

# SENATE BILL 50

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By: **Senator Conway**

Introduced and read first time: January 21, 2015

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Acupuncture Board – Disciplinary Procedures – Judicial Appeals and**  
3 **Prohibition on Stays**

4 FOR the purpose of prohibiting a hearing of charges filed by the State Acupuncture Board  
5 from being stayed or challenged by certain procedural defects; prohibiting an order  
6 of the Board from being stayed pending judicial review; authorizing the Board to  
7 appeal from any decision that reverses or modifies a certain order; clarifying the  
8 circumstances under which a person may take a direct judicial appeal; and generally  
9 relating to disciplinary procedures of the State Acupuncture Board.

10 BY repealing and reenacting, with amendments,  
11 Article – Health Occupations  
12 Section 1A–310 and 1A–311  
13 Annotated Code of Maryland  
14 (2014 Replacement Volume)

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

17 **Article – Health Occupations**

18 1A–310.

19 (a) Except as provided in the Administrative Procedure Act, before the Board  
20 takes any action under § 1A–309 of this subtitle, it shall give the individual against whom  
21 the action is contemplated an opportunity for a hearing before the Board.

22 (b) The Board shall give notice and hold the hearing in accordance with the  
23 Administrative Procedure Act.

24 (c) The individual may be represented at the hearing by counsel.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) Over the signature of an officer or the administrator of the Board, the Board  
2 may issue subpoenas and administer oaths in connection with any investigation under this  
3 title and any hearings or proceedings before it.

4 (e) If, after due notice, the individual against whom the action is contemplated  
5 fails or refuses to appear, the Board may hear and determine the matter.

6 (f) If, after a hearing, an individual is found in violation of § 1A-309 of this  
7 subtitle, the individual shall pay the costs of the hearing as specified in a regulation  
8 adopted by the Board.

9 **(G) A HEARING OF CHARGES MAY NOT BE STAYED OR CHALLENGED BY**  
10 **PROCEDURAL DEFECT ALLEGED TO HAVE OCCURRED BEFORE THE FILING OF**  
11 **CHARGES.**

12 1A-311.

13 (a) **(1)** [Except as provided in this section for an action under § 1A-309 of this  
14 subtitle, any] **ANY** person aggrieved by a final decision of the Board in a contested case, as  
15 defined by the Administrative Procedure Act, may [petition for judicial review as allowed  
16 by the Administrative Procedure Act] **TAKE A DIRECT JUDICIAL APPEAL.**

17 **(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL**  
18 **REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.**

19 [(b) Any person aggrieved by a final decision of the Board under § 1A-309 of this  
20 subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided  
21 by the Administrative Procedure Act.]

22 **(B) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING JUDICIAL**  
23 **REVIEW.**

24 **(C) THE BOARD MAY APPEAL FROM ANY DECISION THAT REVERSES OR**  
25 **MODIFIES ITS ORDER.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2015.