

SENATE BILL 896

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2004 Regular Session
4r2917
CF 4r2734

By: **Senators Mooney, Harris, Hooper, Jacobs, Lawlah, and Munson**
Introduced and read first time: February 26, 2004
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Physicians - Practice of Medicine - Expert Witness Testimony**

3 FOR the purpose of altering the definition of the practice of medicine to include
4 testifying as or offering an opinion as a medical expert witness regarding certain
5 conduct in the course of a legal proceeding; and generally relating to testifying
6 as an expert witness as a practice of medicine for physicians.

7 BY repealing and reenacting, with amendments,
8 Article - Health Occupations
9 Section 14-101
10 Annotated Code of Maryland
11 (2000 Replacement Volume and 2003 Supplement)

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

14 **Article - Health Occupations**

15 14-101.

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

17 (b) "Board" means the State Board of Physicians.

18 (c) "Civil action" includes a health care malpractice claim under Title 3,
19 Subtitle 2A of the Courts Article.

20 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of
21 Maryland.

22 (e) "Hospital" has the meaning stated in § 19-301 of the Health - General
23 Article.

24 (f) "License" means, unless the context requires otherwise, a license issued by
25 the Board to practice medicine.

1 (g) "Licensed physician" means, unless the context requires otherwise, a
 2 physician, including a doctor of osteopathy, who is licensed by the Board to practice
 3 medicine.

4 (h) "Licensee" means an individual to whom a license is issued, including an
 5 individual practicing medicine within or as a professional corporation or professional
 6 association.

7 (i) "Perform acupuncture" means to stimulate a certain point or points on or
 8 near the surface of the human body by the insertion of needles to prevent or modify
 9 the perception of pain or to normalize physiological functions, including pain control,
 10 for the treatment of ailments or conditions of the body.

11 (j) "Physician" means an individual who practices medicine.

12 (k) "Physician Rehabilitation Committee" means the committee of the entity
 13 or entities with whom the Board contracts under § 14-401(e) of this title that
 14 evaluates and provides assistance to impaired physicians in need of treatment and
 15 rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or
 16 mental conditions.

17 (l) (1) "Practice medicine" means to engage, with or without compensation,
 18 [in medical]:

19 (i) IN MEDICAL:

20 1. Diagnosis;

21 [(ii)] 2. Healing;

22 [(iii)] 3. Treatment; or

23 [(iv)] 4. Surgery; OR

24 (II) IN TESTIFYING AS OR OFFERING AN OPINION AS A MEDICAL
 25 EXPERT WITNESS REGARDING THE CONDUCT DESCRIBED IN ITEM (I) OF THIS
 26 PARAGRAPH IN THE COURSE OF A LEGAL PROCEEDING.

27 (2) "Practice medicine" includes doing, undertaking, professing to do,
 28 and attempting any of the following:

29 (i) Diagnosing, healing, treating, preventing, prescribing for, or
 30 removing any physical, mental, or emotional ailment or supposed ailment of an
 31 individual:

32 1. By physical, mental, emotional, or other process that is
 33 exercised or invoked by the practitioner, the patient, or both; or

34 2. By appliance, test, drug, operation, or treatment;

35 (ii) Ending of a human pregnancy; and

1 (iii) Performing acupuncture.

2 (3) "Practice medicine" does not include:

3 (i) Selling any nonprescription drug or medicine;

4 (ii) Practicing as an optician; or

5 (iii) Performing a massage or other manipulation by hand, but by no
6 other means.

7 (m) "Related institution" has the meaning stated in § 19-301 of the Health -
8 General Article.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect October 1, 2004.