

## **Title 10 MARYLAND DEPARTMENT OF HEALTH**

### **Subtitle 26 BOARD OF ACUPUNCTURE**

#### **Chapter 03 Code of Ethics**

Authority: Health Occupations Article, §§1A-205 and 1A-206, Annotated Code of Maryland

##### **.01 Scope.**

This chapter does not apply to an individual who practices acupuncture on an animal under an animal research protocol which has been approved by an Animal Use and Care Committee as provided in 9 CFR §§2.30—2.38.

##### **.02 Definitions.**

A. In this chapter, the following term has the meaning indicated.

B. Term Defined. "Board" means the State Board of Acupuncture.

##### **.03 Standards of Practice.**

A. The licensee shall be concerned primarily with the welfare of the patient or client.

B. A licensee who suffers from a physical, mental, or emotional impairment, including chemical abuse, which impacts the licensee's ability to practice acupuncture shall seek professional treatment and refrain from the practice of acupuncture until such time as the impairment no longer exists or reasonable accommodations can be made.

C. A licensee shall:

(1) Use professional discretion and integrity in relationships with a member of the health care community;

(2) Be professional in conduct, with honesty, integrity, self-respect, and fairness;

(3) Remain free from a conflict of interest while fulfilling the objectives and maintaining the integrity of the acupuncture profession;

(4) Provide accurate fee information to the patient, the individual responsible for payment for treatment, and the insurer;

(5) At all times respect the patient's dignity, autonomy, and privacy;

(6) Practice acupuncture only as defined in the scope of practice set forth in Health Occupations Article, §1A-205, Annotated Code of Maryland;

(7) Cooperate with a lawful investigation conducted by the Board, including:

(a) Furnishing information requested,

- (b) Complying with a subpoena,
- (c) Responding to a complaint at the request of the Board, and
- (d) Providing meaningful and timely access to relevant patient records; and
- (8) Report to the Board or other appropriate authority conduct in the practice of acupuncture that indicates a violation of:

- (a) This chapter;
- (b) Health Occupations Article, Title 1A, Annotated Code of Maryland; or
- (c) Other federal or State laws.

D. A licensee may not:

- (1) Misrepresent the licensee's credentials, qualifications, or affiliations and shall attempt to correct others who misrepresent the licensee's credentials, qualifications, or affiliations;
- (2) Knowingly engage in or condone behavior which is fraudulent, dishonest, or deceitful, or involves moral turpitude;
- (3) Engage in a commercial activity which conflicts with the licensee's duties as a licensed acupuncturist;
- (4) Perform acupuncture on a patient if the contraindication against acupuncture treatment exists; or
- (5) Discriminate against a patient or a health care provider based on race, religion, age, gender, sexual orientation, national origin, or disability.

#### .04 Relationship with Patient.

A. A licensee shall:

- (1) Use professional judgement in the use of evaluation and treatment procedures;
- (2) Decline to administer treatment if the licensee believes that the treatment is contraindicated or unjustified;
- (3) Terminate a professional relationship with patient in an appropriate manner, such as:
  - (a) Providing the patient with sufficient notice to permit the patient to obtain the services of another professional,
  - (b) Assisting the patient by providing referrals if appropriate, or
  - (c) Continuing to provide emergency treatment to the patient if treatment is required before a reasonable time has passed to allow the patient to obtain the services of another health care provider;
- (4) Maintain a written record of treatment of the patient under the licensee's care for at least 5 years after the termination of treatment;

- (5) Make the records available to the patient on request, in compliance with applicable laws for disclosure of medical records;
- (6) Make arrangements for another professional to provide for the needs of the patient during an anticipated absence when the licensee is unavailable to a patient;
- (7) Make a referral only to other qualified and duly licensed health care providers;
- (8) Accurately inform a patient, a health care professional, and the public of the limitations of the practice of acupuncture and make a referral to an appropriate health care practitioner as needed;
- (9) Adequately assess the patient to determine whether a contraindication against acupuncture treatment exists before beginning treatment;
- (10) Exercise independent professional judgement in the treatment and evaluation of a patient, regardless of whether the patient was referred by another health care provider; and
- (11) Provide full notice to the patient that the patient would not reasonably be expected to benefit from the treatment.

B. A licensee may not:

- (1) Accept a client for treatment, or continue unnecessary treatment, when the patient cannot be reasonably expected to benefit from the treatment;
- (2) Receive remuneration from, or split a fee for, either making or accepting a referral of the patient to another health care practitioner;
- (3) Make a guarantee or promise about the efficacy of a particular treatment, the licensee's practice, or the result of a treatment unless supported by scientific principles accepted by the profession; or
- (4) Exploit the professional relationship by:
  - (a) Continuing treatment unnecessarily;
  - (b) Charging for a service:
    - (i) Not provided, or
    - (ii) Different from those actually provided.

.05 Professional Boundaries.

A. The licensee shall:

- (1) Maintain professional boundaries, even when the patient initiates crossing the boundaries of the professional relationship;
- (2) Respect and maintain professional boundaries and respect the patient's reasonable expectation of professional conduct; and

(3) If the licensee and the patient mutually desire a personal relationship, immediately terminate the professional relationship, make an appropriate referral to another health care practitioner, and wait before engaging in such a relationship for a time when it is reasonably certain that the professional relationship has no influence on the personal relationship.

B. The licensee may not:

(1) Exploit a relationship with a patient for the licensee's personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship;

(2) Engage in a sexually intimate act with a patient; or

(3) Engage in sexual misconduct which includes behavior in which a licensee has engaged in sexual behavior with a patient in the context of a professional evaluation, treatment, procedure, or other service to the patient, regardless of the setting in which the professional service is provided.

.06 Records, Confidentiality, and Informed Consent.

A licensee shall:

A. Respect and maintain the privacy and confidentiality of the patient;

B. Disclose the patient's record or information about the patient only with the patient's consent or as required by law;

C. Adequately safeguard confidential patient information, including storage and disposal of records;

D. Provide sufficient information to a patient to allow the patient to make an informed decision regarding treatment, including:

(1) The purpose and nature of an evaluation or treatment regimen,

(2) Alternatives to treatment,

(3) Side effects and benefits of a treatment regimen proposed and alternatives to that treatment,

(4) The estimated cost of treatment and alternatives to treatment,

(5) The right of the patient to withdraw from treatment at any time, including the risks associated with withdrawing from treatment, and

(6) The patient's right to decline to participate in treatment if an aspect of the treatment will be recorded, documented, photographed, observed, or otherwise used in an educational program;

E. Obtain the full informed consent of a patient participating in a human research program, without a direct or implied penalty for the patient's refusal to participate in the program, and with due regard for the patient's autonomy and dignity;

F. Comply with applicable federal and State laws for human research programs;

G. Effective January 1, 2006, maintain all patients' records in English; and

H. If requested by the Board, effective January 1, 2006, provide an English language translation of the records by a Board approved translator, at the licensee's expense.

.07 Education and Training.

A. The licensee shall:

(1) Recognize the licensee's limitations and qualifications and practice acupuncture within the limits of these limitations and qualifications;

(2) Obtain additional training, information, and supervision as needed to perform a new technique or service in a new specialty area or when employing a new treatment modality; and

(3) Be current in the licensee's qualifications to practice acupuncture, including meeting continuing education requirements established by the Board.

B. The licensee may not perform a treatment or provide a service which the licensee is not qualified to perform or which is beyond the scope of the licensee's education, training, capabilities, experience, and scope of practice.

.08 Advertising.

A. A licensee may advertise services subject to the provisions of this regulation.

B. A licensee may not use statements in an advertisement that:

(1) Contain a misrepresentation of facts;

(2) Are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;

(3) Intend to or are likely to create a false or unjustified expectation of a favorable result;

(4) Relate to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully disclosing all relevant variables so that the statement would not be misunderstood or be deceptive to a layman;

(5) Convey the impression that the licensee could improperly influence a public body, official, corporation, or a person on behalf of a patient;

(6) Contain a representation that the licensee is willing to perform a procedure which is illegal; or

(7) Contain a representation or implication that, in reasonable probability, can be expected to cause an ordinarily prudent person to misunderstand or be deceived.

C. A licensee is accountable under this regulation if the licensee uses an agent, partnership, professional association, or health maintenance organization to implement an action prohibited by this regulation.

#### .09 Ethical, Legal, and Professional Responsibilities.

The licensee may not construe the failure to specify a particular ethical, legal, or professional duty in this chapter as a denial of the existence of other ethical, legal, or professional duties or responsibilities that are equally as important and generally recognized in the profession.

#### Administrative History

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