
By: **Delegates Hubbard and Hammen**
Introduced and read first time: February 12, 1999
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Acupuncture, State Board of Podiatric Medical Examiners,**
3 **and State Board of Social Work Examiners - Enforcement Authority**

4 FOR the purpose of authorizing the State Board of Acupuncture to deny a license to
5 practice acupuncture to certain applicants for licensure under certain
6 circumstances; authorizing the Acupuncture Board, the State Board of Podiatric
7 Medical Examiners, and the State Board of Social Work Examiners to take
8 certain disciplinary action if certain licensees fail to cooperate with a lawful
9 investigation conducted by these boards; requiring certain individuals whom
10 certain health occupations boards find to be in violation of certain professional
11 standards to pay certain costs of a certain hearing; authorizing certain
12 injunctive action by certain health occupations boards and State officials in
13 certain county venues under certain circumstances; authorizing certain health
14 occupations boards to require certain licensees to submit to an appropriate
15 examination by a health care provider under certain circumstances; deeming
16 certain licensees to have consented to a certain examination and to have waived
17 a certain privilege under certain circumstances; providing that the failure or
18 refusal of certain licensees to submit to certain examinations is evidence of the
19 licensees' inability to practice certain health occupations competently unless
20 certain health occupations boards make a certain finding; requiring certain
21 health occupations boards to pay the costs of a certain examination; and
22 generally relating to the practice of acupuncture, podiatry, and social work.

23 BY repealing and reenacting, with amendments,
24 Article - Health Occupations
25 Section 1A-309, 16-312, and 19-311
26 Annotated Code of Maryland
27 (1994 Replacement Volume and 1998 Supplement)

28 BY adding to
29 Article - Health Occupations
30 Section 1A-310(f), 1A-314, 1A-315, 16-314(g), 16-319, 16-320, 19-312(f),
31 19-316, and 19-317
32 Annotated Code of Maryland

1 (1994 Replacement Volume and 1998 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Health Occupations**

5 1A-309.

6 Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the
7 affirmative vote of a majority of its full authorized membership, may DENY A
8 LICENSE TO PRACTICE ACUPUNCTURE TO ANY APPLICANT, reprimand any licensee,
9 place any licensee on probation, or suspend or revoke a license if the licensee:

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

12 (2) Fraudulently or deceptively:

13 (i) Uses a license; or

14 (ii) Solicits or advertises;

15 (3) Is guilty of immoral or unprofessional conduct in the practice of
16 acupuncture;

17 (4) Is professionally, physically, or mentally incompetent;

18 (5) Provides professional services while:

19 (i) Under the influence of alcohol; or

20 (ii) Using any narcotic or controlled dangerous substance, as
21 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
22 amounts or without a valid medical indication;

23 (6) Knowingly violates any provision of this title or any rule or
24 regulation of the Board adopted under this title;

25 (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a
26 crime involving moral turpitude, whether or not any appeal or other proceeding is
27 pending to have the conviction or plea set aside;

28 (8) Practices acupuncture with an unauthorized person or assists an
29 unauthorized person in the practice of acupuncture;

30 (9) Is disciplined by the licensing or disciplinary authority of any other
31 state or country or convicted or disciplined by a court of any state or country for an act
32 that would be grounds for disciplinary action under this section;

1 (10) Willfully makes or files a false report or record in the practice of
2 acupuncture;

3 (11) Willfully fails to file or record any report as required by law, willfully
4 impedes or obstructs the filing or recording of the report, or induces another to fail to
5 file or record the report;

6 (12) Submits a false statement to collect a fee;

7 (13) Refuses, withholds from, denies, or discriminates against an
8 individual with regard to the provision of professional services for which the person is
9 licensed and qualified to render because the individual is HIV positive; [or]

10 (14) Fails to display the notice required under § 1A-313 of this subtitle;
11 OR

12 (15) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
13 BY THE BOARD.

14 1A-310.

15 (F) IF, AFTER A HEARING, AN INDIVIDUAL IS FOUND IN VIOLATION OF §
16 1A-309 OF THIS SUBTITLE, THE INDIVIDUAL SHALL PAY THE COSTS OF THE HEARING
17 AS SPECIFIED IN A REGULATION ADOPTED BY THE BOARD.

18 1A-314.

19 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE
20 BOARD TO ENJOIN:

21 (1) THE UNAUTHORIZED PRACTICE OF ACUPUNCTURE; OR

22 (2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER §
23 1A-309 OF THIS SUBTITLE.

24 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

25 (1) THE BOARD, IN ITS OWN NAME;

26 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

27 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

28 (C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COUNTY
29 WHERE THE DEFENDANT:

30 (1) RESIDES; OR

31 (2) ENGAGES IN THE ACT SOUGHT TO BE ENJOINED.

1 (D) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
2 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
3 UNDER THIS SECTION.

4 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
5 OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF ACUPUNCTURE
6 UNDER § 1A-401 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 1A-309 OF THIS
7 SUBTITLE.

8 1A-315.

9 (A) WHILE INVESTIGATING AN ALLEGATION AGAINST A LICENSEE UNDER
10 THIS TITLE, THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
11 APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
12 BOARD IF THE BOARD HAS REASON TO BELIEVE THAT THE LICENSEE MAY CAUSE
13 HARM TO A PERSON.

14 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
15 ACUPUNCTURE IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

16 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION,
17 IF REQUESTED BY THE BOARD IN WRITING; AND

18 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
19 REPORT OF A HEALTH CARE PROVIDER WHO EXAMINES THE LICENSEE.

20 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
21 EXAMINATION REQUIRED UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE
22 LICENSEE'S INABILITY TO PRACTICE ACUPUNCTURE COMPETENTLY, UNLESS THE
23 BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE
24 LICENSEE.

25 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
26 THIS SECTION.

27 16-312.

28 (a) Subject to the hearing provisions of § 16-314 of this subtitle, the Board, on
29 the affirmative vote of a majority of its members then serving, may deny a license or
30 a limited license to any applicant, reprimand any licensee or holder of a limited
31 license, impose an administrative monetary penalty not exceeding \$5,000 on any
32 licensee or holder of a limited license, place any licensee or holder of a limited license
33 on probation, or suspend or revoke a license or a limited license if the applicant,
34 licensee, or holder:

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

37 (2) Fraudulently or deceptively uses a license;

- 1 (3) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude, whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;
- 4 (4) Abandons a patient;
- 5 (5) Provides professional services while:
- 6 (i) Under the influence of alcohol; or
- 7 (ii) Using any narcotic or controlled dangerous substance, as
8 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
9 amounts or without valid medical indication;
- 10 (6) Has a condition, illness, or disease that may impair the ability of the
11 individual to perform podiatric services;
- 12 (7) Personally uses a controlled dangerous substance in violation of the
13 law;
- 14 (8) Prescribes or distributes a controlled dangerous substance to any
15 other person in violation of the law;
- 16 (9) Promotes the sale to a patient of drugs, devices, appliances, or goods
17 in a manner that exploits the patient for financial gain;
- 18 (10) Willfully makes or files a false report or record of podiatric services
19 rendered;
- 20 (11) Willfully fails to file or record any report as required by law, willfully
21 impedes or obstructs the filing or recording of the report, or induces another to fail to
22 file or record the report;
- 23 (12) Submits a false statement to collect a fee;
- 24 (13) Fails to provide the details of the medical records of a patient to a
25 licensed health care practitioner or institution or an authorized insurance carrier on
26 proper request;
- 27 (14) Pays or agrees to pay any sum to any person for bringing or referring
28 a patient;
- 29 (15) Practices podiatry with an unauthorized person or aids an
30 unauthorized person in the practice of podiatry;
- 31 (16) Grossly overutilizes health care services;
- 32 (17) Behaves fraudulently, immorally, or unprofessionally in the practice
33 of podiatry;
- 34 (18) Is professionally or mentally incompetent;

- 1 (19) Violates any provision of this title;
- 2 (20) Advertises in a false or misleading manner;
- 3 (21) Has had a license to practice podiatry denied, suspended, or revoked
4 in any other state for an act that would be grounds for disciplinary action under this
5 section;
- 6 (22) Violates any rules or regulations adopted by the Board;
- 7 (23) Fails to comply with the provisions of § 12-102 of this article;
- 8 (24) Refuses, withholds from, denies, or discriminates against an
9 individual with regard to the provision of professional services for which the licensee
10 is licensed and qualified to render because the individual is HIV positive;
- 11 (25) Except in an emergency life-threatening situation where it is not
12 feasible or practicable, fails to comply with the Centers for Disease Control's
13 guidelines on universal precautions; [or]
- 14 (26) Fails to display the notice required under § 16-404 of this title; OR
- 15 (27) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
16 BY THE BOARD.
- 17 (b) Subject to the hearing provisions of § 16-314 of this subtitle, the Board, on
18 the affirmative vote of a majority of its members then serving, may revoke the license
19 of a podiatrist who practices podiatry while the podiatrist's license is suspended.
- 20 (c) On an affirmative vote of the majority of its members then serving, the
21 Board may issue advisory opinions when:
- 22 (1) The Board determines that the licensee should modify or eliminate
23 certain practices and that continuation of the practices may result in an action
24 against the licensee's license; or
- 25 (2) The Board determines that there is not sufficient evidence to
26 reprimand the licensee, place the licensee on probation, or suspend or revoke the
27 license of the licensee.
- 28 (d) The Board may impose a monetary penalty under this section alone or in
29 addition to a reprimand, probation, suspension, or revocation.
- 30 (e) By regulation, the Board shall establish standards for the imposition of
31 penalties under this section.
- 32 16-314.
- 33 (G) IF, AFTER A HEARING, AN INDIVIDUAL IS FOUND IN VIOLATION OF § 16-312
34 OF THIS SUBTITLE, THE INDIVIDUAL SHALL PAY THE COSTS OF THE HEARING AS
35 SPECIFIED IN A REGULATION ADOPTED BY THE BOARD.

1 16-319.

2 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE
3 BOARD TO ENJOIN:

4 (1) THE UNAUTHORIZED PRACTICE OF PODIATRY; OR

5 (2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER §
6 16-312 OF THIS SUBTITLE.

7 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

8 (1) THE BOARD, IN ITS OWN NAME;

9 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

10 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

11 (C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COUNTY
12 WHERE THE DEFENDANT:

13 (1) RESIDES; OR

14 (2) ENGAGES IN THE ACT SOUGHT TO BE ENJOINED.

15 (D) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
16 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
17 UNDER THIS SECTION.

18 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
19 OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF PODIATRY
20 UNDER § 16-501 OF THIS TITLE.

21 16-320.

22 (A) WHILE INVESTIGATING AN ALLEGATION AGAINST A LICENSEE UNDER
23 THIS TITLE, THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
24 APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
25 BOARD IF THE BOARD HAS REASON TO BELIEVE THAT THE LICENSEE MAY CAUSE
26 HARM TO A PERSON.

27 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
28 PODIATRY IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

29 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION,
30 IF REQUESTED BY THE BOARD IN WRITING; AND

31 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
32 REPORT OF A HEALTH CARE PROVIDER WHO EXAMINES THE LICENSEE.

1 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
2 EXAMINATION REQUIRED UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE
3 LICENSEE'S INABILITY TO PRACTICE PODIATRY COMPETENTLY, UNLESS THE BOARD
4 FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE
5 LICENSEE.

6 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
7 THIS SECTION.

8 19-311.

9 Subject to the hearing provisions of § 19-312 of this subtitle, the Board may
10 deny a license to any applicant, reprimand any licensee, place any licensee on
11 probation, or suspend or revoke a license if the applicant or licensee:

12 (1) Obtained or attempted to obtain a license for the applicant or licensee
13 or for another through fraud, deceit, or misrepresentation;

14 (2) Fraudulently or deceptively uses a license;

15 (3) Is currently adjudicated by a court to be mentally incompetent;

16 (4) Commits any act of gross negligence, incompetence, or misconduct in
17 the practice of social work;

18 (5) Knowingly violates any provision of this title;

19 (6) Engages in a course of conduct that is inconsistent with generally
20 accepted professional standards in the practice of social work;

21 (7) Violates the code of ethics adopted and published by the Board;

22 (8) Is convicted of or pleads guilty or nolo contendere to a felony or to a
23 crime involving moral turpitude, whether or not any appeal or other proceeding is
24 pending to have the conviction or plea set aside;

25 (9) Provides professional services while:

26 (i) Under the influence of alcohol; or

27 (ii) Using any narcotic or controlled dangerous substance, as
28 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
29 amounts or without valid medical indication;

30 (10) Is disciplined by a licensing or disciplinary authority of any other
31 state or country or convicted or disciplined by a court of any state or country for an act
32 that would be grounds for disciplinary action under the Board's disciplinary statutes;

33 (11) Practices social work with an unauthorized person or supervises or
34 aids an unauthorized person in the practice of social work;

1 (12) Willfully makes or files a false report or record in the practice of
2 social work;

3 (13) Willfully fails to file or record any report as required by law, willfully
4 impedes or obstructs the filing or recording of the report, or induces another to fail to
5 file the report;

6 (14) Submits a false statement to collect a fee;

7 (15) Knowingly fails to report suspected child abuse in violation of § 5-704
8 of the Family Law Article; [or]

9 (16) Refuses, withholds from, denies, or discriminates against an
10 individual with regard to the provision of professional services for which the licensee
11 is licensed and qualified to render because the individual is HIV positive; OR

12 (17) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
13 BY THE BOARD.

14 19-312.

15 (F) IF, AFTER A HEARING, AN INDIVIDUAL IS FOUND IN VIOLATION OF § 19-311
16 OF THIS SUBTITLE, THE INDIVIDUAL SHALL PAY THE COSTS OF THE HEARING AS
17 SPECIFIED IN A REGULATION ADOPTED BY THE BOARD.

18 19-316.

19 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE
20 BOARD TO ENJOIN:

21 (1) THE UNAUTHORIZED PRACTICE OF SOCIAL WORK; OR

22 (2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER §
23 19-311 OF THIS SUBTITLE.

24 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

25 (1) THE BOARD, IN ITS OWN NAME;

26 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

27 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

28 (C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COUNTY
29 WHERE THE DEFENDANT:

30 (1) RESIDES; OR

31 (2) ENGAGES IN THE ACT SOUGHT TO BE ENJOINED.

1 (D) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
2 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
3 UNDER THIS SECTION.

4 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
5 OF CRIMINAL PROSECUTION FOR UNAUTHORIZED PRACTICE OF SOCIAL WORK
6 UNDER § 19-401 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 19-311 OF THIS
7 SUBTITLE.

8 19-317.

9 (A) WHILE INVESTIGATING AN ALLEGATION AGAINST A LICENSEE UNDER
10 THIS TITLE, THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
11 APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
12 BOARD IF THE BOARD HAS REASON TO BELIEVE THAT THE LICENSEE MAY CAUSE
13 HARM TO A PERSON.

14 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
15 SOCIAL WORK IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

16 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION,
17 IF REQUESTED BY THE BOARD IN WRITING; AND

18 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
19 REPORT OF A HEALTH CARE PROVIDER WHO EXAMINES THE LICENSEE.

20 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
21 EXAMINATION REQUIRED UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE
22 LICENSEE'S INABILITY TO PRACTICE SOCIAL WORK COMPETENTLY, UNLESS THE
23 BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE
24 LICENSEE.

25 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
26 THIS SECTION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1999.