

SENATE BILL 379

J2

4r2396
CF HB 304

By: **Senator Conway**

Introduced and read first time: January 23, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

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

28 BY repealing and reenacting, without amendments,

29 Article – Health Occupations

30 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.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2013 Supplement)

3 BY adding to
4 Article – Health Occupations
5 Section 1A–310.1, 1A–314.1, 5–404, and 5–405
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2013 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health Occupations
10 Section 1A–403 and 5–403
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2013 Supplement)

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

15 **Article – Health Occupations**

16 1A–101.

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

18 (d) “Board” means the State Acupuncture Board.

19 **1A–310.1.**

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

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

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

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

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

3 **1A-314.1.**

4 **THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN**
5 **INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 1A-401 OR §**
6 **1A-402 OF THIS TITLE.**

7 1A-401.

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

10 1A-402.

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

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

18 1A-403.

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

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

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

27 5-101.

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

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

30 5-401.

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

3 5-402.

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

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

12 5-403.

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

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

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

21 5-404.

22 THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN
23 INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 5-401 OR §
24 5-402 OF THIS SUBTITLE.

25 5-405.

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

28 (1) THE UNAUTHORIZED PRACTICE OF DIETETICS; OR

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

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

- 1 **(1) THE BOARD, IN ITS OWN NAME;**
2 **(2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR**
3 **(3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.**

4 **(C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE**
5 **COUNTY WHERE THE DEFENDANT:**

- 6 **(1) RESIDES; OR**
7 **(2) ENGAGES IN THE ACT SOUGHT TO BE ENJOINED.**

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

11 **(E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT**
12 **INSTEAD OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF**
13 **DIETETICS UNDER § 5-401 OF THIS SUBTITLE OR DISCIPLINARY ACTION UNDER**
14 **§ 5-311 OF THIS TITLE.**

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