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**By: Delegate Bobo**

Introduced and read first time: January 24, 1997

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Acupuncture**

3 FOR the purpose of adding licensed acupuncturists to the list of providers who are  
4 subject to certain prohibitions concerning the concealment and destruction of  
5 certain medical records and reports; providing that each member of the State Board  
6 of Acupuncture is entitled to compensation in accordance with the budget of the  
7 Board and to reimbursement for expenses at a rate determined by the Board;  
8 requiring a designee of the Board to administer the Acupuncture Board Fund and  
9 moneys in the Fund to be expended only for a lawful purpose authorized under the  
10 Acupuncture Practice Act; altering certain qualifications for licensure as an  
11 acupuncturist; and generally relating to acupuncture.

12 BY repealing and reenacting, with amendments,  
13 Article - Health - General  
14 Section 4-401 and 4-403  
15 Annotated Code of Maryland  
16 (1994 Replacement Volume and 1996 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article - Health Occupations  
19 Section 1A-204, 1A-206, and 1A-302  
20 Annotated Code of Maryland  
21 (1994 Replacement Volume and 1996 Supplement)

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

24 **Article - Health - General**

25 4-401.

26 (a) In this section, "provider" means:

27 (1) AN ACUPUNCTURIST;

28 (2) A chiropractor;

29 [(2)] (3) A dentist;

2

1            [(3)] (4) A nurse;

2            [(4)] (5) An optometrist;

3            [(5)] (6) A physician;

4            [(6)] (7) A podiatrist; or

5            [(7)] (8) A person who is employed by or under contract with a hospital,  
6 nursing institution, or other health care provider.

7            (b) A provider may not knowingly or willfully destroy, damage, alter, obliterate, or  
8 otherwise obscure a medical record, hospital report, laboratory report, X-ray report, or  
9 other information about a patient in an effort to conceal the information from use as  
10 evidence in an administrative, civil, or criminal proceeding.

11            (c) A provider who violates any provision of this section is guilty of a  
12 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment  
13 not exceeding 1 year or both.

14 4-403.

15            (a) In this section, a "health care provider" means:

16            (1) AN ACUPUNCTURIST;

17            (2) An audiologist;

18            [(2)] (3) A chiropractor;

19            [(3)] (4) A dietitian;

20            [(4)] (5) A dentist;

21            [(5)] (6) An electrologist;

22            [(6)] (7) A mortician;

23            [(7)] (8) A nurse;

24            [(8)] (9) A nutritionist;

25            [(9)] (10) An occupational therapist;

26            [(10)] (11) An optometrist;

27            [(11)] (12) A physical therapist;

28            [(12)] (13) A physician;

29            [(13)] (14) A podiatrist;

30            [(14)] (15) A professional counselor;

31            [(15)] (16) A psychologist;

32            [(16)] (17) A social worker; and

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1            [(17)] (18) A speech-language pathologist.

2            (b) Except for a minor patient, unless a patient is notified, a health care provider  
3 may not destroy a medical record or laboratory or X-ray report about a patient for 5 years  
4 after the record or report is made.

5            (c) In the case of a minor patient, a medical record or laboratory or X-ray report  
6 about a minor patient may not be destroyed until the patient attains the age of majority  
7 plus 3 years or for 5 years after the record or report is made, whichever is later, unless:

8            (1) The parent or guardian of the minor patient is notified; or

9            (2) If the medical care documented in the record was provided under §  
10 20-102(c) or § 20-103(c) of the Health - General Article, the minor patient is notified.

11          (d) The notice under subsections (b) and (c) of this section shall:

12          (1) Be made by first-class mail to the last known address of the patient;

13          (2) Include the date on which the record of the patient shall be destroyed;  
14 and

15          (3) Include a statement that the record or synopsis of the record, if wanted,  
16 must be retrieved at a designated location within 30 days of the proposed date of  
17 destruction.

18          (e) After the death of a health care provider who was a sole practitioner, the  
19 administrator of the estate, or a designee shall:

20          (1) Forward the notice required in this section before the destruction or  
21 transfer of medical records; or

22          (2) Publish a notice in a daily newspaper that is circulated locally for 2  
23 consecutive weeks:

24                  (i) Stating the date that the medical records will be destroyed or  
25 transferred; and

26                  (ii) Designating a location, date, and time where the medical records  
27 may be retrieved, if wanted.

28                  **Article - Health Occupations**

29 1A-204.

30          (a) A majority of the full authorized membership of the Board is a quorum.

31          (b) The Board shall meet at least once every 3 months, at the times and places  
32 that it determines.

33          (c) Each member of the Board is entitled to:

34                  (1) Compensation in accordance with the [State] budget OF THE BOARD;  
35 and

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1 (2) Reimbursement for expenses [under the Standard State Travel  
2 Regulations, as provided in the State budget] AT A RATE DETERMINED BY THE  
3 BOARD.

4 (d) The Board may employ a staff in accordance with the State budget.

5 1A-206.

6 (a) There is an Acupuncture Board Fund.

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

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

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

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

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

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

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

23 (e) The legislative auditor shall audit the accounts and transactions of the Fund  
24 as provided in § 2-1215 of the State Government Article.

25 (F) (1) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE FUND.

26 (2) MONEYS IN THE FUND MAY BE EXPENDED ONLY FOR A LAWFUL  
27 PURPOSE AUTHORIZED UNDER THIS ARTICLE.

28 1A-302.

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

31 (b) The applicant shall:

32 (1) Be of good moral character;

33 (2) Be at least 18 years old;

34 (3) Demonstrate competence in performing acupuncture by meeting one of  
35 the following standards for [education, training, or demonstrated experience]

36 EDUCATION OR TRAINING:

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

3 1. Approved by the Maryland Higher Education Commission;

4 2. [Approved] ACCREDITED by the National Accreditation  
5 Commission for Schools and Colleges of Acupuncture and Oriental Medicine; or

6 3. Found by the Board to be equivalent to a course approved by  
7 the National Accreditation Commission for Schools and Colleges of Acupuncture and  
8 Oriental Medicine;

9 (ii) Achievement of a passing score [of at least 65 percent] on an  
10 examination that is:

11 1. Given by the National Commission for the Certification of  
12 Acupuncturists; or

13 2. Determined by the Board to be equivalent to the  
14 examination given by the National Commission for the Certification of Acupuncturists;

15 [(iii) Successful completion of an apprenticeship outside of the State  
16 consisting of at least 2,700 hours within a 5-year period under the direction of an  
17 individual properly approved by the other jurisdiction to perform acupuncture; or

18 (iv) Performance of the practice of acupuncture in accordance with the  
19 law of another jurisdiction or jurisdictions for a period of at least 3 years within the 5  
20 years immediately before application that consisted of at least 500 patient visits per year;  
21 and]

22 (4) DEMONSTRATE THE ABILITY TO COMMUNICATE IN THE ENGLISH  
23 LANGUAGE; AND

24 [(4)] (5) Meet any other qualifications that the Board establishes in  
25 regulations.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 1997.