acupuncturists.

I don't think that any legislature or any committee or regulatory office can legislate ethics. As Dr. Ornas intelligently pointed out, only a minority of physicians are involved, and as Dr. Gangemi pointed out, these are the same physicians that are in trouble in other areas, not just in acupuncture.

As far as diplomas - I have received an application and I can get a diploma in Chinese medicine, with my name engraved thereon, for a fee of fifty dollars. Again, I have to reinforce the statement made not only about acupuncture mills in schools, but also the diploma mills out of this country. I don't have to repeat the story that Dr. Riddle told, about how difficult it is to document these credentials.

In a journal that just came out, April, 1974 - the Journal of Legal Medicine - they talk, in this issue, about acupuncture and the law. I would just like to quote a few paragraphs or sentences from this. It says, "The increasing awareness and use of acupuncture in the United States has resulted in governmental regulatory activity, principally, at the level of the State Healing Arts Licensing Board." This article was written by a W. Stewart Dornette and he has expert, and knowledgeable, information on the laws of acupuncture all over the United States and lectures about that in many seminars. He feels that few legislators are knowledgeable about acupuncture; nor do they have the opportunity to learn about this subject. Typically, they are harried by much work and have little supportive

help and a paucity of time. Generally, what they do know is gained from the lay news reports of "miracle cures" and unscientific explanations of balancing the "energy forces" in the body. For these reasons the State legislature is likely to leave intricate questions, like acupuncture, to the more deliberate and expert consideration of the State Licensing Board for the Healing Arts. Mr. Dornette mentioned several considerations - the respect for the patient, trying to obtain the best treatment for them - and he says, "It is with this last consideration in mind that many State licensing boards have interpreted acupuncture as the practice of medicine, thereby restricting its practice to licensed physicians."

In another article in this same journal, also written by - I'm sorry - Dr. Dornette - Dr. Dornette is an M.D. and J.D., member of the Ohio Bar - he talks about insurance carriers. This had been brought up in the hearings earlier today, about liability and insurance coverage for non-physicians. I'm quoting Dr. Dornette, "Having observed and administered acupuncture, I sincerely believe that the use of this technique, by a duly licensed practitioner who has training in acupuncture and a thorough knowledge of anatomy, poses no more, and probably far less, risk to the patient than many other therapeutic modalities; thus, there should be no increase in exposure to alleged malpractice and, hence, no increased cost of professional liability insurance."

I would like to point out a few comments made in the Acupuncture News Digest, which is the organ for the National Acupuncture Research Society, Incorporated, whose Executive Director is Dr. Frank Warren. In a comment he says, "We keep hearing

adverse remarks from uninformed sources concerning the AMA's attitude towards acupuncture. Just to get the record straight, the AMA is keeping a totally open-minded position regarding acupuncture." "If it works and it is proven effective," says Dr. Russell Roth, President, "I would advocate its use." In the meantime the AMA news and journal keep featuring helpful inserts, including a mini-symposium on acupuncture in the latest journal of the American Medical Association. Apparently, he has also heard of the bills proposed in New Jersey, and it is stated in the digest that disaster is looming in New Jersey as a result of the bill passed by the lower house, recently, allowing "licensed doctors of acupuncture to practice," which is as good as giving them a free license to practice medicine, and insisting on licensed M.D.'s having many months of training so that they can be sure to learn all the taoist philosophy. There are other points in there which I think have been covered by other gentlemen.

SENATOR HUGHES: I was just going to say, Doctor, that these are getting a little repetitious. Some of the points that you are bringing out have already been covered by other people who have appeared before the Committee.

DR. VILENSKY: What I would like to recommend, after the hearings today, in view of the disagreement, by members of the Commission, on the study of acupuncture in this State, because of certain --

SENATOR HUGHES: May I ask one question? You mentioned, earlier the Chairman of the Commission. Could give us the names and members of that Commission, please?

DR. VILENSKY: The Chairman of the Commission was Dr. Albano.

SENATOR HUGHES: Dr. Albano?

DR. VILENSKY: Yes. I don't know if I can recall all the names, but I'll give you as many as I can remember.

SENATOR HUGHES: I wonder if you could do that in a transmittal to the --

DR. VILENSKY: I can send you a complete list of every member of that Commission.

SENATOR HUGHES: Yes, please. We'd appreciate it.

DR. VILENSKY: I would suggest - after hearing discussion on both laws and after hearing you, sir, suggest - that perhaps we're jumping into this a little quickly. I would have to say that I agree with you, that we are jumping into this a little quickly, but I think there is urgent need for legislation, to give the public the benefit of acupuncture. I would suggest we do what they have done in New York, In fact, the very reason why New York has not had a disastrous law regulating acupuncture is because of a recommendation made by their Governor. I recommend that the Governor of the State of New Jersey appoint a Commission, as they did in New York State, consisting of licensed physicians, who are practicing acupuncture, to immediately serve as an advisory committee. This advisory committee can perhaps do one of several things: make recommendations on the Klein and Menza bills, amalgamate them, improve them, discard them completely, or come up with their own form of legislation. I think, at that point, we might have a final, better law in a short period of time.

SENATOR HUGHES: Would you want that Commission to be strictly licensed physicians?

DR. VILENSKY: The feeling today is that there has to be a consumer representative on every board,

but I'm now thinking about the practice of medicine. I'm not quite sure how advisable it would be to have people on a board that is going to make a law, or suggest legislation, regarding the practice of medicine, unless they are practicing medicine themselves.

SENATOR HUGHES: I might be misinterpreting you, but you might be presumptuous from the standpoint of telling me, "now this is an accepted medical science." What I'm saying is, acupuncture is an accepted medical science which should be under the complete jurisdiction of the medical profession right at the present time, without the medical profession itself having complete input of acupuncture, per se.

DR. VILENSKY: At the present time, I don't know who would be better qualified than physicians who practice medicine - if we are going to assume that acupuncture is the practice of medicine - but I would prefer - and I have nothing against plumbers, I love them - not having a plumber on the board, telling me how to write a law to regulate the practice of medical treatment. Acupuncture is not a science; medicine is not a science. It is a combination of a science and an art and, therefore, two and two will never add to four in medicine. They are always vague areas, and this is because part of medicine is an art.

SENATOR HUGHES: Well, don't you think you would be putting the onus on the medical profession - of actually making this a judgment on their part without other, we'll say, parts of society becoming involved in it?

DR. VILENSKY: This was a suggestion. If other members - in your opinion - should be on this Commission, that should be appointed by the Governor, I would not object. But what I would like to see is an adequate number of physicians but, particularly, those who

are practicing acupuncture and some who are not practicing acupuncture.

SENATOR HUGHES: No question about that. There I would agree with you. But I do think that it should have a little bit more input than just the medical profession itself.

DR. VILENSKY: I would like very much to see educators - especially from the medical colleges - on this Commission. The point I was making - and I believe that was the intent of your suggestion - was, aren't we jumping into this too quickly? I think we need legislation now, but I think these two bills - as they stand now - have many discrepancies which would not be in the public interest. I think to pass these two bills - both of which have problems - would be a mistake, and I think that you, as legislators have the ultimate responsibility for the public interest. I also think you have the capability, and a rare opportunity, to present a law in this State which could be a model for other states in the union - if that is important. But, certainly, it could be a model piece of legislation. I think it would be a shame to miss this opportunity. I feel that, as quickly as possible, a Commission - in my judgment - should be appointed by the Governor of New Jersey to study this and come up with some quick answer - in light of the two bills, the problems involved, the good points and the bad points - and prepared some direction so that we can have this quickly.

I have no other comments unless you have some other questions. (Statement can be found on page 105.)

SENATOR HUGHES: I have no further questions.

SENATOR ORECHIO: I have no other questions.

DR. VILENSKY: Thank you very much for the

opportunity in speaking today.

SENATOR HUGHES: We appreciate your coming before the Committee.

I see we are running late. I am going to extend the courtesy to the other medical men here to speak. I would like them to consider their statements rather than being repetitious because, quite frequently, the people of the medical profession have been a little repetitious. I'd like them to be as brief as they can and to the point.

Mr. Philip L. Kaplan

P H I L I P L. K A P L A N: My name is Philip L. Kaplan. I am the Executive Director of the New Jersey Association of Acupuncture Patients.

First I would like to exhibit my hardware that I wore.

SENATOR HUGHES: Mr. Kaplan, we have read your book, and I think we are well aware of your enthusiasm. I would like you to very pointed and explicit, in order to expedite these hearings, please.

MR. KAPLAN: I've been fighting to get acupuncture in New Jersey for the last twenty-one months. I was the first patient in the country that was discharged and cured from the Acupuncture Center of New York on August 16, 1972. I was wheeled in, in a wheelchair with neck braces, back braces, and canadian crutches --

SENATOR HUGHES: Mr Kaplan, believe me, we are well aware of all this, all right?

MR. KAPLAN: Okay. Let me catch my breath for a minute.

SENATOR HUGHES: Take your time.

MR. KAPLAN: We spent - ourselves - fifteen thousand dollars and the blue cross paid out forty -

two thousand dollars, yet, it only cost me one hundred and fifty dollars to be cured. After I was cured by acupuncture, I went around the whole State of New Jersey shouting for acupuncture in the State of New Jersey. There were doctors in the Trenton area who condemned me because of the acupuncture. These are the same doctors, today, who are now practicing acupuncture. First they condemn me and now they are practicing it.

There is a book on the market now, written by Mark Duke, and the title of the book is Acupuncture. I am quoting from his book, "There is no American physician today who knows acupuncture." Just because a man is a doctor, he doesn't know acupuncture. In Hong Kong, today, anyone in this room could buy a diploma on acupuncture for one hundred and fifty dollars. If I, myself, would only put up this diploma in my house, I could be mobbed with people. Yet I went to Hebrew School for two years but this doesn't make me a rabbi; or somebody else who went to Catholic School for two years, this doesn't make him a priest.

As of today, there are seventy-six hundred and twenty-eight people who went down to Washington for treatments. Now, acupuncture is now legal in Massachusetts, Washington, D.C., South Carolina - I think the State of Maryland is signing it today - Texas, Oregon, and Washington State.

As Dr. Riddle stated before, the Acupuncture Center of New York was closed because the Chinese doctors were not licensed. Yet, in the State of New Jersey and in New York, lab technicians are allowed to take your blood under the supervision of a licensed physician, yet, they are not licensed.

I am for Senator Menza's bill and Herbert Klein's bill combined together. My greatest ambition is to see an acupuncture center founded

in the State of New Jersey, to be supervised by licensed physicians, and the treatment of acupuncture, to be given by doctors of Chinese medicine and acupuncture.

Senator, you have read my whole story and of all the people that came down to Washington with us, two hundred and seventy-six people have been cured. Seventy percent of the people are from eighty to ninety percent better. The balance are about the same but slightly better, which is a darn good percentage.

I am now trying to help the Senior Citizens of New Jersey who have gone down to Washington - or to any other place - to receive acupuncture treatment - to have the Blue Cross and Blue Shield of New Jersey help them pay for the acupuncture treatments.

Last month I testified in Levittown, Pennsylvania, for a man who received acupuncture treatments in Washington, and the Blue Cross - Blue Shield refused to pay for it. After I got through testifying, the court ordered them to pay it, but, now it is going to be pending because they did appeal the trial.

I know there are a lot of people here who want to testify, so I would like to cut my speech as short as possible. If any of the Senators would like a copy of medical records, which state that "the patient has no reflexes in the left leg or right leg" -- We know a lot of people who go to doctors and they tell them that they can't move their leg or they can't move their arm and they're given all kinds of treatments. I have had so many treatments - right here in my pocket I have three credit cards. I was at the Mayo Clinic six times; New York Hospital, once; Special Surgery Hospital of New York, twice; and Saint Francis Hospital in Trenton, all in 1972. But, yet, I spent seven

months at Temple University Hospital and the doctors stated that I had the gout, I was a diabetic, and I had poor blood circulation. The Mayo Clinic informed me that I was not a diabetic, I never had the gout, and I have excellent blood circulation and for two years I took drugs for the gout, which I never had.

SENATOR HUGHES: We have no further questions, Mr. Kaplan. I appreciate your appearing before the Committee. Thank you for taking the time.

MR. KAPLAN: Thank you.

SENATOR HUGHES: Mr. Martin Johnson.

M A R T I N J O H N S O N: My name is Martin Johnson. I am an Executive Assistant to the Director of the Medical Society of New Jersey.

Much has been said here today, Senators, and I don't want to be repetitious. There are a few points I would like to make. One of them, I think, is very important and that is, the liability that would be involved for someone practicing acupuncture. To the best of my knowledge, there is no such provision made in Senate Bill #835. Assembly Bill #520 does have that coverage. It certainly something which I think you should take into consideration.

We are opposed - when I say, I am referring to the Medical Society - to non-physicians practicing acupuncture. I met with Mr. Klein - the sponsor of Assembly Bill #520 - and we did work out a compromise. Both of these bills, as you know, do parallel each other and possibly in the future, when you get together, you can work out something that would be in the interest of the people.

The doctor's primary interest is the well-being of the patient. One of the things we have to keep in mind is, the patient's desires to be honored at the expense of his well being? He or she may very well

want some type of treatment or some type of medication which, in the professional judgment of the physician, it is not acceptable. I don't think that that right should be in the hands of anybody other than a qualified professional. Again, when I say I, I mean the Medical Socceity.

The Medical Society has not accepted the bills outright. As I mentioned, it has been a compromise and we want to stress that point.

I see no reason to repeat the reference to physic phenomena because we know the value of that.

There is something that I do think is important and should be born in your mind, Senators, and that is, when it comes time to promote a new pharmaceutical preparation today, the Federal Drug Administration now demands approximately six years of clinical workup before a new drug can be used. I would say that any new modality - and even though it has five thousand years of antiquity behind it - may have been practiced in an atmosphere where human life might not be valued quite as much as it is here. I think that it is important that the professional schools have an opportunity to evaluate this. The Medical Society thinks that it is important that it be evaluated scientifically. These people do need help. They, obviously, wouldn't be looking for something, in addition to what has been offered, if they had been successfully treated; but since they have not arrived at the theraputic level that they were seeking, and they're searching for something else, we feel that this is a modality that could possible have some use, but not turn it lose unless it is thoroughly evaluated.

We are opposed to the commercialism and the prospects of commercialism. It is already evidenced and well documented in the newspaper. There are people who were interested in getting in this strictly for

the commercial aspects. We are opposed to the prostitution of acupuncture by the commercial approach to this modality. Innocent and gullible people, in their search for good health, can be taken advantage of by those who have no real interest in their well-being. I would like to suggest, Senators, that you keep that in mind.

Thank you very much.

SENATOR HUGHES: Just for the record, Mr. Johnson, you say you are the Executive Director?

MR. JOHNSON: No, sir, I am the Executive Assistant to the Director.

SENATOR HUGHES: Are you, by profession, a medical doctor, by any chance?

MR. JOHNSON: No, I am not. I have had twenty-four years of experience in public health, and I have been in medical training for two years.

SENATOR HUGHES: How long have you been Assistant Executive Director?

MR. JOHNSON: For one year.

SENATOR HUGHES: All right. Thank you Mr. Johnson.

Mr. Patrick Trotta.

P A T R I C K T R O T T A: My name is Patrick Trotta. I am a Registered Physical Therapist since 1940.

I have submitted briefs to the Committee. I believe you have my position. We have also sent a letter of similar copy to each Senator.

I am most grateful for this opportunity to appear at this open hearing, one which did not occur in the Assembly. We felt that this was the most proper manner to remove emotionalism from legislation. We would like to say, as physical therapists - an allied profession of medicine, who must work under

the referral basis - that we have the didactic training and the background for further education in acupuncture.

Acupuncture - as explained scientifically - although still in the realm of philosophy - indicates that many of the actual trigger points, myalgia points, reflex points, are directly over the acupuncture points so that through the years, physical therapists have been using, more or less, the approaches of acupuncture.

Let's take the definitions in the both bills. First, Assemblyman Klein's bill. "The practice of acupuncture is defined as treating by means of mechanical, thermal or electrical stimulation effected by the insertion of solid needles or the application of heat or electrical stimulation at a point or combination of points on the surface . . ." We are no longer below the skin, we are on the surface and this is the exact surface that physical therapists have been working on for years.

In Senator Menza's bill, "Acupuncture" means an experimental medical procedure performed by the insertion of needles . . ." It is our contention that the first definition would bring new physical therapists into this State. We have been relegated by law, passed by the legislature and signed by the Governor, to practice physical therapy. We do use the concepts of electrical stimulation, ultrasound, heat, etc. These are western approaches, being applied by acupuncturists. Are we for acupuncture? Definitely, we are for it. We feel it should be licensed. We feel both bills do have their merits, and we do feel - by an opening hearing such as this - that intelligence may reign. We feel that the good offices of the Senators here may bring out something which will satisfy the public - who is in need of acupuncture as another modality - but it will also not deny those who possess the educational background the right to accept another modality.

There have been questions raised here about education of the acupuncturists. We have had extreme research into it, and we find - quoting from the American Journal of Chinese Medicine, by one of the researchers who went to China under the last Commission from the United States Government - "A doctor of medicine in China acquires his degree three and one-half years after high school and the oriental physician in China acquires his three years after high school." So, we find out - if we were to accept the concept of this bill - that there is no school of acupuncture of three years. This is a conglomeration of other approaches to healing and acupuncture is one of them.

I believe in the words of the physicians that previously testified, such as Dr. Albano, Dr. Ornas, and Dr. Riddle, when they mentioned one hundred plus hours - and this was an amendment we had suggested to Assemblyman Klein to be used as a method of educating those who possessed a background in the sciences - could well qualify in adding acupuncture as another means of helping the public. We feel that to leave out physical therapists - who practice under referral of physicians - would be a gross miscarriage. We feel this would be an added avenue to members of the Healing Arts.

I would like to conclude by thanking the Senators for permitting me to represent my society here today. I would like to also state that the schools throughout the world do accept physical therapists, with further education. Where it may be a three year course, they reduce it, and so many hours of over and above your background will qualify you to be an acupuncturist.

SENATOR HUGHES: I have one question. I

believe you practice your profession on a referral basis from physicians, is that correct?

MR. TROTTO: We do. We are under a Medical Act. We are registered by the Board of Medical Examiners.

SENATOR HUGHES: Would you say that physical therapists should maintain that same status?

MR. TROTTO: No question about it. This is a must.

SENATOR HUGHES: There are no further questions.

MR. TROTTO: Thank you very kindly, gentlemen.

SENATOR HUGHES: Thank you.

Mr. A. Viskaski.

A L P H O N S E R. V I S K A S K I:
My name is Alphonse R. Viskaski. I am a Registered Physical Therapist in the State of New Jersey. I represent, and am the Secretary of, the Acupuncture and Moxibustion Association of New Jersey.

There are a few points that I would like to bring out pertaining to education, as I heard it when the different people were talking. I do not want to be repetitious.

There are very few schools that teach 36 months of acupuncture, exclusively. To our knowledge, only the Korean schools teach 36 months, and not acupuncture, but oriental medicine. In Japan, the educational period ranges from two to three years. It must be kept in mind that individuals embarking on a career in oriental medicine are initiating their education after graduation from what would be - in our country - equivalent to high school. In many other countries in Asia, individuals learn acupuncture by the apprenticeship method or the preperceptiveship group - no formal education being required.

Another very important point not to lose sight

of is that the schools which offer 36 months of training include basic sciences, herbal medicine, acupuncture, and so forth. Many countries such as the People's Republic of China, Taiwan, Hong Kong, and England accept the medical physicians' and physical therapists' initial education and offer an intensive one to three month educational program, including clinical experience. Some of the European schools base their courses on an hourly fashion ranging from two to nine hundred hours. Naturally, the legislation being considered refers to acupuncture and not oriental medicine. This important fact must not be overlooked.

Now, another serious question has arisen concerning the amendment which has been removed from Assembly Bill #520, requiring citizenship, or intent of the same. It is felt that this exclusion should be carefully studied by the Committee.

Number three, the most important fact which must not be obscured is that doctors of medicine and physical therapists - who have additional training within reason - should be eligible to take the examination at their acupuncture college, from other countries, to prove their qualifications.

Now, in summary, we respectfully urge the 36 month criteria be investigated carefully. Citizenship, or declaration intent should be studied and most importantly, again, only practitioners of medicine and physical therapy should be able to qualify through courses or schools that they have already attended. An intensive program - including clinical experience - should be established at one of the medical schools, fashioned upon schools abroad, ranging from one to three months criteria in the orient, or the two hundred to nine hundred hours in Europe. Regarding the acupuncturists and physical therapists,

they would then take the examination and only work upon the referral from a physician after the patient has been diagnosed.

Now, if I may, I would like to say a little bit about our association. The Acupuncture and Moxibustion Association of New Jersey is legally Incorporated as a non-profit professional organization and our goals are educational, exchange scientific ideas, maintain high ethical standards at all times, and function within the present legal statute. Now in our association, we have physical therapists and acupuncturists. The physical therapists who are members, primarily specialize in orthopedic physical therapy and pain control. The acupuncturists have studied in Asia and have also been in practice for many years. A few of our members have authored texts which are utilized as references in schools of acupuncture in the Orient and Europe. Our Association of New Jersey is a Chapter of the American Acupuncture Society, who both strongly favor effective legislation which would license the practice of acupuncture in the state. (Statement can be found on page 111.)

I would like to thank you for your time. This is all I have to say. Are there any questions?

SENATOR HUGHES: There are no questions.

Mr. Viskaski, we appreciate your coming to the hearing.

I notice that there are three gentlemen here from the Ad Hoc Committee on Acupuncture. Again, in the interest of expediency, I would suggest that one of the three be designated as their speaker. Bill Doerrler, Robert Marmorstein, and Joseph Dougherty, which one of you --

B I L L D O E R R L E R: Mr. Chairman, you have a letter in your files which was handed to

you this morning concerning liability insurance and Mr. Marmorstein has been researching, and is active in, the insurance end of liability insurance. His remarks will be short, just to the professional liability insurance and then, if I may, just like to say a few words as the Chairman of our organization.

R O B E R T M A R M O R S T E I N:

I am Robert Marmorstein and I am here, really, in a dual capacity, as a professional insurance underwriter and also as - personally - an acupuncture patient.

My office handles what is known as special risk insurance. We do special risk underwriting and the development of new and unusual or hard to place forms of insurance.

I became interested in acupuncture personally, at first, and then professionally.

Personally, I have suffered from year-round allergies and hay fever ever since I was seven or eight years old. Conventional medicine failed to bring relief. I had gone to a number of different M.D.'s, a number of physicians throughout the country, without any relief at all. I finally heard about acupuncture and read about it. I tried acupuncture. I have been acupunctured by four different Chinese trained acupuncturists and have found relief; and I have also been acupunctured by two American trained M.D.'s, who had both taken courses in acupuncture, and have found no relief from their treatments.

Professionally, I became interested in securing a reliable insurance market to cover the professional liability of acupuncturists. We currently are insuring qualified acupuncturists who submit acceptable credentials and pass - what we consider - examinations. We ask that they treat only patients

who are referred by licensed M.D.'s. We are quoting premiums generally under one thousand dollars for basic one hundred/three hundred thousand limits and will quote up to a million dollars of liability coverage for between one thousand and fifteen hundred dollars, total premium.

Although we will consider quoting and covering M.D.'s for their practice of acupuncture; we generally do not consider them as safe a risk, underwriting wise, as foreign trained acupuncturists and we will most likely, depending upon the individual training of the M.D., quote somewhat higher premiums.

SENATOR HUGHES: May I ask you a question. How are you going to evaluate that?

MR. MARMORSTEIN: It is a very difficult thing to evaluate. We will evaluate it much the same way as they are evaluating it now in Nevada

SENATOR HUGHES: I can't hear you.

MR. MARMORSTEIN: In the State of Nevada. Nevada, we feel, has passed a very strong law. They have a very strigent examination of acupuncturists and so far as I understand it there are less than ten acupuncturists who have passed the examination and have been approved. These are the kind of acupuncturists that we want to insure.

SENATOR HUGHES: See, you're -- Getting back to my original question --

MR. MARMORSTEIN: How do they evaluate it in Nevada?

SENATOR HUGHES: How does anyone evaluate that - any insurance agent or carrier or whatever the case may be - how do you establish the ground rules for evaluation of that nature?

MR. MARMORSTEIN: We have to depend upon, who we consider, men who have practiced acupuncture for years

and years and years, who have been trained for years and have been practicing it. A number of these men - as I understand it - are sitting, presently, on the board in Nevada and they, in turn, have set up standards and they are examining prospective acupuncturists in the State of Nevada. Now, if the prospective acupuncturist passes their examination, that is good enough for us.

SENATOR HUGHES: If I'm not mistaken, the State of Nevada is in quite a bit of trouble, and they are in the process, right at the present time, of reevaluating and putting new legislation into effect.

MR. MARMORSTEIN: I'm not aware of that. All I know is that we are presently getting applications from the State of Nevada for insurance. As far as I know, we are in touch with a large agency in Nevada who is submitting applications.

SENATOR HUGHES: All right, continue then.

MR. MARMORSTEIN: I have heard of no trouble in Nevada. I know it is very, very strict. If there is any difficulty, it is just that not enough acupuncturists seem to be able to pass the examination. It is a very, very strict examination.

SENATOR HUGHES: I guess you are, in essence, saying that you had set up standards according to the State of Nevada?

MR. MARMORSTEIN: We'll take it state-by-state. We get applications from all over the country right now, and most of the applications we are getting are, frankly, from M.D.'s who have taken courses in acupuncture. They seem to have three main qualifications: one, they are M.D.'s; two, they have taken courses in acupuncture; and, three, many of them are of Chinese background. They consider this adequate to qualify them as acupuncturists. Insurance-wise, we are not comfortable with them. We will quote them,

but we are more comfortable with acupuncturists who have had years of background, years of training - preferably in Taiwan or some country which is very familiar with acupuncture - and who pass stringent examinations. Those are the kind of acupuncturists that we feel - underwriting-wise - we are comfortable with.

SENATOR HUGHES: Basically, we starting here to try and establish something of this nature.

MR. MARMORSTEIN: In the State of New Jersey, right.

SENATOR HUGHES: That's right. Right now we don't have - even in our own context - a way of evaluating these people and yet you say you can insure them but they would be at a much higher rate.

MR. MARMORSTEIN: Are you talking about M.D.'s without --

SENATOR HUGHES: Yes.

MR. MARMORSTEIN: In my experience, and what we have found, a man who has an M.D. degree is not necessarily a qualified acupuncturist, and we feel they are a greater risk.

SENATOR HUGHES: Could you explain that to me? I am trying to pursue this line of questioning simply because I would like to know the reason behind it. I would say, as far as physiologically being aware of the physical attributes and body chemistry and nervous system and everything, and so forth in a human being, our medical doctors and osteopaths and other physicians are versed in this area.

MR. MARMORSTEIN: Yes, but I think they are practicing something that they are not familiar with -- that they are not at home with.

SENATOR HUGHES: Well, who is familiar with it?

MR. MARMORSTEIN: There are acupuncturists. Many of them are underground. We have forced them

underground by not recognizing them and not licensing them. I have been treated by four Chinese trained acupuncturists, and treated successfully. To break it down, the treatment of one of them was not successful. The treatment of three of them was very successful. I have also been treated by two M.D.'s without any success at all. It is ironic I started searching for an acupuncturists many, many years ago, and I went from M.D. to M.D. asking for help. The answer that I got at the time was that acupuncture is not medicine and they cannot help me. Then, when acupuncture became somewhat popularized in this country, it suddenly became medicine and the medical fraternity now has taken it over and now refuses to let go of the monopoly they have on the human body in this State and in this country.

SENATOR HUGHES: Do you have anything else to add, Mr. Marmorstein?

MR. MARMORSTEIN: No

SENATOR ORECHIO: I have a question. You said you were treated by six, and three were successful and three were not.

MR. MARMORSTEIN: Three were not successful.

SENATOR ORECHIO: If you found one of them successful, why did you move onto to others?

MR. MARMORSTEIN: Because it became impossible to get to them. The first two I went to were at Arnold Benson's Clinic in New York - two Chinese acupuncturists, and Arnold Benson's Clinice was closed. Dr. Riddle spoke about the trouble they had in New York. I went to that clinic and there seemed to be no trouble. People were being treated, and treated very successfully and then the State stepped in and closed the clinic and that is when the trouble started. Then I went to a Chinese physician in New York who treated me and it

very, very difficult to get to him after awhile. Then I went to a Chinese physician in this State who treated me successfully. I went to an M.D. in New York and an M.D. in New Jersey and both of them treated me unsuccessfully. It is very difficult to find an acupuncturist because they cannot operate - in New Jersey and in New York - legally, above ground. So, people who have been in distress for years and years, who have not been treated successfully, medically, are going to find an acupuncturist, one way or another. We are forcing them to go underground by not licensing them and by not setting up some standards. That is exactly what I had to do.

SENATOR ORECHIO: Are you fully cured now?

MR. MARMORSTEIN: No. I am relieved greatly. It really doesn't bother me much anymore, but I still have periods of it.

SENATOR ORECHIO: So, you still seek the services of a --

MR. MARMORSTEIN: It's not as urgent as it was. If there was an acupuncturist handy and he or she was licensed, I would probably go on a regular basis because my particular ailment requires regular treatments.

SENATOR HUGHES: Maybe you misinterpreted what we are here to do. We are here to do just that very thing --

MR. MARMORSTEIN: Yes, I know.

SENATOR HUGHES: -- but we want to do it in the best interest of the public. You are, in essence, saying that the good acupuncture practitioners are underground. I hate to question that, but I will take your statement as you put it. I pose this question to you. Where would we be best able to find a pool of qualified people that, in turn, with very little training, would be able to master this additional art

in the medical profession?

MR. MARMORSTEIN: Yes. My answer --

SENATOR HUGHES: I am speaking of all different medical professions now. There are derivatives of it that I'm sure could handle it.

MR. MARMORSTEIN: My answer is that I don't think you are going to find very easily, and I don't think you are going to find it at all if you shut off foreign trained acupuncturists. If you refuse to allow them to practice legally, and perhaps even refuse to invite into this country -- Dr. Riddle used the phrase that they are waiting on the borders to come into the country. It is sort of a loaded and invidious phrase, and as a patient I resent it very much. If necessary, let's invite them into this country. I think we're going to find trained acupuncturists in one of two ways. On a short term basis - for people who are in torment and who need relief - you're going to have to, if necessary, invite foreign trained acupuncturists into this country and give them an examination, check their credentials, and license them and allow them to practice. You are going to have to introduce acupuncture training into the medical schools, but that will take a matter of years. Acupuncturists do not learn their art in a matter of months, it takes years. Until we can train them in this country - which will take a matter of years - I think we are going to have to license qualified acupuncturists wherever we find them from. If necessary, from foreign countries.

SENATOR HUGHES: All right, Mr. Marmorstein, we have no further questions. We appreciate your coming before the Committee.

B I L L D O E R R L E R: I am Bill Doerrler, Chairman of the Ad Hoc Committee for the Professional Recognition of Acupuncture.

There has been much said during the day and it's not possible, certainly, to comment on everything. I'll try to go backwards as quickly as possible.

I spoke to Senator Walker from Nevada last week. The comments in and around New York and New Jersey have been that the Nevada law is going to be "cleaned up". Senator Walker knows of no cleaning up of the Nevada law. The law does call for a forty-eight month school. There is a very stringent three day test given to license acupuncturists. To date, they have seven licensed acupuncturists. The bill was passed exactly one year ago. These people are of the highest quality and standards with their background.

I am just going to read a few quotes from correspondence I've had with the International Society of Acupuncture in Paris.

This is from Dr. Schatz who is the Vice-President of the International Society of Acupuncture.

"In France, before granting a diploma, we require that practicing doctors or graduates from medical schools follow a three-year course of study . . ."

The next letter is from Dr. Antonietti who is from the same organization. He was asked, what is the minimum training to practice acupuncture?

"In my opinion, three years is a minimum period counting on one or two sessions of four hours each every week. The rest will depend on a very heavy personal study load."

Another question was asked, do you feel that accelerated courses, of one hundred or two hundred hours, are sufficient introduction to enable physicians to treat patients?

"To treat afflictions rebellious to all classical medical treatments a thorough knowledge of acupuncture, a finesse of touch and a training which

cannot be acquired through the accelerated training you discuss - unless the students are veritable supermen !!!

Once again, if acupuncture is to constitute only an additional tool, classical Chinese theory becomes less important. To practice acupuncture as a therapy it is necessary to know all the rules and to respect them if one is to obtain valid and durable results."

The next article is from the National Health Administration, Taipei, Taiwan, Republic of China.

"The graduate must pass the following --

SENATOR HUGHES: Mr. Doerrler, I wonder if you would do this for us. Would you put these in the form of a transmittal to the Committee because it would give us a better opportunity to look at them rather than by listening to it in a verbal disquote by yourself. It would give us much more time to study them and evaluate them. I'd appreciate it if you would do that.

MR. DOERRLER: Fine. In conclusion, I would just say that we are interested in the very high standards of the practice of acupuncture in the State of New Jersey. We are in favor of both bills. Senator Menza's bill and Assemblyman Klein's bill, we feel, are both very good bills. If anything, perhaps the Menza bill could be strengthened somewhat. So, we are in basic agreement with both bills. Statements can be found on Page 114.)

SENATOR HUGHES: Thank you, Mr. Doerrler.

If there are no further witnesses requesting to speak, I declare the public hearing closed.

(Hearing Concluded)

MAY 7, 1974

MEMBERS of the COMMITTEE on LABOR,
INDUSTRY and PROFESSIONS,
STATE of NEW JERSEY

ATTN: MR. THOMAS BRYAN

FROM: DR. WILLIAM VILENSKY, MEMBER of the
SPECIAL COMMISSION to STUDY ACUPUNCTURE
LEGISLATION, STATE of NEW JERSEY and
ALSO REPRESENTING the NEW JERSEY PHYSICIANS
AD HOC COMMITTEE for the PRACTICE of
ACUPUNCTURE

RE: ASSEMBLY BILL #520
SENATE BILL #835

My presentation is twofold: The first will be a short dissertation on the real and critical issue involving acupuncture legislation in this state and the second presentation will be by a physician who is most renowned in the study of acupuncture legislation rules and regulations and I will ask him to speak immediately after my first part.

The real issue, the critical issue is not whether acupuncture should be practiced in the State of New Jersey. Acupuncture has been accepted as a valuable treatment tool in certain disorders. It has its failures and its successes and it just takes a certain amount of time and an accumulation of the statistics for acupuncture to seek its own level amongst many medical modalities. At that time we shall see how frequently acupuncture can and should be used and what diseases or disorders that it is best used for and which diseases it would be fruitless. The real issue here then is how acupuncture should be used and regulated under the state law. However, the most vital issue is who should be allowed or licensed to practice acupuncture. Today arguments have been posed that only orientals can practice acupuncture and that they have had years of training enabling them to perform this type of treatment. It has been further suggested that no physician in the United States knows how to practice acupuncture because he has not studied in the Orient or has only taken a relatively small amount of training in the art of acupuncture technique. As has been pointed out on another dissertation here today the average licensed physician in this state has a minimum of thirteen years of scientific training before he is licensed to practice medicine. Even if the oriental physicians who get a degree in medicine had the same number of years of training it is quite obvious that the caliber of scientific training is not on a par with the western scientific training as we know it, otherwise those physicians would not be required to take an additional two or three years of training in this country before becoming eligible for licensure. If that is true then how can we consider the oriental acupuncturists who are not even licensed physicians in that country be deemed fit to diagnose and treat patients in this country. We must realize the social economic differences between the orient and this country. In communist China there are over eight hundred million people cared for in all aspects of daily living. If each person in China had but one glass of milk to drink per day, we are now talking about eight hundred million glasses of milk. If each person had to take one aspirin per day, we are talking about eight hundred million aspirin per day; therefore, with this vast population medical care cannot be relegated to the inadequate numbers of licensed physicians. Health care then must be attained in other fashions, just as in this country we can walk into any pharmacy and buy an Alka-Seltzer, the citizen in mainland China can walk into any pharmacy or store and buy and use without license or prescription acupuncture paraphernalia. Would you presume that the day will come when residents of this state will be able to walk into a pharmacy and buy acupuncture sets?

Many people practice acupuncture in mainland China without taking any formal training. Youngsters are taught about the tools of acupuncture and their use and in fact practice the art of needling on themselves and others as early as ten and eleven years of age. Are we then willing to say that a twenty-one year old lad has had adequate training in the diagnosis and the treatment of maladies because he has practiced acupuncture for ten years starting at the age of eleven? Let us also dispel this myth that the Chinese acupuncturists, non-physician, must have had three to four years of training. Certainly if the acupuncturist must place a needle just below the patella, surely he must have to study some basic anatomy in order to know that the patella or the kneecap is on the lower extremity. We can be assured that the graduate of thirteen years of medical and science training in this country would not have to take that training and would most assuredly know the anatomical parts of a body, therefore; the Chinese acupuncturist must study basic anatomy, possibly physiology and pathology. We must also keep in mind that the traditional Chinese physician studies not only acupuncture but the use and a preparation of herbs and their application and diet and exercise programs. Once they have studied these types of treatments he then usually focuses his art and technique on one of the three. Now if the physician in this state has been exposed to all the basic sciences and the medical sciences and if he is capable of inserting longer and heavier gauge needles with a canal running the length of their shaft and inserting them into skin, muscle, bone, blood vessels, vital organs, such as the heart and the liver, the withdrawal of blood and other body fluids, injection of chemicals, all of whom have toxic side affects and why cannot this physician insert a very small fine solid needle into superficial depths of just the skin? His only requirement then, since he knows the basic anatomy is to simply learn and find the points at which point the small needle is to be inserted. Almost as if planned I received a letter from a lady in Florida this week inquiring about obtaining acupuncture treatment in the Miami area. In her letter she says, "I have had acupuncture for spasms of the cervical bone and bad headaches as a result of chiropractic accident. He came down very heavily on me. I was a mess, in agony for nine months. I finally met a young Chinese youth who gave me acupuncture with moxibustion and electrodes. In six treatments I lost all pain and it is now over a year with no headaches. This youth is in Tallahassee now studying medicine." How foolish this woman was to allow a Chinese youth to diagnose and treat with acupuncture and anything else. Foolish it would be in this state to allow the use of acupuncturists from any country who have had experience from the age of eleven years up. Can we allow acupuncturists who have taken only a few years of training in schools that would never qualify for accreditation in this country? In the West, particularly Oregon and Nevada where acupuncturists are licensed some of the new "Doctor" applicants and their qualifications are as follows: Dr. Chester Chiu, a former Las Vegas Chiropractor is now licensed and practices acupuncture and chiropractic together. He would not otherwise be allowed to practice medicine, if it were not for their new law and regulations he would not be qualified to practice medicine.

Mifuo Hsu, now qualified in Oregon, credentials ? He is Chinese. Nung Kuo, he is also Chinese. Yaw Hue Ferng, a bachelor of Pharmacy from Taipei. John Asher, a Canadian - a graduate from a Vancouver Correspondance Course. Shui-Wan Wu, graduate from a Hong Kong college-name unspecified. Adae-Young Rhai, credential ?. She is Korean. These facts were gleaned from the Acupuncture News Digest which is published monthly by the National Acupuncture Research Society-the foremost society in the United States, devoting all its efforts in research and teaching of acupuncture to American physicians. Also quoted in this issue, there is a notation stating that Dr. William Edwards, chief of Preventative Medicine in the State Health Department of Nevada says, "That the examination in Chinese medicine took three months to prepare and two months to grade. Eight of those who took the first test were Korean and wrote their answers in that language. We had to look all over Los Angeles to find someone qualified to accurately translate the answers. The article then goes on to ask "And will those translators be present in the offices of these gentlemen when the patient attempts to give the "Doctor" a history? Or will the history just be brushed aside? The Acupuncture News Digest goes on to make comment on Senator Mary Anne Krupsak from the State of New York who is sponsoring legislation which would provide for the licensing of acupuncturists in that state, by granting reciprocity to qualified foreign practitioners who have met stringent acupuncture educational requirements, and licensure certification in their country. It goes on to ask several questions of Senator Krupsak: What are these stringent requirements? How can they be evaluated when most of the Doctors of Acupuncture don't speak English? Who will check out the diploma mills in Hong Kong? How will they do it? You have already heard some of the qualifications of the acupuncturists that are licensed in Oregon and Nevada. I personally have received in the mail application for a diploma in Chinese medicine with my name engraved thereon for a mere fee of \$50.00.

By licensing non-physician acupuncturists we give free license to practice medicine in this state. Of course, the proposed legislation states that they must be under the supervision of a licensed physician who has knowledge in the practice of acupuncture. But lets not forget human nature. Acupuncture has been practiced by non-physicians in this country, in California and New York for over one hundred years, in private apartments, parlors, and store fronts. When the non-physician acupuncturist leaves the office of the licensed physician-supervisor where he practices acupuncture during the day, are we to suppose that he will not treat one single patient. in his apartment? Will he turn down a resident of this state who offers him money for acupuncture treatments? I think that there is a good possibility that small private practices run by non-physician acupuncturists will sprout all over the state of New Jersey. The danger of course is obvious. The non-physician acupuncturist cannot conduct a proper examination of that patient to make a diagnosis prior to the initiation of treatment. The pain that that patient may have been suffering may be the only symptom to a catastrophic disease state, and now without proper detection the non-physician acupuncturist will eliminate that pain and thereby allow that

disease state to progress without the patient's knowledge to disastrous or even fatal stages. Can we now in good faith, and logic, license any non-physician acupuncturist to practice medicine and then insist on licensed physicians with all their training and science having many months of training so that they can learn all the Taoist Philosophy. Legislators, you are charged with the responsibility of protecting the public interest. Are you willing to let a non-physician acupuncturist treat you on the basis of unseen negative and positive flows of the Yin and Yang philosophy of energies which no one ever has been able to capture that flow through invisible meridians which no anatomists or pathologist has been able to dissect from the human body, or detect under the microscope. Will you allow your health to place in the hand of a practitioner from the Orient who expounds the theory that your body and the entire Universe is ruled and governed by five basic elements of fire, earth, metal, water and wood, and that your disease course is being influenced by an abundance of fire which could cause hyperactivity of the earth element in your body which in effect might be the reason that your stomach is upset as evidenced by severe burping. Is this the scientific background by which your non-physician will treat you? In the last several years this country's anatomist, neurologist and neuro-physiologist have studied the mechanisms by which acupuncture works. At this point many theories have been evolved and none have been actually proven. Somehow, I put my faith and confidence in such treatment in modern scientific researchers rather than four thousand year old ancient Chinese philosophy, as colorful as it may be.

In this state licensed physicians may have trained assistants aiding them in their practice for instance, a physician can make a diagnosis and prescribe the treatment for a patient with a disease and then allow his nurse under his supervision, to administer the medication but this is not true if we license non-physician in this state because although the physician may make the initial examination he then allows the treatment to the discretion of a non-licensed physician namely the acupuncturist. That acupuncturist decides how and where that needle should be placed for treatment. Therefore, the physician is neither treating nor supervising anything. Furthermore, after the initial examination by the licensed physician what guarantee is there that that patient will remain in the same state of health with no other disease state starting after his initial evaluation? How then will the non-physician acupuncturist be able to continually evaluate that patient who may return for treatments for as long as months to years? The licensed physician does not examine and re-evaluate the patient each day or week.

As you may well be aware there is a very profitable transportation service which takes bus loads of New Jersey residents out of state to Acupuncture Clinics manned by non-physician acupuncturists. Why can we not save our patients the added costs and painful inconvenience of traveling to another state for treatment by offering our residents the same treatment in New Jersey by qualified licensed physicians? You may not be aware that a business venture is now being organized by a stock brokerage firm to set up acupuncture clinics throughout the state and then sell stock in the open market in his venture. This can only be accomplished to the financial benefit of these people if you allow the law to be passed that

will permit hordes of cheap labor technicians-the non-physician acupuncturist-to run acupuncture factories.

In conclusion, this state now has the capability and opportunity of producing one of the most advanced and logical forms of legislation to protect the public interest and at the same time give them the benefit of acupuncture treatment under scientific and professional standards. It would be disastrous in this stage of scientific progress for the legislators of this state to enact a law, for the first time in this state, which would enable a non-physician to become licensed to practice medicine.

This report respectfully submitted by Dr. William Vilensky, Cherry Hill, New Jersey. I would now like the opportunity to relinquish this spot to a noted physician who will speak on behalf of the New Jersey Physician's Ad Hoc Committee for the Practice of Acupuncture. Dr. Jackson Riddle, Ph D., M.D., Executive Secretary of the New York State Board of Medical Examiners and Chairman of the New York State Commission on Acupuncture.

Dr. William Vilensky D.O.

ACUPUNCTURE and MOXIBUSTION ASSOCIATION of N.J.

reply to: 668 Raritan Road

Clark, New Jersey

201-382-2434

May 6, 1974

Mr. Chairman, distinguished committee members, ladies and gentlemen;

I regret to be precluded from attending this important hearing today, however, due to important family affairs I will not be able to return to the State for the hearing and appreciate your kindness in allowing the Secretary of our Association to read our statement:

We want to sincerely take this opportunity to extend our gratitude for being permitted to appear before your distinguished committee to voice our views.

The Acupuncture and Moxibustion Association of New Jersey is legally Incorporated as a non-profit professional organization - goals being - 1. educational - 2. exchange scientific ideas - 3. maintain ethical standards - 4. at all times, function within the present legal statute. Our Association is composed of chiefly Physical Therapists and Acupuncturists. The PHYSICAL Therapists who are members, primarily specialize in Orthopedic Physical Therapy and Pain Control. The acupuncturists have studied in Asia and have also been in practice for many years. A couple of our members have authored texts which are utilized as references in schools of acupuncture in the Orient and Europe. They have also presented papers on the subject and serve in important positions in the International Acupuncture Society. The Acupuncture and Moxibustion Association of New Jersey is a Chapter of the American Acupuncture Society who both strongly favor effective legislation which would license the practice of acupuncture in the state. We feel Assemblyman Klein and Senator Menza's bills are the first attempt to deal with the problem in a constructive manner. However, in due respect to the legislatures and other Associations who are slated to speak today, the bills' short comings and weaknesses will be highlighted and if additional documentation is required, we will be more than happy to furnish same to your committee.

1. Very few schools teach 36 months of acupuncture exclusively. To our knowledge, only the Korean schools teach 36 months and not of acupuncture but ORIENTAL Medicine. In Japan, the educational period ranges from 2 to 3 years. It must be kept in mind, that individuals embarking on a career in Oriental Medicine

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are initiating their education after graduating, what would be analogous in our country to High School. In many other countries in Asia, individuals learn acupuncture via the apprenticeship method or preceptorship route. No formal education being required. Another very important point not to lose sight of is that the schools which offer 36 months of training, include basic sciences, herbal medicine, acupuncture, etc. Many countries such as the Peoples Republic of China, Taiwan, Hong Kong, England, etc. accept the Medical Physicians and Physical Therapist's initial education and offer intensive 1 to 3-month educational programs including clinical experience. Some of the European schools base their courses on an hourly fashion ranging from 200 to 900 hours. Naturally, the legislation being considered refers to acupuncture and not Oriental Medicine and this important fact must not be overlooked.

2. Serious question has arisen to the amendment which has been removed from A520 requiring citizenship or intent of same. It is felt that this exclusion should be carefully studied by the committee.
3. The most important fact which must not be obscured is that Doctors of Medicine and Physical Therapists who have additional training within reason, should be eligible to take the examination with their acupuncture colleagues from other countries to prove their qualifications.

In summary, we respectfully urge the 36 month criteria be investigated carefully - 2. citizenship or declaration of intent be studied - 3. most importantly again, only those practitioners of Medicine and Physical Therapy be able to qualify by courses or schools they have already attended and an intensive program including clinical experience be established at one of the Medical schools, fashioned upon schools abroad ranging by the 1 to 3 month criteria in the Orient or the 200 to 900 hours in Europe. Regarding the acupuncturists and Physical Therapists, they would then take the examination and only work upon the referral from a physician after the patient has been diagnosed.

In conclusion, I am sorry to say that on one or two occasions it has come to my attention that inferences have been made that within the healing arts a struggle is occurring regarding acupuncture. This is very sad and could not be further from the truth.

To our knowledge, it has only been physicians who are practicing

ACUPUNCTURE and MOXIBUSTION ASSOCIATION of N.J.

reply to: 668 Raritan Road • Clark, New Jersey

201-382-2434

acupuncture and physical therapists who are practicing forms of acupuncture, barring the needling technique due to its legal status, who are actively seeking an amendment or special provision to the bills. We are confident that you would agree the American practitioner has the intelligence and ability to learn and administer the acupuncture procedures and help fulfill the tremendous shortage of health personnel in this country. Acupuncture text books, periodicals and scientific acupuncture journals give constant reference and repetitious mention of physical therapeutic modalities being utilized to create an excellent acupuncture effect without the use of needles. This can be documented. Therefore, it can be easily demonstrated, the inter relationship between acupuncture and physical therapy.

Distinguished Senators, we are sure after a careful study of the information furnished, your decision will be favorable and you will realize the contribution which can be made by the practitioners here in New Jersey.

David Kinley, D.M., R.P.T.
David Kinley, D.M., R.P.T.
President

Doctor Jean Schatz
86 rue de l'Université
Paris, France

Paris, March 12, 1973

Dear friend,

In immediate answer to your recent questions, I comment as follows :

1. In France, before granting a diploma, we require that practicing doctors or graduates from medical school follow a 3-year course of study in acupuncture. Acupuncture schools are all private schools in France.

In my opinion, one should have the same knowledge to practice analgesia or surgical anesthesia that is required to practice acupuncture therapy. The points used for anesthesia vary in depth and modality with each case. Therefore, in order to use them for best results, it is necessary to have a thorough knowledge of acupuncture theory and practice.

2. From what I have just told you, it is evident that one cannot learn acupuncture in 3 days or 3 weeks. We should understand that the Chinese "barefoot doctors" are formed at the level of a people, steeped in the knowledge of traditional Chinese medicine, so that the teachings are immediately integrated in the whole of their linguistic and cultural knowledge, which permits rapid assimilation of the training.

In Europe or in America, we do not have this advantage, and can only acquire it through intense study. For this reason, even an abridged knowledge of acupuncture requires much more time to obtain in the West than in China. In that country, doctors of general 'western' medicine can obtain an abbreviated knowledge of acupuncture in 6 months. This training of 6 months is similar to that taken in France by externs in hospitals, who wish to obtain some knowledge of different specialties.

3. To be practiced efficaciously, acupuncture requires a knowledge of Chinese physiology and anatomy, which is different from that of the West. Also, in addition to the precise location of the points, one must know the trajectory of the surface meridians and that of the inner energy currents, the relationship of the points to the functioning of organs, hereditary antecedents, etc. All these concepts are codified in the doctrine of the 5 elements.

4. Since acupuncture points are active and can be used to heal disorders, they can also have a dangerous action if not used properly. For instance, they can weaken an organ already weak, or internalize an illness not yet fully developed.

In this respect, poorly balanced acupuncture treatments could aggravate a cancer. However, since the prognosis of this fatal illness is already so severe, I doubt that the aggravation of the condition through inappropriate selection of points could seriously incriminate the therapist in the case you mentioned.

These are my answers, dear friend. They are lengthy, but it is dangerous to be too schematic and without nuance in this field.

signed : Jean Schatz, MD
(Vice-Pres. International Soc. of Acupuncture)

DOCTEUR CH. ANTONIETTI

ATTACHE A L'HOPITAL NEUROLOGIQUE
COMPÉTENT EN RÉÉDUCATION
ET ADAPTATION FONCTIONNELLE

Via Boulevard de l'Albanie, 100
8, COURS GAMBETTA 8
69007 LYON

TELEPHONE 78-38-32

SUR RENDEZ-VOUS

Servadea

Docteur Ch. Antonietti
Attached to the Hopital Neurologique
Lyon, France

TRANSLATION

*We agree 2 bills, rather
the weaker, we would, if any strength
then
In calling for high
standards for the practice
of ac we had more in mind than
eliminating the practice of ac.
M.J. we want high standards
I expect treatment, must be
been said about training hours,
MD or non MD.*

April 25, 1973

Dear friend,

Forgive my delay in answering your letter, but I shall try at this time to reply to each of the questions you raised.

1) What is the minimum training required for a medical doctor to become expert in acupuncture therapy (as opposed to anesthesia) ?

For an MD who treats patients with classical medical precepts and who wishes to add acupuncture as a supplementary "remedy" (contenting himself to locate painful points on the body and to puncture them, without taking into account the rules of energy manipulation), an accelerated training may be sufficient. This is what the Chinese refer to when they talk of training specialists in acupuncture anesthesia; anelgists which they train in 8 days supplying them with an electric stimulator. For my part, I do not consider this as acupuncture.

If one is to practice acupuncture as the only therapy, which I am doing for the last 25 years, any accelerated training becomes sheer utopia and proper training will be a function of the capacity of the student. Can one study in accelerated courses and apply with validity a modality such as pathology ? It is the same situation with acupuncture. 1 year ? 2 years ? 3 years ? 5 years ? In my opinion, 3 years is a minimum period counting on 1 or 2 sessions of 4 hours each every week. The rest will depend on a very heavy personal study load.

2) Do you feel that accelerated courses, ranging from several weeks to several months, with a total of between 100 or 200 hours, are sufficient introduction to enable physicians to treat patients ?

To treat localized pain, which do not results from deep disturbance, by puncturing points painful to palpation or indicated as painful by the

patient - which I would rather call "needletherapy" - can be reached in 1 year. But to treat afflictions rebellious to all classical medical treatments (which I am doing at the hospital and in private practice) requires a thorough knowledge of acupuncture, a finesse of touch and a training which cannot be acquired through the accelerated training your discuss - unless the students are veritable supermen !!!

3) Can acupuncture therapy be efficaciously applied with merely a knowledge of the location of acupuncture points, without knowledge of Chinese acupuncture theory ?

Once again, if acupuncture is to constitute only an additional tool, classical Chinese theory becomes less important, because one no longer refers to acupuncture but to needle therapy. To practice acupuncture as a therapy it is necessary to know all the rules and to respect them if one wants to obtain valid and durable results.

4) Is there any possibility of side-effects (altering of organ or metabolic functions) if acupuncture is practiced by physicians for pain relief only, without proper knowledge of its theory ?

It is difficult to answer this question which appears so illogical. If you have a blocked bladder, are you going to relieve the patient by calming the bladder spasm or are you going to stimulate a lazy bladder instead ? In order to treat you will have to know the origin of the trouble and, in classical medicine, this will entail multiple tests. If such tests are not made you will take the risk of disturbing, through unreasoned maneuvers, the normal physiological functioning - and how can we not admit that unpleasant results may develop ? This is true in all medicine. I do not see why acupuncture would be presumed to be the only exception.

5) In a recent radio interview, Prof. Kao stated that acupuncture is not an effective treatment for arthritic conditions. What is your experience ?

The only conclusion I can reach is that these gentlemen have never attempted to do it or, more likely, have not done it properly.

It is evident that with a patient who presents an important rise in the speed of the sedimentation rate and a significant impotence in joint articulation, I would leave the patient in the care of a rheumatologist. But, since I only receive the rejects from classical medicine, I can affirm having obtained results which are oftent spectacular to my colleagues.

6) I practice acupuncture at the Hospital since 1950 and in private practice since 1946.

I am presently collecting electro-myographic readings which demonstrate the value of acupuncture. This experiment follows the one I mentioned at the meeting in N.Y. - it is unfortunate that the programming did not allow time for me to present the slides and the result of that experiment. I hope this is only a project postponed.

I believe I have answered all your questions. Do not hesitate to contact me should other doubts arise in the future. It is important that the true facts be presented to my medical colleagues in the U.S.A. so they not be tempted to consider only the surface of acupuncture - this would be damaging to all concered and would eventually discredit acupuncture completely.

signed : Ch. Antonietti

署生衛院政行國民華中
NATIONAL HEALTH ADMINISTRATION
P. O. BOX 58668 TAIPEI, TAIWAN
REPUBLIC OF CHINA

Date: July 6, 1972

Mr. R. Habert
S. J. Blan-Chard Associates
4 Washington Sq. Village
New York, N. Y. 10012
U.S.A.

Dear Mr. Habert,

This refers to your letter dated June 21, 1972 concerning the information on Herb Medicine in the Republic of China.

In regard to your inquiries:

- a) A diploma holder of the accredited schools of Herb Medicine does not entitle the holder a license to practice. The graduate must pass the qualification examination conducted by the Examination Yuan before applying for a license to practice.

The Examination Yuan is a governmental board, the government has five top bodies called Yuans and the Examination Yuan is one of them.

All national examinations, including Medical & Paramedical Professional qualification examination, in which the herb physician is included, come under the jurisdiction of the Ministry of Examination under Examination Yuan. The type of examination for all medical and paramedical personnel are written and oral examinations.

- b) China Medical College, located in Taichung, is the only one school for Herb Medicine.

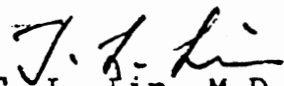
署生衛院政行國民華中
NATIONAL HEALTH ADMINISTRATION
P. O. BOX 58668 TAIPEI, TAIWAN
REPUBLIC OF CHINA

Date: July 6, 1972

- c) Licensed medical personnel in mainland china prior to 1948 is recognized by our government.
- d) Yes, it is possible to verify the registration, if one is registered after 1950.
- e) It takes 6 years for the training of Herb Medicine, after senior high school graduation (complete 12 years of education) a M. D. (Medical Degree) in Herb Medicine is given upon graduation by the Ministry of Education.
- f) As the acupuncture is one of the techniques used by herb physician, we can not give you the opinion on the minimum training required for a medical doctor to become profficient in Acupuncture.

Hope the above information will be of help to you.

Sincerely yours,


T. L. Lin, M.D.

Director

Bureau of Medical Affairs



Chairman: Mr. S. Rose-Neil, F.Ac.A., 2 Harrowby Court, Seymour Place, London, W.1.
Secretary: Mr. N. P. B. Willis, F.Ac.A., 21 Cank Street, Leicester.
Treasurer: Mr. E. Welton Johnson, F.Ac.A., 218 Washway Road, Sale, Cheshire, M33 4RA.

01-723 4107
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The Acupuncture Association

Please reply to:

13th March 1973

SRN/RR
Your Ref: BD/sl

W. Doerrler,
110 Wall Street,
Suite 900,
New York,
NY 10005,
U.S.A.

Dear Mr. Doerrler,

Thank you for your letter of the 28th February.

America is not the only major country in the western world denying acupuncture therapy. France only allows Doctors to use acupuncture, as does Belgium. This does not mean that only doctors do use acupuncture, because in France and Belgium "illegal" medical practitioners abound. The Police close them in one house and they open up round the corner, twice as busy, the next day. They go to jail for a week and they come out martyrs, and patients line the streets to get in to see them.

In England, of course, we practice under Common Law.

Acupuncture cannot be learnt over night and to teach a practitioner without any medical knowledge, would take four years full-time training. Anybody who practices without adequate training, including M.D.'s, could cause damage. Acupuncture is practiced by hundreds of thousands of people who have been specifically trained in acupuncture and who are not M.D.'s. All M.D.'s themselves, have had to learn acupuncture from people who are acupuncturists and not M.D.'s in the first instance.

Acupuncture has only recently been taken up by western medicine and still more recently, by medical doctors trying to corner the market, not only stepping on the band wagon created by others, but taking over. They wish to make the people who taught them acupuncture illegal and, in fact, according to their idea,

continued...../


W. Doerrler Esq.,

13th March 1973

if only M.D.'s could practice acupuncture, there would be no acupuncture, as it never came from M.D.'s. People who think in the usual western terms, have great difficulty in orientating themselves towards eastern ideas..

I do not know what I can do now to help you, but perhaps you would let me know.

Yours sincerely,



Sidney Rose-Neil
Chairman

ACUPUNCTURE SOCIETY OF NEW JERSEY

P.O. BOX 341

ELIZABETH, NEW JERSEY 07207

To:

Members of Committee on Labor, Industry and Profession
State of New Jersey

Attention: Mr. Thomas Bryan

From:

Members of Acupuncture Society of New Jersey
New Jersey Physicians Ad Hoc Committee for the practice
of Acupuncture

RE: Assembly No. 520

Senate No. 835

FOUNDING MEMBERS

PETER T. HAN, M.D.
PRESIDENT

NELSON CHU, M.D.
1ST VICE-PRESIDENT

WEI CHEN, M.D.
2ND VICE-PRESIDENT

T. K. MONG, M.D.
SECRETARY

NANCY H. HSIEH, M.D.
TREASURER

FREDERICK LU, M.D.
CHAIRMAN

ACUPUNCTURE SOCIETY OF NEW JERSEY

P.O. BOX 341

ELIZABETH, NEW JERSEY 07207

We, Members of Acupuncture Society of New Jersey and New Jersey Physician Ad Hoc Committee for the practice of acupuncture, are duly licensed physicians and surgeons to practice Medicine and Surgery in the State of New Jersey. We are actively practicing acupuncture as part of our medical armamentarium. We are deeply concerned about the public interest which will be affected by the Assembly No. 520 and Senate No. 538. We would like to make certain positive suggestions to the members of Committee on Labor, Industry and Profession.

I. Acupuncture is a medical procedure, and at no time this State allowed non-physicians to engage in the practice of medicine. At this stage of scientific enlightenment, to license non-physicians to practice medicine is a step backward. Especially, by definition, acupuncture is still an experimental medical procedure, to allow non-physicians to be licensed to practice experimental medicine will be detrimental to the people of this State.

II. In both bills, they failed to mention that the person who can practice acupuncture must be a citizen of the United States or a declaration of intention to become a citizen. Are we ready to accept an influx of foreign non-physicians whether it is from China, Korea,

FOUNDING MEMBERS

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TREASURER

FREDERICK LU, M.D.
CHAIRMAN

Austria or Brazil to practice acupuncture in this State? Presently the Law prohibits foreign medical physicians from practicing medicine in this State unless they are citizens of U. S. or declaration of intention to become a citizen. Furthermore, they must have a minimum of two

ACUPUNCTURE SOCIETY OF NEW JERSEY

P.O. BOX 341

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to three years of approved training in this country. Is this in the best interest for the citizens of the State of New Jersey to be treated by any non-physician who does not have any or minimal requirements that the law presently provides for? If we let these laws pass without appropriate study, they will only benefit a small group of people who has more interest in a business venture, than a medical venture.

III. We, the physicians believe our long and strenuous medical science training which started from high school, pre-medical college, medical college, internship and residency totals a minimum 13-16 years. With appropriate and additional training between 100-120 hours of approved courses in acupuncture, one certainly is more qualified to practice acupuncture. Non-physicians who are trained in acupuncture therapy, should be allowed to do so only in a research facility and under the supervision of a licensed physician with approved research protocol.

IV. We, members of Acupuncture Society of New Jersey and New Jersey Physicians Ad Hoc Committee for the practice of acupuncture are not only duly licensed physicians, but also we have engaged in the practice of acupuncture in this state for a period of six

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months to two years. All of them has had extensive training in acupuncture either from this or another country. This added clinical experience is of utmost importance and value, just as we require the clinical

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experience of an internship prior to licensure in this State.

We, members of Acupuncture Society of New Jersey and New Jersey Physicians Ad Hoc Committee for the practice of acupuncture are hoping some special consideration be given by the Board of Medical Examiners, as proposed by the Senate No. 835.

V. We feel the proposed Acupuncture Advisory Committee should consist of an odd number of members (five to seven) and should serve under the State Board of Medical Examiners. They should combine three licensed physicians who have adequate acupuncture training and presently engaged in the practice of acupuncture, two licensed physicians of any specialty, one educator of Medical College of New Jersey and one consumer representative.

Summary: The State of New Jersey now has the opportunity to enact a law to provide the best acupuncture medical service to the citizens of the State of New Jersey and possibly set a model for the legislation in the Union. Let us again not take a step backward in scientific progress by allowing the citizens of this State, to have their health care by a non-physician.

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- I. Acupuncture should be used as one medical commodity.
- II. We should not allow non-citizen of any country to come to this State to practice medicine on the wholesale basis.
- III. The licensed physicians who had six months of clinical experience and an approved courses in acupuncture should be granted a license to practice acupuncture by the State Board of Medical Examiners.
- IV. There are already movements by certain business group to establish acupuncture centers throughout this State as their big business venture. They can only accomplish this by passing this particular bill allowing numerous non-physician to come to this State.

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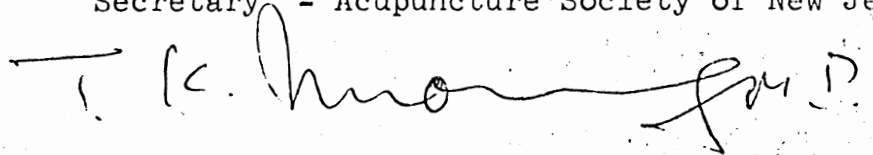
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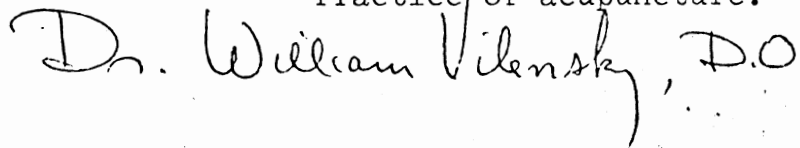
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Secretary - Acupuncture Society of New Jersey



William Vilensky, M.D.

New Jersey Physicians Ad Hoc Committee for the
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