

**Maryland Board of Acupuncture**

# **Ethics and Regulation Guidebook**

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For Acupuncture Licensees

**April 2015 Edition**

[The Ethics and Regulations Guidebook for Acupuncture Licensees is intended as a general guide and not as a definitive statement of law.]

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## Introduction

### Maryland Board of Acupuncture Contact Information

#### Address

Maryland Board of Acupuncture  
4201 Patterson Avenue, Room 311  
Baltimore, MD, 21215

#### Telephone Numbers

Phone: 410-764-4766  
Toll Free: 1-800-530-2481  
Fax: 410-358-7258

#### Website

[www.dhmh.maryland.gov/bacc](http://www.dhmh.maryland.gov/bacc)

### About this Guidebook

#### Purpose

The Acupuncture Ethics and Regulations Guidebook was developed by the Maryland Board of Acupuncture (the Board) to assist acupuncture licensees (licensees) in understanding some of the laws, regulations, and ethical guidelines that are applicable to the practice of acupuncture in the state of Maryland. The Guidebook is written in layperson's language and is based on the Maryland Acupuncture Practice Act (Statute/Law), the Code of Maryland Regulations (Regulations), and historical decisions and opinions set forth by the Board—most typically rendered in public board meetings.

**No information set forth in the Guidebook is a substitute for legal advice.** Licensees and others who require such advice are encouraged to seek private counsel.

Licensees are urged to review the contents of the Guidebook periodically and to keep it available for occasional reference when questions arise about professional conduct.

Although the laws and regulations for practice are readily available, the Guidebook attempts to simplify and consolidate a variety of relevant information in one place to serve as a convenient reference. It describes some of the ethical and regulatory import for a range of circumstances that commonly occur in practice. **The content is based on practitioners' inquiries received by the Board through the years. It is not intended to be an exhaustive resource, however.**

The Guidebook provides information about the Board; administrative procedures; scope of practice; practice recommendations; disciplinary and legislative processes; and the Code of Ethics for acupuncturists in Maryland.

Please note that the Statute and Regulations are amended periodically. Licensees are encouraged to review the status of Statute and Regulations occasionally; review of the Code of Ethics is required at the time of license renewal.

# Guidelines and References for Licensees

## Licensing Information

### Address Changes

Licensees are required to notify the Board of all changes of address. Failure to notify the Board of an address change will result in a \$50.00 fine. Additionally, when the Board receives returned mail from the United States Postal Service, the licensee will automatically receive a fine notice. Failure to pay a fine may result in disciplinary action against a licensee.

### Continuing Education

The Board's regulations require that licensees earn 30 hours of continuing education (CEUs) within each 2-year license renewal cycle. A minimum of 20 hours is required in formally organized programs that are relevant to the practice of acupuncture. These programs are often sponsored by organizations such as the American Association of Acupuncture and Oriental Medicine (AAAOM), the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), and accredited institutions of acupuncture and Oriental medicine.

The Board does not require every licensee to submit paper documentation of CEUs during every renewal cycle. However, it does conduct routine CEU documentation audits. Licensees who have not been selected for an audit simply list continuing education details within the license renewal application. Only those licensees who are selected for an audit are required to submit continuing education documentation along with the license renewal application. The Board will contact all licensees who are selected for an audit to request CEU documentation at the time of license renewal. Renewal will not be granted if documentation is missing or incomplete.

In order to be acceptable to the Board, CEU documentation must:

- be printed on sponsor letterhead;
- list the complete name of the course;
- list the number of credit hours received;
- list the date(s) credit hours were received; and
- include the signature of the instructor.

The CEU breakdown is as follows:

- At least 20 hours in formally organized programs which are relevant to the practice of acupuncture.
- Not more than 10 hours of training in accredited programs which will assist a licensee to carry out the licensee's professional responsibilities such as management courses, computer training, CPR, western medicine, massage, foreign language training for translators of relevant texts, or educational methodology for teachers of acupuncture.

- Not more than 10 hours teaching acupuncture and related Oriental medical therapies in an accredited school or in a program approved for acupuncture continuing education.
- Not more than 7 credit hours in pro bono activity. 1 credit hour for each 3 hours of pro bono activity is allowed per renewal cycle.
- Not more than 7 hours in published writing or articles in acupuncture and Oriental medicine.

### **CEU Extensions**

The Board has established through precedent that extensions for completion of CEU requirements may be granted by the Board to licensees proving extreme hardship or illness. A request for a time extension must be delivered to the Board in writing; outline a plan for completing the requirement; and be received by the Board prior to the deadline for expiration.

The Board has sole discretion in granting/denying extension requests. Without a formal extension, licensees who have not complied will not be granted renewal and will be required to apply for reinstatement in order to regain licensure status.

### **CEU Providers**

The Board discontinued review and approval of individual providers of CEU programs (effective January 18, 2005). The Board directs all interested CEU providers to contact the Maryland Acupuncture Society (MAS); the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); the American Association of Acupuncture and Oriental Medicine (AAAOM); and other recognized national organizations or schools to seek approval or sponsorship for their programs.

### **Foreign Applications**

Effective February 16, 2004, a regulation was adopted requiring that all foreign applications/transcripts be reviewed by an outside agency—*The American Association of Collegiate Registrars and Admissions Officers (AACRAO)* or *World Educations Services (WES)*.

### **Inactive Status**

The Board recommends that licensees who will not be practicing acupuncture in Maryland for more than 2 years consider applying for inactive status. Licensees who know that they will be out of state for a period or who want to go on maternity/paternity leave should also consider applying. The process helps licensees to avoid the high cost and potential CEU penalties of reinstatement. The application process is simple. A licensee submits an inactive application along with the associated \$100 fee. Approved applicants are placed on the inactive list. Inactive status is limited to 6 years.

In order to return to an active status and practice acupuncture in Maryland, inactive licensees can easily fill out a renewal form, pay the renewal fee, and provide documentation of 30 CEUs for a 2-year period. An application can be found at <http://dhmh.maryland.gov/bacc/Documents/inactive.pdf>.

### **Interim License Numbers**

Because it meets every other month, the Board may issue interim license numbers between Board meetings so that recommended applicants may practice without delay. In order for an applicant to receive an interim license number, all pertinent application documentation must be received by the Board at least 14 days prior

to the next Board meeting. Interim numbers are issued by letter to the address indicated on the application. Interim numbers are not provided over the phone.

## **License Renewal**

Licenses are renewed every two years. Renewal expiration dates are May 31 and November 30. Renewal applications are available online or by calling the Board's office.

The link for the online renewal application can be found on the Board's website. Licensees who wish to submit a paper application can print the renewal application form and instructions from the Board's website or call the Board to request a renewal application.

## **Late Renewal**

A late renewal occurs when a licensee's renewal application is received by the Board during the 30-day grace period after the expiration date of the license. If a licensee files a late renewal, a \$100 late fee is required. A late renewal only applies if a licensee submits a renewal application and fee within 30 days after the expiration date.

**Please note that licensees who fail to renew on time may be considered practicing without a license and may be charged in violation of the Maryland Acupuncture Practice Act.**

## **Reinstatement**

If a licensee submits a renewal application more than 30 days **after** the expiration date, he or she will be required to apply for reinstatement of his or her license. This means that a licensee who fails to renew within the 30-day grace period will be required to pay the renewal fee **and** a reinstatement fee of \$200. Reinstatement applicants must also provide proof of 30 hours of CEUs for each renewal missed, limited to 60 hours. An application can be found at <http://dhmh.maryland.gov/bacc/Documents/REINSTATEMENT-2012.pdf>.

## **Name Change Requests**

At times, it is necessary for a licensee to change the name on his or her license due to divorce, marriage, or another reason. When requesting a name change, the Board requires that licensees submit a certified copy of a marriage license, divorce decree, or court order indicating the name change, date, and place of change.

## **Authority to Practice Acupuncture**

### **Acupuncture Assistants**

The Board has ruled that it is inappropriate for a licensee to delegate the authority to remove needles and/or apply moxibustion to anyone other than a licensed acupuncturist in the state of Maryland. This includes delegating these practices to students (unless the procedures are performed within a supervised course of study approved by the Board).

Although the removal of needles by assistants in other countries or states may be common practice, the Board considers the insertion and the removal of needles as part of the practice of acupuncture for which a Maryland acupuncture license is required. Delegation of the removal of needles may result in a licensee being charged for aiding and abetting the unlicensed practice of acupuncture.

## **Auricular Detoxification Trainers**

The Board has established through precedent that an auricular detoxification specialist may teach the didactic portion of the curriculum to train auricular detoxification students, but a Maryland licensed acupuncturist must conduct any clinical supervision and instruction of needling techniques.

## **Students Performing Animal Acupuncture**

Only Maryland licensed acupuncturists who have been registered by the Board to perform animal acupuncture may practice acupuncture on animals. Licensees who are not certified in animal acupuncture may practice acupuncture on animals only while enrolled in a formal course of study in animal acupuncture that is approved by the Board. Students who are training in acupuncture and are not yet licensed are not eligible to enroll in animal acupuncture courses and cannot practice acupuncture on animals under any circumstances.

## **Students Needling in Continuing Ed Workshops**

Students may not participate in needling activities that are conducted in continuing education workshops held in non-institutional settings.

## **Scope of Practice**

### **General Scope of Practice**

The scope of practice for acupuncturists in the state of Maryland is statutorily defined in the Maryland Acupuncture Practice Act and is carried out by the Code of Maryland Regulations. The Board recognizes that the legal scope of practice does not define explicitly every single procedure, action, and process permitted by licensees within the profession, but rather it provides both some general and some specific parameters regarding application of the profession within the state of Maryland.

As the acupuncture profession evolves nationally and internationally, the Board regularly receives inquiries about scope of practice demarcations. The answers to these questions are not always simple, and the Board continues to examine scope and standards of practice when answering inquiries and considering the proposal of future regulations. Because the purpose of regulation has as its central priority public protection, the Board considers scope of practice issues through that lens, rather than focusing on professional self-interest.

In general, when contemplating scope of practice, both the Board and licensees need to consider state law and regulation; the education, qualifications, and experience of the licensee(s); and any institutional policies or procedures that may apply to the environment in which the licensee(s) practice.

The Board has publicly concluded a number of decisions regarding scope of practice areas that may not be explicitly defined in the Statute or Regulations for acupuncturists. Conclusions listed below are part of the historical record of scope of practice interpretations put forth by the Board. They are not intended to be a comprehensive list.

### **Ear Candling**

Ear candling is an unregulated practice that the Board has reasoned falls outside the scope of practice of acupuncture in Maryland. The Board advises licensees who perform ear candling to distinguish it from acupuncture to their patients.

## **Homeopuncture**

Homeopuncture involves dipping a needle into homeopathic remedies before inserting it into a patient. The Board has deemed that this procedure is not within the scope of practice of acupuncture in Maryland.

## **Lab Work**

Maryland licensees do not currently have regulations in place to support ordering blood tests or making medical diagnoses on behalf of patients. At this time, they may refer patients to other health care providers for diagnosis and testing. Licensees may also utilize diagnoses from other health professionals when preparing and evaluating treatment plans based on the principles of oriental acupuncture medical theory.

## **Miscellaneous Consultations and Practices**

Some consultations and practices are not formally regulated within the state of Maryland, and they are not explicitly articulated within the Maryland Acupuncture Practice Act. However, when performed in accordance with the principles of oriental acupuncture medical theory, certain consultations and practices have been accepted by the Board as appropriate adjuncts to the practice of acupuncture in Maryland. Examples of some acceptable practices performed by acupuncturists are herbal consultations; use of essential oils; tai chi; chi gong; and Zero Balancing.

The Board cautions that only licensees who are competent (based on appropriate education, training, and experience) should employ adjunctive unregulated practices.

## **Neurofeedback**

The Board has concluded that EEG Neurofeedback does not lie within the scope of acupuncture practice in Maryland.

## **Shamanic Rituals**

The Board has deemed that integrating shamanism, shamanistic practices, or shamanistic rituals falls outside the scope of practice of acupuncture in Maryland. The Board advises licensees who perform shamanistic rituals to distinguish those practices from acupuncture to their patients.

## **Practice Settings**

### **Acupuncture Treatments at Health Fairs and Other Public Forums**

The Board has ruled that once a licensee begins treating a patient, the patient-practitioner relationship becomes established. The Board has also determined that the standard of care provided to patients should not be dictated solely by the setting in which treatment is rendered. At all times, and in all settings, the licensee assumes responsibility for the patient and shall be concerned primarily with the patient's welfare.

Therefore, the Board has stressed that the following basic standards be applied in all treatment settings:

- Informed consent is documented
- A brief history and evaluation is completed
- Access to follow up care is provided
- Health information privacy is sustained as per the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

- Clean needle techniques and universal precautions are maintained
- Contact information is provided in case of adverse reaction

### **Animals and Humans in the Same Treatment Room**

Officials at the Maryland Department of Health and Mental Hygiene Epidemiology and Disease Control Program strongly recommend that acupuncturists use separate treatment rooms for animals and human patients. If a licensee has no other option and must treat animals and humans in the same room, officials caution that proper hand-washing and disinfecting techniques be applied to avoid environmental exposure and risks.

### **Home Offices**

The Board licenses acupuncturists as independent practitioners and does not dictate where they can set up offices, except to emphasize accommodations for the disabled and maintenance of Occupational Health and Safety Administration (OSHA) standards.

It is within the jurisdiction of the county or city in which the licensee works to determine any zoning requirements, and it is the responsibility of the licensee to comply with those requirements.

## **Record Keeping**

### **Maintenance of Patient Records in English**

Effective January 1, 2006, licensees are required to maintain all patient records in English. If requested, a licensee must provide an English language translation of records compiled prior to January 1, 2006. The translation must be by a Board approved translator, at the licensee's expense.

### **Medical Records Retention**

Acupuncture licensees and other healthcare providers in Maryland must maintain medical records for five years from the date the record was created. (This remains constant for patients who have died or who have ceased receiving care from a given practitioner.) For a medical record of a minor patient, the record must be maintained until the patient reaches the age of 21 or five years after the record was created, whichever is later.

When a licensee leaves an office or other facility where he or she has treated patients and where the medical records have been maintained, the original records should remain with the office/facility. A patient may authorize release of copies of the records to the treating acupuncturist, in which case a copy would be sent and the originals would remain with the office.

### **Medical Records Release**

Maryland law and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) provide guidelines for both patients and health care providers to follow regarding medical records releases. Patients have a right under Maryland law to obtain a copy of their medical records. To do so, they must provide authorization by making a written request. A signed and dated request must state the patient's name, the name of the health care provider, and the party who should receive the records. The patient's authorization to release his or her record is effective for one year unless it lists a separate expiration date or event.

Copies of medical records must be provided within 21 business days of a written request. (See Maryland Code Annotated, Health General Article Section, 4-309(a)).

If a patient provides authorization for a copy of his or her medical record to be released, a licensee may charge a reasonable fee for copying and mailing the medical record. Under state law, in 2014, licensees may charge no more than 76 cents per page for copying records, plus actual postage and handling costs. (These limitations do not apply to x-rays.) If a medical practice is using an electronic medical records system, they must provide a patient requesting their medical record with a copy in electronic format, if the patient so requests. The charge for the copy provided can be no more than the actual labor costs incurred by the practice in responding to that request.

These fees may be adjusted annually for inflation. Federal law forbids a provider from charging preparation fees, including fees for retrieving or handling the information or for processing the request, if the records are being provided to the consumer. If the records are being sent to someone other than the consumer, the law allows for an administrative fee of no more than \$22.88 in 2014, which may also be adjusted annually.

The Board encourages licensees to let their patients know up front about all costs associated with providing copies of medical records. In addition, licensees may not refuse to disclose a medical record because of a patient's failure to pay a medical bill. If a licensee fails to disclose a medical record for this reason, he or she could be found guilty of a misdemeanor and on conviction could be subject to a fine.

## **Billing Practices**

### **Payment Discounts**

The Board recognizes only two forms of discounts as legally acceptable: "time of service payment" discounts and discounts for financial hardship.

The U.S. Department of Health and Human Services (HHS) has ruled that discounts for "cash" payments are not legal. However, it is acceptable to offer a "time of service payment" discount because it is recognized that there is an increased administrative cost to billing a third party payer and waiting to receive payment. If, for any reason, the patient does not provide full payment at the time of service, the provider must charge the patient the same rate he or she charges the insurance company. Additionally, the provider must extend the same "discount" to the insurer if an insurance company or designee could pay the provider for services the same day those services are rendered.

Discounts for financial hardship do not have a formally recognized limit. However, the Board recommends that licensees clearly document the financial hardship. A lack of insurance benefits for acupuncture is not sufficient to constitute financial hardship.

### **Prepayment Plans**

In order to avoid possible conflicts with the Maryland Acupuncture Practice Act, the Board recommends that licensees who choose to offer prepayment plans clearly explain all terms and conditions to the patient. The Board strongly encourages licensees to reimburse expeditiously patients who cancel treatments and request reimbursement of unused payments.

## **Ethical Issues**

### **Advertising Guidelines**

When advertising in any broadcast, digital, electronic, news, print, social, or other media, the Board emphasizes that licensees provide their name and the current address and telephone number of their office(s).

Also, licensees are strictly prohibited from expressing statements that

- Contain misrepresentation of facts
- Are likely to mislead or deceive the public because they only make partial disclosure of relevant facts
- Intend to create false or unjustified expectations of favorable results
- Do not fully disclose all relevant variables relating to fees
- Convey the impression that they could influence a public body, official, corporation or person for their patient
- Represent that they are willing to perform any procedure that is illegal under the laws or regulations of Maryland or the United States
- Contain representations that an ordinarily prudent person would misunderstand or be deceived

### **Avoiding Patient Abandonment**

Sometimes there are circumstances that warrant the dismissal of a patient from a licensee's practice. The Board advises that such dismissals be handled with professional diligence and care.

The Board has ruled that once a licensee begins treating a patient, the patient-practitioner relationship becomes established. Consequently, the licensee assumes an obligation to continue to treat or assist in arranging treatment to the patient. A single treatment or a long period between patient contacts does not eliminate the licensee's responsibilities to the patient.

Either a patient or a licensee may initiate termination of the professional relationship. If a patient refuses care or fails to return for completion of his or her treatment, this should be documented in the patient's medical record. If the licensee has reason to initiate separation, he or she must provide adequate time to the patient to allow him or her to obtain a new practitioner. A termination letter with names of referrals to several acupuncturists as alternatives should be provided to the patient and copied to the patient's file. The patient should also be provided with an authorization for release of medical records. (The patient is not obligated to authorize the release of his or her records, although it is customary for the practitioner to provide the means for the patient to request and document such authorization.) With formal written authorization in place, the licensee may send copies of the patient's medical records to the patient's new practitioner. Charging a fee for the cost of copying is appropriate. (There are state guidelines regarding fee limits. See *Medical Records Release*.)

Under most circumstances, licensees are expected to remain available to their patients for any needs that arise during the transition period.

The Board recognizes that there are many reasons to terminate a professional relationship and that not every practitioner is "right" for every patient and vice-versa. Licensees are encouraged to strive to end patient-practitioner relationships on as positive a note as possible.

### **Mandatory Reporting Requirements**

A key role of the Board is to assure quality health care provided by acupuncturists and to safeguard that acupuncture licensees are competent to practice. To assist the Board in this role, regulations were

promulgated that require licensees to report to the Board or other appropriate authority conduct in the practice of acupuncture that is in violation of the Maryland Acupuncture Practice Act; the Code of Maryland Regulations regarding the practice of acupuncture; or any other federal or state laws.

## **Research Standards and Informed Consent**

Federal regulations for the protection of human subjects in research require that an investigator obtain the legally effective informed consent of the subject (except under certain special exemptions). Generally, a licensee should obtain informed consent from patients involved in any clinical research studies that he or she conducts. The informed consent process should ensure that all critical information about a research study is completely disclosed, and that prospective subjects adequately understand the research so that they can make informed choices.

The informed consent process for a research study typically includes the following information:

- Why the research is being done
- What the research hopes to accomplish
- A description of what will be done during the study and how long the patient is expected to participate
- The risks/adverse reactions the patient may encounter from participation in the study
- The benefits that the patient may expect from participation in the study
- Other treatments that are available if the patient decides not to participate in the study
- Verification that the patient has the right to leave the study at any time, and that standard treatment will be provided without penalty
- The possibility that the patient may be photographed, if appropriate
- The possibility that data from the research study may be shared (followed by a list possible recipients)

Although the Board occasionally receives inquiries from licensees about informed consent for research and acknowledges that licensees who wish to engage in research must comply with federal regulations, the nuances of informed consent (including its relationship to the HIPAA privacy law) are beyond the scope of this Guidebook. Detailed information about the topic can be found on the U.S. Department of Health and Human Services' website.

## **Use of Professional Titles**

The Board acknowledges that licensees may have earned educational degrees or titles in addition to the status of Licensed Acupuncturist in the state of Maryland. The Board has ruled that licensees who have such degrees may use their associated titles as appropriate. However, the Board also cautions that licensees must be careful in representing themselves and must not mislead the public by their use of titles that could be interpreted as a means to portray a different credential than was earned.

For example, a licensee who has earned an education degree with the status of Doctorate of Acupuncture (D.Ac.), Doctorate of Oriental Medicine (DOM), or Oriental Medical Doctor (OMD) may use this title. However, it would be deemed unethical for a licensee to portray himself or herself as a physician or medical doctor without the appropriate additional credentials.

### **Witnesses to Treatment**

The Board recognizes that there may be certain circumstances when a licensee may have another practitioner or other observer present while treating a patient. For example, a licensee may offer that another licensee or someone the patient trusts is present when needling a sensitive area of the body or a particularly private area. Such witnesses should only be present with the patient's consent, and they are not considered mandatory.

## **Statutory and Regulatory Processes**

### **Disciplinary Matters**

The procedures governing disciplinary matters can be found at COMAR 10.26.04 (Hearing Regulations). The Board recommends that licensees pay particular attention to 10.26.04.05, which covers the investigation and prosecution of complaints.

Please note that failure to cooperate with a Board investigation may lead to disciplinary action taken against a licensee. Generally, the grounds for disciplinary action are set out in section 1A-309 of the Maryland Acupuncture Practice Act.

### **The Legislative Process**

The Maryland General Assembly enacts all Maryland statutory law. The Statute that governs the practice of Acupuncture can be found under Title 1A of the Health Occupations Article of the Annotated Code of Maryland. If the Board wishes to consider new legislation or an amendment to its statute, the Board must draft a proposal and submit it to the Department of Health and Mental Hygiene (DHMH) for review and approval. If DHMH decides not to sponsor the proposal or bill, the Board must seek a legislator who has a particular interest in the bill and who would be willing to sponsor and introduce the material.

Individuals and groups, including professional associations, can also ask members of the General Assembly to sponsor a bill. A bill goes through committee hearings, lobbying, debates, and usually redrafting. Board members and interested parties may testify before legislative committees in favor of or against a bill while it is being reviewed by both houses of the General Assembly (Senate and House of Delegates). If the Bill is passed by each House with changes, it is submitted to a conference committee for further debate and drafting. If the bill is passed by both houses with no changes, it is presented to the Governor for signature or veto. After it is signed by the Governor, it becomes a Chapter of the laws of Maryland and the effective date is included in the law.

### **The Regulatory Process**

Although the General Assembly enacts all statutory law, there are many details necessary to carry out the statutory mandates. Sometimes the details are not appropriate for inclusion in the statute so regulations are written to fill in the details.

The Board must follow procedures designed to ensure the legality and fairness of regulations and must obtain public comment before a regulation is adopted. Regulations can be adopted as temporary or an emergency while public comment on them is being sought.

Board members and the Board's Executive Director draft proposed regulations. A majority of the Board must then vote on the proposal during a public meeting. The Board sends the proposal to Board Counsel for review of legal sufficiency and to the DHMH Regulations Coordinator for proper formatting.

The proposal is sent to the General Assembly's Joint Committee on Administrative, Executive, and Legislative Review (AELR) and is then published in the Maryland Register for public comment.

The Maryland Register is published biweekly, and it contains official material issued by various state agencies. Publication in the Maryland Register officially notifies members of the public that a regulation has been proposed. A regulation may not be finally adopted until at least 45 days after the date on which it appears in the Maryland Register. If the Board receives a lot of opposing comment, the AELR may reject the regulation. The Board may withdraw the regulation; modify it based on public comment and begin the promulgation process again; or submit the proposal to the Governor with a statement of its refusal to withdraw or modify the regulation.

If the AELR does not reject the regulation or if the Governor approves its adoption, the regulation is finally adopted by a majority of the Board voting during a public meeting, and it becomes permanent.

## **Code of Ethics for Maryland Acupuncturists**

The current Code of Ethics for acupuncturists in Maryland is copied in its entirety below as a quick reference for licensees.

### **COMAR 10.26.03**

#### **.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 judgment 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 judgment 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; and
- F. Comply with applicable federal and State laws for human research programs.

**.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.

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