

# HOUSE BILL 304

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4lr1044  
CF SB 379

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By: **Delegate Reznik**

Introduced and read first time: January 21, 2014

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Acupuncture Board and State Board of Dietetic Practice – Action and**  
3 **Penalties for Violations of Practice Acts and Supervisory Authority of**  
4 **Acupuncturists**

5 FOR the purpose of authorizing the State Acupuncture Board to impose a penalty, not  
6 exceeding a certain amount, if the Board finds that there are grounds to take  
7 certain disciplinary actions against a licensee; providing that the penalty may  
8 be imposed instead of or in addition to taking the disciplinary actions; requiring  
9 the Board to adopt regulations to set standards for the imposition of the  
10 penalties and pay any money collected from the imposition of penalties into the  
11 General Fund of the State; authorizing the State Acupuncture Board and the  
12 State Board of Dietetic Practice to issue cease and desist orders or obtain  
13 injunctive relief for violations of certain provisions of law; authorizing a certain  
14 acupuncturist to provide supervision to an individual performing auricular  
15 detoxification, if the individual is licensed to practice clinical professional  
16 counseling; authorizing an action to be maintained in the name of the State or  
17 the State Board of Dietetic Practice to enjoin the unauthorized practice of  
18 dietetics or conduct that is a ground for certain disciplinary action; authorizing  
19 the action to be brought by certain persons; requiring the action to be brought in  
20 certain locations; providing that certain damage is not required for the action;  
21 providing that the action is in addition to and not instead of certain criminal  
22 prosecution or disciplinary action; providing that a person who violates certain  
23 provisions of law is subject to a civil fine not exceeding a certain amount to be  
24 assessed by the State Acupuncture Board or the State Board of Dietetic Practice  
25 in accordance with certain regulations; ~~requiring the State Acupuncture Board~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~and the State Board of Dietetic Practice to pay certain penalties into the Acupuncture Board Fund and the State Board of Dietetic Practice Fund correcting an obsolete cross-reference; 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

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-316(a)(1)(i)~~, 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           (1) INSTEAD OF PLACING THE LICENSEE ON PROBATION,  
2 REPRIMANDING THE LICENSEE, OR SUSPENDING OR REVOKING THE LICENSE;  
3 OR

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

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

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

10 1A-314.1.

11           THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN  
12 INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 1A-401 OR §  
13 1A-402 OF THIS TITLE.

14 1A-316.

15           (a) An acupuncturist licensed by the Board may provide supervision to as  
16 many individuals performing auricular detoxification as permitted by Board  
17 regulations, if each individual:

18           (1) Is:

19                           (i) An alcohol, substance abuse, or chemical dependency  
20 counselor who is:

21   1. Certified under Title 17, Subtitle 3 of this article to  
22 practice as a certified professional counselor–alcohol and drug, certified associate  
23 counselor–alcohol and drug, or certified supervised counselor–alcohol and drug; or

24   2. Licensed to practice clinical alcohol and drug  
25 counseling OR CLINICAL PROFESSIONAL COUNSELING under Title 17, Subtitle [3A]  
26 3 of this article;

27 1A-401.

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

30 1A-402.

1 (a) Unless authorized to practice acupuncture under this title, a person may  
2 not represent to the public, by description of services, methods, or procedures, or  
3 otherwise, that the person is authorized to practice acupuncture in this State.

4 (b) Unless authorized to practice acupuncture under this title, a person may  
5 not use the words or terms “acupuncturist”, “licensed acupuncturist”, “L.Ac.”, or any  
6 other words, letters, or symbols with the intent to represent that the person is  
7 authorized to practice acupuncture.

8 1A-403.

9 (A) A person who violates any provision of this subtitle is guilty of a  
10 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or  
11 imprisonment not exceeding 3 years or both.

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

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

17 5-101.

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

19 (b) “Board” means the State Board of Dietetic Practice.

20 5-401.

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

23 5-402.

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

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

32 5-403.

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

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

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

9           **5-404.**

10           THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN  
11 INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 5-401 OR §  
12 5-402 OF THIS SUBTITLE.

13           **5-405.**

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

16                   (1) THE UNAUTHORIZED PRACTICE OF DIETETICS; OR

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

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

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

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

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

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

25                   (1) RESIDES; OR

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.