

Senate Executive Departments and Administration Committee

Deb Chroniak 271-1403

HB 575-FN, relative to the certification of acupuncture detoxification specialists.

Hearing Date: March 29, 2017

Time Opened: 9:00 a.m.

Time Closed: 9:33 a.m.

Members of the Committee Present: Senators Reagan, Gannon and Soucy

Members of the Committee Absent : Senators Carson and Woodburn

Bill Analysis: This bill allows the board of acupuncture to certify individuals as acupuncture detoxification specialists.

Sponsors:

Rep. Backus

Rep. J. Schmidt

Rep. King

Rep. MacKenzie

Rep. O'Neil

Rep. DiSilvestro

Rep. Heath

Rep. Butler

Rep. Cushing

Rep. Sofikitis

Sen. Soucy

Who supports the bill: Representative Carol McGuire, Merrimack 29; Representative Mark Proulx, Hillsborough 44; Representation Peter Hansen, Hillsborough 22; Elizabeth Ropp, Self; Eric Zulaski, Self; Tom St. Martin, Candia, New Hampshire, Self; Francisca Acosta-Mathes, Self; Paul Mosier, New Hampshire Acupuncture and Asian Medicine Association; Ryan Fowler, Exeter, New Hampshire, Self; Laura Cooley, Licensed Acupuncturist in Vermont, Orford, New Hampshire; Dr. Cindy Theroux-Jette, Licensed Acupuncturist, Chair of the New Hampshire Board of Acupuncture Licensing; Robert Spencer, MD, Self; Alice Meattay, Dover, New Hampshire, Licensed Acupuncturist, Self; Alejandro Urrutia, MD, Self; Sylvia E. Gabe, Self; Michael Joseph, Self; Marie A. Clark, Self; Deborah Meuse, Licensed Acupuncturist, Self

Who opposes the bill: No one

Who is neutral to the bill: No one

Summary of testimony presented in support:

Representative Robert Backus (in support):

- This bill was suggested by a Manchester Acupuncturist to add another tool to the toolbox to deal with opioid crisis through detoxification and acupuncture.
- This legislation follows programs in other states.

- Passed out of the House with a 19 to 1 vote out of committee.
- The amendment makes clear with the extension of capability for those unlicensed acupuncturist to do ear acupuncture, they will be qualified, certified, trained and supervised.
- Throughout the history of this ear acupuncture, there has never been a claim for any injury throughout the country in 30 years.
- There is no harm which can be done with this procedure, nor risk.
- Protections are added to the bill.

Representative Carol McGuire (in support):

- Here to explain the draft amendment presented which is in addition to the amended version of the bill.
- Amendment is specifically on rulemaking authority.
- The House ED & A Committee and Subcommittee worked on who should perform, what should be the requirements, but rulemaking was sketchy according to the Board of Acupuncture (which was after the bill passed out of committee).
- Worked out amendment supported by the Board of Acupuncture which defines rulemaking authority necessary so they can make rules.
- A slight change where the definition she supports may not be necessary.
- Rulemaking authority needs to be more explicit; as drafted, it was inadequate to make such rules.

Senator Reagan stated that the amendment resolves the authority for rulemaking. He also noted there was no one signed up opposed to the legislation; there were fifteen people to speak to the bill; and one person with a question regarding “general supervision”.

Representative Mark Proulx (in support):

- Reviewed bill in the subcommittee.
- This procedure would not do harm to anyone.

Representative Peter Hansen (in support):

- Chairman of subcommittee on bill.
- The subcommittee worked diligently to address all concerns.
- Committee feels if there are any concerns to be looked at, there is plenty of time to do so after the passage of this legislation and after it has been in existence for a while.

Paul Mosier (in support) (testimony provided):

- Two comments regarding the possibility of an amendment.
- Use of peer counselors and recovery coaches, page 2 of the amendment, lines 3 and 4.
- Asking that the bill state what locations acupuncture detoxification should be practiced. The recommendation would be in hospitals, addiction recovery facilities and any future places the Board of Acupuncture shall approve.

Senator Reagan asked Mr. Mosier where was he when the bill was in the House. Mr. Mosier said they had additional concerns preceding this statement, which concerns were worked out in the Subcommittee. This information he is presenting to the Senate committee is a revision to their statement asking for clarification(s).

- Prior to the Subcommittee they were opposed; now in favor, but requesting clarification. **Senator Reagan** stated that Mr. Mosier is asking the Committee to

amend the legislation, but Mr. Mosier has not brought forth any suggested language.

- Mr. Mosier stated this mirrors comments around supervision which need clarification.

Senator Gannon said that on page 2 of the amendment, lines 9, 10 and 11 states, “general supervision”. Mr. Mosier stated that many other states have acupuncture detox laws, the laws are structured, if there are untrained professionals, i.e., unlicensed professionals practicing acupuncture detox they are in a setting where some form of malpractice coverage is extendable to them. This could be by a licensed provider or in a facility that has malpractice umbrella coverage. The bill, as written, is unclear as to if this coverage can be extended. **Senator Reagan** asked if he had this written down somewhere. Mr. Mosier stated he did have a statement and the main point in question is point 2, lines 27 and 28 of the bill. These are explained on his written testimony (lines 3 and 4, page 2 of the bill). **Senator Soucy** said lines 3 and 4 (of the amendment) are a recovery coach or peer counselor, not necessarily a certified medical professional, therefore not operating in a medical facility and not covered by malpractice insurance. Mr. Mosier said if those conditions were true it would be questionable if they could get malpractice insurance. **Senator Reagan** asked if this was a fact or speculation. Mr. Mosier said on his testimony, second page gives an example from the leading malpractice insurance provider and states, “has to be under the direct supervision of a qualified medical professional”.

Laura Cooley (in support) (testimony provided):

- Training for 25 years and involved in the passing of laws in the 23 states that do have laws.
- People who are trained are insured by malpractice insurance. Qualification for malpractice insurance is being trained and certified by a national organization.
- There is no qualification for direct supervision by the malpractice insurance company.
- Purpose of training is to put the tools in the hands of the professionals already working with the populations in need.
- Seventy hours of training including classroom, clinical supervision and support groups. Competency based.
- Treat people on demand in the moment they need.
- Protocol is how it is integrated into a program, barrier-free if you are treating addiction.
- Holistic treatment needing the support system and attending professionals also need treatment.
- With addiction you need this treatment every day, until tested negative on any substance in urine for 7 to 10 days.
- Second phase is counseling recommend three times per week.
- Next phase is called the rest of your life, relapse prevention.

Alice Meattley (in support):

- Licensed acupuncturist and sits on the Licensing Board of Acupuncturist (since its inception 20 years ago).
- Issue (suggestion) she has relates to issues brought up about malpractice.
- She suggests eliminating “general” in regard to “general supervision” and just leaving “supervision” (line 6 and line 9 of the amendment). By using the word

“supervision” it will give them time to search for more information and to write rules accordingly.

Elizabeth Ropp (in support) (testimony provided):

- Front lines of the opioid crisis are in the respite care centers and Sober Living houses in New Hampshire.
- She has seen firsthand what the certified recovery workers have to deal with and few tools to keep people from relapsing.
- These people need every tool possible including ear acupuncture.
- People seeking help are relapsing going into 28-day programs more than one time, which is very costly.
- Ear acupuncture is cheap.
- If they can empower the people who work directly with the addictive population, under general supervision supported by the National Acupuncture Detoxification Association, Ms. Ropp believes they can keep that population from dying and reduce the cost associated with relapse.

Ryan Fowler (in support):

- Was an active heroin addict up until 2014 living on the sea coast and has been clean for 27 months.
- Works at Safe Station, Manchester, New Hampshire, and is in the front lines of this crisis.
- He is a direct support provider for the homeless population.
- When going through rehab, he received the ear acupuncture protocol (at the Farnum Center). This procedure helped him relax, helped him sleep, alleviated his anxiety, and helped him to contribute back to society.
- He believes this ear acupuncture protocol would benefit his clients.

Robert F. Spencer, M.D. (in support):

- A physician licensed in the state and has completed a 300 hour UCLA course for physician acupuncturist.
- Stated that the risks for this procedure are minimal.
- Details of practice location and supervisions can be worked out in the current amendment.
- Noted that licensed physicians only need to have 300 hours of training to practice acupuncture.

Alejandro Urrutia, M.D. (in support) (testimony provided):

- Red Cross physician – testimony sent in.
- This procedure is safe and asks for your support.

Deborah Meuse (in support) (testimony provided):

- Acupuncturist in state for 17 years.
- Issues about who and where were previously brought up in the House and there were various objections.
- Use of acupuncture detox for drug addiction is awesome. She has used in her own practice.
- Sees some problems with wording.
- She has studied all the states that have this law.
- From reviewing these laws from other states, she can see that who and where they practice dictates supervisory level.

- Problem with the wording “general supervision” because once this is written in law, it is “general supervision”. With this language it would be harder to do this protocol on a case-by-case ruling around what type of supervision. Wording needs to be touched up.

Tom St. Martin (in support):

- Devastation that opioid has had on his family.
- Five weeks ago his sister-in-law died; two weeks ago his nephew died from an overdose.
- One week ago his niece was saved from an overdose.
- Not sure if this particular protocol would have saved these lives, he is not sure, but if it can give those addicted a possibility that it can save their life, it is a good thing.

Dr. Cindy Theroux-Jette (in support):

- In support, as written.
- They are tasked with protecting the public safety.
- Recommending on line 9, striking “general” under supervision and work out in rulemaking so that acupuncture detox specialists will be able to get malpractice insurance. The way it is written, the malpractice insurance “does require direct supervision”. By striking “general” that would take care of this issue.

Eric Zulaski (in support):

- Wanted to point out the American Acupuncture Association has stated there has been no malpractice claims for the practice of ear acupuncture and should not be a concern going forward.

Summary of testimony presented in opposition: No one

Future Action: Pending

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Date Hearing Report completed: March 30, 2017
[file: HB 575-FN-F report]