

# MARYLAND ACUPUNCTURE BOARD

## Newsletter

Winter 2012

### BOARD CONTACT NUMBERS:

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### WEBSITE:

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### Individual Highlights:

- ADA/New Consumer 1
- Mandatory Reporting/Ethics Training 2
- NPDB,HIPDB/ Medical Records 3
- Duplicate License/ Verification, Address Name Change 4
- Pro bono/ Disciplinary Actions 5
- Board meeting schedule/ Renew on Time 6

### Providing auxiliary aid and service to patients who are deaf or hard of hearing

According to the Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, 42 U.S.C. §12101, et seq. health care providers have an obligation to communicate effectively with patients who are deaf or hard of hearing. This means that you must provide reasonable accommodations to meet the needs of patients with disabilities.

According to . 56 Fed. Reg. at 35566-67, the auxiliary aid and service requirement is "flexible, and the health care provider can choose among various alternatives as long as the result is effective communication with the deaf or hard of hearing individual. An individual who is deaf or hard of hearing likely has experience with auxiliary aids and services to know which will achieve effective communication with his or her health care provider. The U.S. Department of Justice expects that the health care provider will consult with the person and consider carefully his or her self-assessed communication needs before acquiring a particular auxiliary aid or service."

Under 28 CFR § 36.303(a) the provider may be exempt from providing auxiliary aids or services, if it would present an undue burden. An undue burden is a significant difficulty or expense. The mere fact that the cost to provide the services or auxiliary aids may exceed the cost of the treatment provided the patient may not in and of itself meet the undue burden standard.

Courts have found an ADA violation where the health care professional decides not to use an interpreter and there is evidence that the method used did not result in effective communication.

The Maryland Board of Acupuncture can not provide advise on the circumstances that would be considered an undue burden or exempt you from these standards. However, the Board would like to inform all licensees that you may be subject to ADA requirements.

Additional information can be found on the **National Association for the Deaf's** website: [http://www.nad.org/issues/health-care/providers/questions-and-answers\\*\\*\\*\\*](http://www.nad.org/issues/health-care/providers/questions-and-answers****) or

The **American Medical Association's** website: <http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/regulatory-compliance-topics/the-americans-disabilities-act-hearing-interpreters.page>

## WELCOME NEW CONSUMER BOARD MEMBER

### CHARLES NEUSTADT

Charles Neustadt moved to Baltimore in 1976 to become the Executive Director of the Baltimore Civic Center (renovated and renamed the Baltimore Arena in 1985). Along with managing that facility, he oversaw the design and construction of the new Baltimore Convention Center which opened in 1979. In 1990, he retired from the Arena to form his own company, Charles A. Neustadt & Associates which provided consulting and production services in the entertainment, convention and political fields. In 1999 he accepted the position of Executive Director at Baltimore Hebrew Congregation from which he retired in 2005.

He received an undergraduate degree from Ohio State University and a graduate degree from Thunderbird School of International Management in Phoenix, AZ. He served with the US Army Intelligence Service in Japan and Okinawa 1957-59.

He has served on the Board of Directors of the Central Maryland Chapter of the American Red Cross, Associated Placement and Guidance Service, International Association of Venue Managers, Baltimore Harbor Endowment, and the Handel Choir of Baltimore. He currently sits on the Board of Directors of the Otterbein Community Association and the Myer berg Center.

He resides in the Otterbein historic district in the Inner Harbor area. His wife, Sally, is a Licensed Clinical Social Worker in the private practice of psychotherapy.

## MANDATORY REPORTING ABUSE

Recent events at Penn State have prompted many states to review their mandatory reporting requirements when abuse of children and the elderly is suspected.

### **CHILD**

If you as a health care provider knowingly fail to report suspected abuse of a child, you may be subject to professional sanctions. **Md. Code, Family Law §5-704.**

According to the Maryland Department of Human Resources, mandatory reporting “does NOT require PROOF that abuse or neglect has occurred before reporting. Incidents are to be reported as soon as they are suspected. Waiting for proof may involve grave risk to the child and impede services to the family. Proof may be long in coming, witnesses to child abuse and neglect are rare, and the child's testimony may be disbelieved or inadmissible.

If you knowingly fail to report suspected abuse of a child, you may be subject to professional sanctions by licensing boards. Anyone that makes a "good faith" report is immune from civil liability and criminal penalty.” All reports of abuse must be made to the local departments of social services and the appropriate law enforcement agency.

### **VULNERABLE ADULT**

(Persons aged 18 or over who lack the physical or mental capacity to provide for their daily needs)

Under **2**, health practitioners who have reason to believe that a vulnerable adult is in danger is required to report that fact to the local department of social services. The purpose of the law is to prevent or remedy neglect, self-neglect, abuse, or exploitation of vulnerable adults who are unable to protect their own interests and are at risk of immediate harm to their own person or to others.

Reporting or questions regarding the abuse of a vulnerable adult should be directed to the Maryland Adult Protective Services (1-800-917-7383).

## **REMINDER**

### **3 HOURS OF ETHICS TRAINING REQUIRED FOR RENEWAL**

**Effective April 20, 2009**, changes under COMAR 10.26.02, Continuing Education, were approved to require that at least **3 hours of ethics training be earned every 4 years (every two renewal periods)** as a basis for renewal of your license. See following dates for required ethics hours:

- If you renewed in **November 2009** will be required to earn 3 hours in ethics by **November 2013**;
- If you renewed in **May 2010** you will be required to earn 3 hours in ethics by **May 2014**;
- If you renewed in **November 2011** will be required to earn 3 hours in ethics by **November 2015**;
- If you renewed in **May 2012** you will be required to earn 3 hours in ethics by **May 2016**;

Renewal forms will be requesting this information, so please be sure to earn these hours and retain your documentation. Feel free to call the Board for more information if you have questions about the new requirements.

## **The National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank**

The National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) are information clearinghouses created to authorize the Government to collect information concerning sanctions or negative actions taken by State licensing authorities against all health care practitioners and entities. The NPDB receives and discloses information related to professional competence and conduct of physicians, dentists, and other health care practitioners. The Healthcare Integrity and Protection Data Bank (HIPDB) receives and discloses information related to final adverse actions against health care practitioners, providers, and suppliers. Collectively, the NPDB and HIPDB are referred to as “the Data Banks.”

The Board of Acupuncture reports voluntary license surrender, and Final Board Orders and Consent Orders each of which may include, but are not limited to revocation, suspension, reprimand and or probation and which often will include any number of compliance conditions.. The Board is mandated to provide all adverse action reports to the data banks within thirty (30) days of its action.

The information reported by the Board may be retrieved by other State Boards, insurance carriers, and hospitals when rendering a decision on initial licenses, renewal of license, or credentialing. The Data Bank is prohibited by law from disclosing information on a specific practitioner, provider, or supplier to a member of the general public. However, persons or organizations can request information in a form that does not identify any particular organization or practitioner.

### **Medical Records: Retention, Storage, and Disposal**

The Maryland Department of Health and Mental Hygiene’s regulation, COMAR 10.01.16 - Retention and Disposal of Medical Records and Protected Health Information is effective and applicable to all health care practitioners. Each health occupation licensing Board is responsible for handling any complaints and enforcing this regulation.

**Medical Records Ownership.** Medical records are the personal property of the entity providing the health care. Periodically, patients argue that they own their medical record, and demand their original files. This is incorrect. Patients can demand, and should receive, only copies of their medical record.

**Retention Schedule.** Every health care entity must have a medical record retention schedule that includes a list and description of the medical records, the retention period for each medical record, and destruction instructions. The schedule, as a matter of good housekeeping, should include storage and maintenance procedures and disposal methods.

**Storage.** Medical records must be stored in an office that has access restricted to authorized staff. Electronic medical records must be stored on an electronic medium with passwords or data encryption. Health care entities must keep current back-up copies of those electronic medical records. If medical records are stored at a commercial records storage site, that site must have environmental and security access controls.

**Paper Record Destruction.** Medical records kept on paper must be destroyed by shredding, incineration, or pulping or any other process that makes the record permanently unreadable.

**Electronic or Other Media Destruction.** Medical records stored in electronic media, such as computer hard drives, must be destroyed by completely sanitizing the media with no possibility of recovery. For example, mere deletion of a file is not enough. Medical records on other media, such as film or photos, must be destroyed without the possibility of recovery.

**Other Laws.** Medical records in Maryland cannot be destroyed until after five (5) years or, for a minor patient, the longer of three (3) years after the minor turns 18 or five (5) years after the medical record was made. HIPPA regulations require that patient documents must be kept a minimum of six (6) years.

**Early Destruction.** Before a health care entity can destroy a medical record prematurely, written notice must be sent to the patient (or the patient's guardian in some cases) at least thirty (30) days before the destruction date.

**Violations.** Health care entities that violate the Medical Records Destruction law are subject to fines of up to \$10,000 per day. Individual health care providers or administrators may be fined up to \$5,000 per day.

**BOARD COMPOSITION**

**BOARD MEMBERS**

**CHAIR:**

**Steven Kaufman, L.Ac.**

PROFESSIONAL MEMBER

**VICE CHAIR:**

**Grant Zhang, L.Ac.**

PROFESSIONAL MEMBER

**Corinne Axelrod, L.Ac.**

PROFESSIONAL MEMBER

**Kate Carter, L.Ac.**

PROFESSIONAL MEMBER

**Deneb Falabella, L.Ac.**

PROFESSIONAL MEMBER

**Jan Exler**

CONSUMER MEMBER

**Charles Neustadt.**

CONSUMER MEMBER

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**STAFF**

**EXECUTIVE DIRECTOR:**

**Penny K. Heisler**

[heislerp@dhmh.state.md.us](mailto:heislerp@dhmh.state.md.us)

**ADMINISTRATIVE ASSISTANT:**

**Cynthia Dobbins**

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**BOARD COUNSEL:**

**Richard Bloom, AAG**

**IMPORTANT  
DUPLICATE LICENSES**

The Board would like to remind licensees that you are **required to post an official license in every office, clinic, or practice setting in which you are working.** It is no longer permissible to post Xerox or scanned copies of your license in your office. The Board will furnish an official duplicate of your license to any licensed acupuncturist who currently resides in Maryland, free of cost.

**The duplicate license request must be made in writing and an address must be given for each duplicate license requested.** Only one duplicate will be granted for each office. If at any time a license is lost or destroyed, you may request a duplicate, in writing, stating the circumstance under which the license was lost or destroyed.

**VERIFICATION OF LICENSE TO ANOTHER STATE**

To provide verification of your acupuncture license to another state, please send your verification request or form directly to the Board with a \$20 check made payable to the Maryland Acupuncture Board. You must provide your name, license number and the state to which you would like the verification mailed. Please ensure that you provide the State's address and phone number.

**FAILURE TO NOTIFY BOARD ON ADDRESS CHANGE  
\$50.00 FINE**

Failure to notify the Board of a change in address will result in a \$50.00 fine. A change in your address can be submitted by mail or email. Whenever the Board receives returned mail from the United States Postal Service, you will automatically receive a fine notice from the Board. Failure to pay the fine may result in disciplinary action against your license.

**NAME CHANGE REQUESTS**

The Board will change a licensee's name only when a request is received in writing and proper legal documentation is attached (example: marriage/divorce certificate). Without this documentation, the Board will not reflect the change. Email requests for name changes will not be accepted.

***PLEASE DO NOT CALL THE OFFICE TO REQUEST ADDRESS OR NAME CHANGES.***

**PRO BONO WORK  
ALLOWED FOR CONTINUING EDUCATION**

Effective December 7, 2009, the Board adopted regulations that will allow you to claim pro bono work as part of your required continuing education hours for the renewal of your license.

The Board is allowing you to earn 1 credit hour for each 3 hours of pro bono activity up to a maximum of 10 credit hours per renewal cycle. When completing pro bono work, you should obtain written documentation from the facility in which you are volunteering that includes:

- the name of the facility
- address where the pro bono work was provided
- The type of work that was done,
- the number of hours of actual work that was provided for which the licensee desires credit hours
- A statement from the facility that guarantees that the work provided had no financial benefit to the licensee

Please remember that the Board requires that you earn a minimum of 25 hours in formally organized programs that are relevant to the practice of acupuncture. These programs are usually offered by organizations such as NCCAOM, AAAOM, CCAOM, and accredited schools.

You may earn a maximum of 15 hours of formally organized training programs in Western science and medical practices, medical ethics, medical research, or cardiopulmonary resuscitation that are relevant to the practice of acupuncture and are sponsored by organizations such as WHO, NIH, NIHOAM, AMA, or the Red Cross.

You may also earn a maximum of 15 hours of training in accredited programs that will assist a licensee to carry out the licensee's professional responsibilities, such as management courses for a school administrator, computer courses, foreign language training for translators of relevant texts, etc.

**DISCIPLINARY ACTIONS**

**STACEY HACHENBERG, L.Ac.  
License No. U01067**

Violation of Md. Code Ann., Health Occ. §§ 1A-309 (3) ("Is guilty of immoral or unprofessional conduct in the practice of acupuncture"), 1A-309(6) ("Knowingly violates any provision of this title or any rule or regulation of the Board adopted under this title), 1A-309(16) ("Commits any act of gross negligence, incompetence, or misconduct in the practice of acupuncture"), 1A-309(17) (Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of acupuncture"), and COMAR 10.26.03.05B ("The licensee may not...[e]ngage in a sexually intimate act with a patient").

Suspended for six (6) months, with all but six (6) weeks stayed, which commenced on November 1, 2011 and placed on probation for a period of 12 months.

## Board Meeting Schedule

The Board of Acupuncture traditionally meets on the second Tuesday of every other month, starting at 1:00 p.m. Scheduled months are September, November, January, March, May, and July. The 2012 schedule is as follows:

January 10, 2012  
March 13, 2012  
May 8, 2012  
July 10, 2012  
September 11, 2012  
November 13, 2012

All meetings are held at 4201 Patterson Avenue in Baltimore, usually at 1 PM on the first floor. These meetings are open to the public and you are encouraged to attend. Please call the Board before the meeting to confirm the proper time and room number.

### **DON'T WAIT UNTIL THE LAST MINUTE TO RENEW YOUR LICENSE**

Unfortunately, the end of the November renewal period occurred over the Thanksgiving holiday weekend and many of you waited until the last minute to renew. Because of the State holiday and a furlough day, the Board's office was closed for 5 days.

Those of you who waited until the last minute to renew were unable to contact staff over the long weekend to resolve problems and you had to wait until Monday, which, unfortunately, was the expiration date of your license. This caused panic in many of you and ruined some holidays. It is therefore in your best interest to ensure that you renew promptly and give your self enough time to avoid any problems.

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**MARYLAND**  
**ACUPUNCTURE BOARD**  
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Unit 252