HOUSE BILL 304

J2 4lr1044
CF 4lr2396

By: **Delegate Reznik**
Introduced and read first time: January 21, 2014
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

State Acupuncture Board and State Board of Dietetic Practice – Action and Penalties for Violations of Practice Acts

FOR the purpose of authorizing the State Acupuncture Board to impose a penalty, not exceeding a certain amount, if the Board finds that there are grounds to take certain disciplinary actions against a licensee; providing that the penalty may be imposed instead of or in addition to taking the disciplinary actions; requiring the Board to adopt regulations to set standards for the imposition of the penalties and pay any money collected from the imposition of penalties into the General Fund of the State; authorizing the State Acupuncture Board and the State Board of Dietetic Practice to issue cease and desist orders or obtain injunctive relief for violations of certain provisions of law; authorizing an action to be maintained in the name of the State or the State Board of Dietetic Practice to enjoin the unauthorized practice of dietetics or conduct that is a ground for certain disciplinary action; authorizing the action to be brought by certain persons; requiring the action to be brought in certain locations; providing that certain damage is not required for the action; providing that the action is in addition to and not instead of certain criminal prosecution or disciplinary action; providing that a person who violates certain provisions of law is subject to a civil fine not exceeding a certain amount to be assessed by the State Acupuncture Board or the State Board of Dietetic Practice in accordance with certain regulations; requiring the State Acupuncture Board and the State Board of Dietetic Practice to pay certain penalties into the Acupuncture Board Fund and the State Board of Dietetic Practice Fund; and generally relating to the State Acupuncture Board and the State Board of Dietetic Practice and action and penalties for violations of the Maryland Acupuncture Act and the Maryland Licensed Dietitian–Nutritionists Act.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 1A–101(a) and (d), 1A–401, 1A–402, 5–101(a) and (b), 5–401, and 5–402

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY adding to
Article – Health Occupations
Section 1A–310.1, 1A–314.1, 5–404, and 5–405
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1A–403 and 5–403
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

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

Article – Health Occupations

1A–101.

(a) In this title the following words have the meanings indicated.

(d) "Board" means the State Acupuncture Board.

1A–310.1.

(A) IF AFTER A HEARING UNDER § 1A–310 OF THIS SUBTITLE THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 1A–309 OF THIS SUBTITLE TO PLACE ANY LICENSEE ON PROBATION, REPRIMAND ANY LICENSEE, OR SUSPEND OR REVOKE A LICENSE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING $5,000:

(1) INSTEAD OF PLACING THE LICENSEE ON PROBATION, REPRIMANDING THE LICENSEE, OR SUSPENDING OR REVOKING THE LICENSE; OR

(2) IN ADDITION TO PLACING THE LICENSEE ON PROBATION, REPRIMANDING THE LICENSEE, OR SUSPENDING OR REVOKING THE LICENSE.

(B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE IMPOSITION OF PENALTIES UNDER THIS SECTION.

(C) THE BOARD SHALL PAY ANY MONEY COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

1A–314.1.

THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 1A–401 OR § 1A–402 OF THIS TITLE.

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) 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.

(B) (1) A PERSON WHO VIOLATES § 1A–401 OR § 1A–402 OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE NOT TO EXCEED $50,000 TO BE ASSESSED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE ACUPUNCTURE BOARD FUND.

5–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Board" means the State Board of Dietetic Practice.

5–401.

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

5–402.

(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title "licensed dietitian–nutritionist", by other title, by description of services, methods, or procedures that the person is authorized to practice dietetics in the State.

(b) Unless authorized to practice dietetics under this title, a person may not use the words or terms "dietitian–nutritionist", "licensed dietitian–nutritionist", "LDN", "dietitian", "licensed dietitian", "D", "LD", "nutritionist", "licensed nutritionist", or "LN".

5–403.

(A) A person who violates § 5–401 or § 5–402 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(B) (1) A PERSON WHO VIOLATES § 5–401 OR § 5–402 OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE NOT TO EXCEED $50,000 TO BE ASSESSED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE STATE BOARD OF DIETETIC PRACTICE FUND.

5–404.

THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 5–401 OR § 5–402 OF THIS SUBTITLE.

5–405.

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

(1) THE UNAUTHORIZED PRACTICE OF DIETETICS; OR

(2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER § 5–311 OF THIS TITLE.

(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 DIETETICS UNDER § 5–401 OF THIS SUBTITLE OR DISCIPLINARY ACTION UNDER § 5–311 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.