

Article - Health Occupations
MARYLAND ACUPUNCTURE PRACTICE ACT

§ 1A-101.

- (a) In this title the following words have the meanings indicated.
- (b) "Acupuncture" means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions with an associated point or combination of points.
- (c) "Auricular detoxification" means an acupuncture technique involving the needling of the external auricle of the human ear for the purpose of assisting a person who is undergoing detoxification to remove addictive substances from the body and restoring health.
- (d) "Board" means the State Acupuncture Board.
- (e) "License" means, unless the context requires otherwise, a license issued by the Board to practice acupuncture.
- (f) (1) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.
(2) "Practice acupuncture" includes:
 - (i) Stimulation of points of the body by the insertion of acupuncture needles;
 - (ii) The application of moxibustion; and
 - (iii) Manual, mechanical, thermal, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.
- (g) "Supervision" means:
 - (1) A formalized professional relationship between a licensed acupuncturist and an individual performing auricular detoxification that provides evaluation and direction of the individual to adequately ensure the safety and welfare of clients during the course of treatment; and
 - (2) As defined by the Board in regulations:
 - (i) Periodic direct supervision where the licensed acupuncturist is present or on-site during treatment; and
 - (ii) General supervision where the licensed acupuncturist is neither present nor on-site during treatment.

§ 1A-102.

- (a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.
- (b) This title does not limit the right of a physician authorized under Title 14 of this article to perform acupuncture as it is defined in that title.
- (c) This title does not limit a dentist licensed under Title 4 of this article who is authorized to perform acupuncture in connection with the practice of dentistry.
- (d) This title does not limit a veterinarian licensed under the Agriculture Article who performs acupuncture on animals in connection with the practice of veterinary medicine.

§ 1A-201.

There is a State Acupuncture Board in the Department.

§ 1A-202.

- (a) (1) The Board consists of seven members appointed by the Governor.
- (2) Of the seven members:
 - (i) Five shall be licensed acupuncturists appointed from a list submitted as provided in subsection (c) of this section; and

- (ii) Two shall be consumer members.
- (b) Each acupuncturist member shall:
 - (1) Be a resident of the State; and
 - (2) For at least 5 years immediately before appointment have been engaged in the practice of acupuncture in the State.
- (c) For each vacancy of an acupuncture member, the Board shall compile a list of names to be submitted to the Governor in the following manner:
 - (1) The Board shall notify all licensed acupuncturists in the State of the vacancy to solicit nominations to fill the vacancy;
 - (2) Each professional association of acupuncturists in the State shall nominate at least one person for every two vacancies that exist; and
 - (3) Each educational institution that provides acupuncture training in the State shall nominate at least one person for every two vacancies that exist.
- (d) The consumer members:
 - (1) Shall be members of the general public;
 - (2) May not be or ever have been an acupuncturist or in training to become an acupuncturist;
 - (3) May not have a household member who is an acupuncturist or in training to become an acupuncturist;
 - (4) May not participate or ever have participated in a commercial or professional field related to acupuncture;
 - (5) May not have a household member who participates in a commercial or professional field related to acupuncture; and
 - (6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.
- (e) While a member of the Board, the consumer member may not have a substantial financial interest in a person regulated by the Board.
- (f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.
- (g) (1) The term of a member is 4 years.
 - (2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1994.
 - (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
 - (4) A member may not serve more than two consecutive full terms.
 - (5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (h) The Governor may remove a member for incompetence or misconduct.

§ 1A-203.

From among its members, the Board shall elect officers in a manner and for terms that the Board determines.

§ 1A-204.

- (a) A majority of the full authorized membership of the Board is a quorum.
- (b) The Board shall meet at least once every 3 months, at the times and places that it determines.
- (c) Each member of the Board is entitled to:
 - (1) Compensation in accordance with the budget of the Board; and
 - (2) Reimbursement for expenses at a rate determined by the Board.
- (d) The Board may employ a staff in accordance with the State budget.

§ 1A-205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt:

- (1) Regulations to carry out the provisions of this title; and
- (2) A code of ethics for licensees.

(b) In addition to the duties set forth elsewhere in this title, the Board shall keep:

- (1) Records and minutes necessary for the orderly conduct of business; and
- (2) A list of each currently licensed acupuncturist.

§ 1A-206.

(a) There is an Acupuncture Board Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all fees collected under the provisions of this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Acupuncture Board Fund.

(d) (1) The Fund shall be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this title.

(2) (i) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(ii) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this title.

(e) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

(f) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for a lawful purpose authorized under this article.

§ 1A-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice acupuncture in this State.

(b) This section does not apply to:

(1) An individual employed by the federal government as an acupuncturist while practicing within the scope of that employment;

(2) A student, trainee, or visiting teacher who is designated as a student, trainee, or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist in a program that is approved by the Board or the State Board of Higher Education; or

(3) An individual authorized under § 1A-316 of this subtitle to perform auricular detoxification under the direct supervision of an acupuncturist licensed by the Board.

§ 1A-302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

- (1) Be of good moral character;
- (2) Be at least 18 years old;

(3) Demonstrate competence in performing acupuncture by meeting one of the following standards for education or training:

(i) Graduation from a course of training of at least 1,800 hours in acupuncture, including 300 clinical hours, that is:

1. Approved by the Maryland Higher Education Commission;
2. Accredited by the Accreditation Commission for Acupuncture and Oriental Medicine; or
3. Found by the Board to be equivalent to a course approved by the Accreditation Commission for Acupuncture and Oriental Medicine; or

(ii) Achievement of a:

1. Diplomate in acupuncture from the National Certification Commission for Acupuncture and Oriental Medicine; or
2. Passing score on an examination that is determined by the Board to be equivalent to the examination given by the National Certification Commission for Acupuncture and Oriental Medicine;

(4) Demonstrate the ability to communicate in the English language; and

(5) Meet any other qualifications that the Board establishes in regulations.

§ 1A-303.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§ 1A-304.

The Board shall issue a license to any applicant who meets the requirements of this title and the regulations adopted by the Board under this title.

§ 1A-305.

Except as otherwise provided in this title, a license authorizes the licensee to practice acupuncture while the license is effective.

§ 1A-306.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by first-class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

(d) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(f) An acupuncturist has a grace period of 30 days after the acupuncturist's license expires in which to renew it retroactively, if the acupuncturist:

(1) Otherwise is entitled to have the license renewed; and

(2) Pays to the Board the renewal fee and any late fee set by the Board.

(g) A licensee may advertise only as permitted by regulations adopted by the Board.

§ 1A-307.

(a) (1) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board may not place a licensee on inactive status for more than 6 years.

(b) The Board shall reactivate a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status.

(c) The Board may reinstate the license of a former licensee who has failed to renew the license for any reason if the former licensee:

(1) Meets the continuing education requirements of § 1A-306 of this subtitle for each year that the license has lapsed;

(2) Applies for reinstatement more than 30 days after the license renewal deadline;

(3) Submits to the Board an application for reinstatement on the form required by the Board; and

(4) Pays to the Board a reinstatement fee and a renewal fee set by the Board.

(d) The Board may not assess the reinstatement fee required under subsection (c) of this section on an individual who has been on inactive status for more than 6 years if the individual can provide documentation of maintaining an active license in another state.

(e) An individual who has been previously licensed by the Board shall obtain a license only by means of license renewal or reinstatement as provided in this article and in regulations adopted by the Board.

§ 1A-308.

(a) Unless the Board agrees to accept the surrender of a license, a licensee may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§ 1A-309.

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively:

(i) Uses a license; or

- (ii) Solicits or advertises;
- (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without a valid medical indication;
- (6) Knowingly violates any provision of this title or any rule or regulation of the Board adopted under this title;
- (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (8) Practices acupuncture with an unauthorized person or assists an unauthorized person in the practice of acupuncture;
- (9) Is disciplined by the licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
- (10) Willfully makes or files a false report or record in the practice of acupuncture;
- (11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (12) Submits a false statement to collect a fee;
- (13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the person is licensed and qualified to render because the individual is HIV positive;
- (14) Fails to display the notice required under § 1A-313 of this subtitle;
- (15) Fails to cooperate with a lawful investigation conducted by the Board;
- (16) Commits any act of gross negligence, incompetence, or misconduct in the practice of acupuncture;
- (17) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of acupuncture; or
- (18) Fails to comply with any Board order.

§ 1A-310.

- (a) Except as provided in the Administrative Procedure Act, before the Board takes any action under § 1A-309 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.
- (b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.
- (c) The individual may be represented at the hearing by counsel.
- (d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.
- (e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.
- (f) If, after a hearing, an individual is found in violation of § 1A-309 of this subtitle, the individual shall pay the costs of the hearing as specified in a regulation adopted by the Board.

§ 1A-311.

(a) Except as provided in this section for an action under § 1A-309 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined by the Administrative Procedure Act, may:

- (1) Appeal that decision to the Board of Review; and
- (2) Take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board under § 1A-309 of this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.
(2) The appeal shall be made as provided for judicial review of final decisions in Title 10, Subtitle 2 of the State Government Article.

§ 1A-312.

On the application of an individual whose license has been suspended or revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a suspended or revoked license.

§ 1A-313.

If an acupuncturist is engaged in the private practice of acupuncture in this State, the acupuncturist shall display the notice developed under § 1-207 of this article conspicuously in each office where the acupuncturist is engaged in practice.

§ 1A-314.

(a) An action may be maintained in the name of the State or the Board to enjoin:

- (1) The unauthorized practice of acupuncture; or
- (2) Conduct that is a ground for disciplinary action under § 1A-309 of this subtitle.

(b) An action under this section may be brought by:

- (1) The Board, in its own name;
- (2) The Attorney General, in the name of the State; or
- (3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

- (1) Resides; or
- (2) Engages in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of acupuncture under § 1A-401 of this title or disciplinary action under § 1A-309 of this subtitle.

§ 1A-315.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person.

(b) In return for the privilege given to a licensee to practice acupuncture in the State, the licensee is deemed to have:

- (1) Consented to submit to an examination under this section, if requested by the Board in writing; and
- (2) Waived any claim of privilege as to the testimony or report of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice acupuncture competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

(d) The Board shall pay the cost of any examination made under this section.

§ 1A-316.

(a) An acupuncturist licensed by the Board may provide supervision to as many individuals performing auricular detoxification as permitted by Board regulations, if each individual:

(1) Is:

(i) An alcohol, substance abuse, or chemical dependency counselor who is:

1. Certified under Title 17, Subtitle 3 of this article to practice as a certified professional counselor-alcohol and drug, certified associate counselor-alcohol and drug, or certified supervised counselor-alcohol and drug; or

2. Licensed to practice clinical alcohol and drug counseling under Title 17, Subtitle 3A of this article;

(ii) A nurse licensed to practice under Title 8, Subtitle 3 of this article;

(iii) A psychologist licensed to practice under Title 18, Subtitle 3 of this article who works directly with the alcohol- or drug-addicted clients of a chemical dependency program in the counseling or treatment of those clients; or

(iv) A licensed certified social worker-clinical licensed to practice under Title 19, Subtitle 3 of this article who works directly with the alcohol- or drug-addicted clients of a chemical dependency program in the counseling or treatment of those clients;

(2) Provides documentation to the Board of the successful completion of a training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that:

(i) Is approved by the Board; and

(ii) Meets or exceeds the standards of the National Acupuncture Detoxification Association;

(3) Does not represent to the public, by description of services, methods, or procedures, or otherwise, that the individual is authorized to practice acupuncture in this State;

(4) Agrees to be subject to the Board for any violation of § 1A-309 of this subtitle; and

(5) Performs auricular detoxification only:

(i) Within the context of a clinical substance abuse program;

(ii) In hospitals, prisons, outpatient clinics, or other settings approved by the Board; and

(iii) Under the supervision of an acupuncturist licensed by the State.

(b) The Board shall adopt regulations to carry out the provisions of this section, including regulations that cover:

(1) The qualifications, training, and monitoring of individuals who perform auricular detoxification under the supervision of an acupuncturist licensed by the Board;

(2) The number of individuals performing auricular detoxification to which an acupuncturist licensed by the Board may provide supervision; and

(3) The requirements for the approval of a clinical substance abuse program or a setting where an individual may perform auricular detoxification under the supervision of an acupuncturist licensed by the Board.

(c) (1) Except as otherwise provided in this section, an individual may not practice, attempt to practice, or offer to practice auricular detoxification in this State.

(2) An acupuncturist who is licensed by the Board is responsible for assuring the Board that the individual performing auricular detoxification under the supervision of the acupuncturist complies with all applicable laws, regulations, and standards of practice.

(3) If the individual performing auricular detoxification under this section violates any applicable laws, regulations, or standards of practice, the Board may discipline:

(i) The individual performing auricular detoxification; and

(ii) The supervising acupuncturist licensed by the Board for unprofessional conduct under § 1A-309 of this subtitle.

§ 1A-401.

Except as provided in this title, a person may not practice, attempt to practice, or offer to practice acupuncture in this State unless licensed by the Board.

§ 1A-402.

(a) Unless authorized to practice acupuncture under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice acupuncture in this State.

(b) Unless authorized to practice acupuncture under this title, a person may not use the words or terms "acupuncturist", "licensed acupuncturist", "L.Ac.", or any other words, letters, or symbols with the intent to represent that the person is authorized to practice acupuncture.

§ 1A-403.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 3 years or both.

§ 1A-501.

This title may be cited as the "Maryland Acupuncture Act".

§ 1A-502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2015.