

POLICIES OF THE BOARD

ACUPUNCTURE ASSISTANTS

The Board was asked whether it was appropriate to allow students to act as assistants, giving them authority to take out needles and apply moxabustion. After a lengthy discussion, the Board agreed it was not appropriate to delegate this authority to students.

MINUTES-JULY 8, 2003

ACUPUNCTURE TREATMENTS AT HEALTH FAIRS

After the first treatment, a person becomes a patient, and requires that the following procedures be followed:

1. Informed consent form
2. History and evaluation
3. Follow up care
4. Treatment rendered in a private place
5. Record of individual is maintained for 5 years
6. HIPPA
7. Sanitation/hygiene
8. Contact information is provided in case of adverse reaction

MINUTES-MARCH 30, 2004

ADA Trainer

An auricular detox specialist can teach the didactic portion of the curriculum, but a Maryland licensed acupuncturist must conduct the supervision and teaching of needling.

MINUTES-MARCH 8, 2005

ADVERTISING PROTOCOL

When advertising in a local newspaper, telephone directory, on radio or television, please remember that you must list the **current** address and telephone number of your office(s).

Also, you may not express statements that:

1. Contain misrepresentation of facts;
2. Are likely to mislead or deceive the public because you only make partial disclosure of relevant facts;
3. Intend to create false or unjustified expectations of favorable results;
4. Do not fully disclose all relevant variables relating to fees;
5. Convey the impression that you could influence a public body, official, corporation or person for your patient;
6. Represent that you are willing to perform any procedure that is illegal under the laws or regulations of Maryland or the United States; or
7. Contain representations that an ordinarily prudent person would misunderstand or be deceived. **NEWSLETTER FALL 1998**

ANIMALS AND HUMANS IN THE SAME TREATMENT ROOM

Officials at the Maryland Department of Health and Mental Hygiene Epidemiology and Disease Control Program, **strongly recommend** that acupuncturists use separate treatment rooms. However, **there is no law** mandating this recommendation.

If an acupuncturist has no other option and must treat animals and humans in the same room, officials caution that proper hand-washing and disinfecting techniques be applied to avoid environmental exposure and risks. **NEWSLETTER SPRING 2002**

CEU COMPLIANCE

Extensions may be granted to those proving extreme hardship or illness. Licensees that have not complied will not be granted renewal and the applicant will have to later reinstate.

MINUTES-NOVEMBER 8, 2005

CEU PROVIDERS

The board voted unanimously to discontinue the approval of CEU providers; therefore, effective January 18, 2005, the Board would no longer approve continuing education courses. **MINUTES- JANUARY 18, 2005**

Effective January 18, 2005, the Board of Acupuncture will discontinue review and approval of individual providers of CEU programs. The Board is directing all interested CEU providers to contact the Maryland Acupuncture Society, MOMA, AAOM, AOMAlliance, NCCAOM, other recognized national organizations or schools to seek approval or sponsorship for their programs. **NEWSLETTER WINTER 2005**

CEU'S- CREDIT FOR TEACHING

Effective October 1, 2001, 15 hours of teaching acupuncture and related oriental medical therapies in an accredited school or in a program approved for acupuncture continuing education can be applied to the 40 hours of continuing education required by the Board every 2 years. **NEWSLETTER-WINTER 2005**

CONSULTATIONS FOR HERBS

Someone from Blue Cross and Blue Shield questioned whether consultations for herbs are within the Board of Acupuncture's scope of practice. The Board discussed the matter and directed Ms. Heisler to write back and state that consultations are within the Board's scope of practice as long as the consultation is for herbs. **MINUTES-NOVEMBER 9, 2004**

DISCIPLINARY INVESTIGATIONS COMPLIANCE

According to §1A-309 (15), a licensee **MUST** cooperate with a lawful investigation conducted by the Board.

When the Board is alerted that a licensee may be in violation of the disciplinary statute, the Board must determine whether the violation has occurred, and if so, what action must

be taken to protect the public. During an investigation, the Board may contact licensed acupuncturists as witnesses to assist in its investigation.

Historically, the Board has found that some licensees are unwilling to come forth with this information. Consequently, the Board has been forced to issue subpoenas in these cases.

In addition, some licensees may try to obstruct the truth or provide false information. This type of behavior has dire consequences and would warrant disciplinary action.

As a licensed acupuncturist, it is very important that you assist the Board when initially called upon in an investigation. If it is determined that you have obstructed the truth, withheld information, or have been unwilling to cooperate during an investigation, the Board may take disciplinary action against your license. **NEWS -FALL 2000**

ENGLISH-PATIENT RECORDS

Effective January 1, 2006, maintain all patients' records in English; and if requested by the Board, effective January 1, 2006, provide an English language translation of the records by a Board approved translator, at the licensee's expense, of records compiled prior to January 1, 2006. **NEWSLETTER SPRING 2005**

FOREIGN APPLICATIONS

Effective February 16, 2004, a regulation was adopted to have all foreign applications/transcripts reviewed by an outside agency – American Association of Collegiate Registrars & Admissions Officers (AACRAO). **MINUTES-MARCH 30, 2004**

HOMEOPUNCTURE

The Board received a letter regarding homeopuncture to question whether this practice fell within Maryland's scope of practice. The letter stated that an acupuncturist was arrested for performing this procedure in Canada.

The procedure involves dipping a needle into homeopathic remedies before inserting it into a patient. The Board felt that dipping a needle into a homeopathic remedy was not a form of oriental medicine and did not fall under the Board's scope of practice but because homeopathy is not within the bounds of acupuncture or oriental medicine, it is not an issue on which the Board can give an opinion. **MINUTES-SEPTEMBER 8, 1998**

LAB WORK

A licensee inquired whether she could ask patients to go to a laboratory for blood work and use the lab to prepare acupuncture treatment plans for her patients. The Board's Counsel stated that the Board's statute does not allow acupuncturists to make medical diagnoses. However, the acupuncturist can refer a patient to another health care provider to make the diagnosis and use that diagnosis to prepare treatment plans. **MINUTES-APRIL 26, 2000**

MANDATORY REPORTING REQUIREMENTS

One role of the Maryland Acupuncture Board is to assure quality health care provided by acupuncturists and to ensure that acupuncture licensees are competent to practice. To assist the Board in this role, the following regulation was promulgated:

10.26.03 Standards of Practice.

C. A licensee shall:

(8) Report to the Board or other appropriate authority conduct in the practice of acupuncture that indicates a violation of:

(a) This chapter;

(b) Health Occupations Article, Title 1A, Annotated Code of Maryland; or

(c) Other federal or State laws.

Although acupuncturists have a legal, ethical and professional duty to keep information about their patients confidential, there are certain circumstances under which they must report particular events or conditions to the Board.

As a licensed acupuncturist, you must notify the Board if you have reasonable grounds to believe that another acupuncturist has sexually abused or is mistreating a patient or has violated any sections of the Maryland Acupuncture Practice Act. If you obtain information from a patient about another health professional, you should advise the patient of your requirement to file the report.

Mandatory reporting is your exemption to standard health professional-patient confidentiality requirements. Breach of practitioner-patient confidentiality in these circumstances does not constitute professional misconduct. On the contrary, failure to report something that must be reported by law can result in charges of professional misconduct.

Most patients are afraid to report abuse due to retaliation. Mandatory reporting sometimes helps ease a patient's reluctance to report misconduct, since it becomes the practitioner's responsibility to report the misconduct to the Board.

It may help to clearly discuss the requirements and limitations of confidentiality and your legal responsibility for mandatory reporting at the beginning of your professional relationships. This may help a patient decide what he/she may wish to disclose.

NEWSLETTER-WINTER 2004

MEDICAL RECORD RETENTION

Question: May I charge patients when they request a copy of their medical records?

Answer: Yes you may charge for the copying of a medical record. A health care provider may require a person in interest or any other authorized person who requests a copy of a medical record to pay the cost of copying and postage for mailing.

Question: How long do I have to retain a patient medical record after the patient has died or ceased coming to my practice?

Answer: If the patient is an adult, you must retain the medical record for 5 years from the date the record was created. For a record created about a minor patient, the record must be maintained until the patient reaches the age of majority plus three years (i.e., $18 + 3 = 21$ years of age) or 5 years after the record was created, whichever is later.

Question: May I refuse to disclose a medical record to a patient, if the patient fails to pay for health care rendered by me?

Answer: No, you may not refuse to disclose a medical record because of the patient's failure to pay a medical bill from you. In addition, if you do not disclose the medical record for this reason, you could be found guilty of a misdemeanor and on conviction could be subject to a fine not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent conviction for this violation [Health General Article Section 4-309(d)].

Question: What is considered a "timely response" to a request for medical records?

Answer: An acupuncturist should mail a copy of the medical record within 21 business days. Maryland Code Annotated, Health General Article Section 4-309(a) states "a reasonable time but no more than 21 working days after the date a person in interest requests the disclosure."

Question: When a treating acupuncturist leaves an office/facility where she/he has treated patients and where the records are maintained, who keeps patient records-the acupuncturist or the office/facility?

Answer: Simply stated, it is the Board's position that original records remain with the office/facility. A patient certainly may authorize release of copies of the records to the treating acupuncturist, in which case a copy would be sent and the originals remain with the office. **NEWSLETTER SUMMER 2005**

NEUROFEEDBACK

The Board received a letter from an individual requesting permission to perform EEG Neurofeedback and EAV under the supervision of a licensed acupuncturist. After review, the Board determined by that these techniques should not be delegated. **MINUTES- JANUARY 14, 2003**

OMD

The Board discussed the issue at length. Mr. Serejski moved to allow an acupuncturist to use the title OMD behind his/her name if the acupuncturist earned a legitimate OMD

degree. However, it would be inappropriate of the acupuncturist to refer to or portray himself as a physician or medical doctor, especially in advertising. Ms. Lewis seconded the motion. The Board unanimously approved the motion. **MINUTES-MARCH 6, 2001**

PHYSICIANS ASSISTANTS

Can a physician assistant practice acupuncture without being licensed by the Acupuncture Board.? After review of the statute, Board Counsel concluded that a physician assistant could not practice acupuncture without an acupuncture license. **MINUTES-JULY 14, 1998**

REFUNDS POLICY

The Fee Schedule Regulation does not provide refunds for any fee. **MINUTES-JULY 9, 2002**

REINSTATEMENT

The regulation allows a 30-day grace period for late renewals with a late fee of \$100. It also imposes a more restrictive monetary penalty in that late applicants would have to pay the late fee, renewal fee and reinstatement fee.

MINUTES-MAY 14, 2002

The Board received a phone call from a former licensee wanting to reinstate her license. When the licensee was informed of the reinstatement procedures, she questioned whether she could apply as a new licensee. After consulting with legal counsel, the Board found that there is no legal restriction preventing a current licensee from applying as a new applicant in lieu of reinstatement.

To close the loophole, the Board changed its statute:

“A person who has been inactive over 6 years and can provide documentation of maintaining an active license and practice in another state shall pay the renewal fee but may be exempt from the reinstatement fee”. **MINUTES-NOVEMBER 4, 2003**

RENEWAL FORM - Question 4

Questions on the renewal forms have gone under intense scrutiny by the Office of the Attorney General in light of the Americans with Disabilities Act and are on all renewal forms for every Board. Anyone who lies about any one of these could be subject to disciplinary measures.

RESEARCH STANDARDS AND INFORMED CONSENT

Informed consent is needed before you may begin clinical research trials on patients. The purpose of informed consent is to allow patients to learn enough about the study to decide whether or not to participate. Informed consent for a research study should include the following information:

- Why the research is being done
- What the research hopes to accomplish

- A description of what will be done during the study and how long the patient is expected to participate
- The risks/adverse reactions the patient may encounter from participation in the study
- The benefits that the patient may expect from participation in the study
- Other treatments that are available if the patient decides not to participate in the study
- Verification that the patient has the right to leave the study at any time, and that standard treatment will be provided without penalty
- The possibility that the patient may be photographed, if appropriate;
- The possibility that data from the research study may be shared and provide a list possible recipients

SHAMANIC RITUALS

At its meeting on January 12, 1998, the Board issued a Declaratory Ruling stating that shamanism is not within the scope of acupuncture.

Shamanism is a spiritual phenomenon practiced in some form by numerous aboriginal hunting and gathering cultures, including those in North America, Asia, Africa and Europe. Traditional shamanism involved the practitioner entering an ecstatic trance in order to move the consciousness outside the body to contact the spirit world.

Post-shamanic practice incorporates traditional shamanic ritual and folklore into modern agricultural and manufacturing societies. In both traditional and contemporary shamanic practice, the shaman may serve as a healer, as well as priest or conduit with the spiritual world.

The shaman may use a variety of techniques, including chants, magical signs on the patient's body, herbal remedies, or contact with the spirit world, to heal an afflicted individual. In addition, a shaman may employ techniques to alter the consciousness of the client in order to effect healing of an affliction.

Based solely on these definitions, shamanism clearly falls outside the scope of practice. Even if the practice of shamanism might somehow involve normalizing or altering the energy flow in an individual's body in order to bring about healing or pain relief, it is not effected through the use of principles of traditional oriental medicine.

The Board has determined that integrating shamanism or shamanistic practices or rituals into his or her practice of acupuncture is inappropriate for an acupuncturist. Although the practice of shamanism is unregulated and acupuncturists licensed in Maryland have a right to perform other alternative therapies, they should not perform these therapies under the aegis of a Maryland acupuncture license.

A licensed acupuncturist engaged in shamanic ritual or practice has a professional obligation to adequately inform the public that such practices are outside the scope of the practice of acupuncture. Failure to do so may result in a finding that the acupuncturist has provided false and misleading information to the public.

To conclude, the practice of shamanism or use of shamanic ritual falls outside the scope of practice of acupuncture. While a licensed acupuncturist may practice other unregulated alternative therapies, the licensee may not mislead the public into believing that the state regulates such practices or are in any way connected to the practice of acupuncture from shamanic ritual or practice. **NEWSLETTER SPRING 1998**

SEXUAL MISCONDUCT

At no time would the Board consider it appropriate for a practitioner to establish an intimate relationship with a patient. An acupuncturist must maintain professional boundaries, even when the patient initiates crossing the boundaries during your professional relationship.

If a licensed acupuncturist and his/her patient mutually desire a personal relationship, the professional relationship must be terminated and the acupuncturist must refer the patient to another health care practitioner. Both parties must wait before engaging in an intimate relationship for a time when it is reasonably certain that the professional relationship will have no further influence on the personal relationship.

It is important to remember that a licensed acupuncturist should never exploit a relationship with a patient for his/her advantage, including a personal, sexual, romantic, or financial relationship. It is also unacceptable to engage in a sexually intimate act with a patient – at any time!

Warning signs of sexual misconduct may include:

- Excessive sharing of personal information
- Change of appointments to a social location
- Use of alcohol or drugs during treatment
- Constant questioning about sexual issues that are not related to treatment
- Requests for secrecy
- Physical contact or bodily exposure that is not part of acupuncture treatment
- Touching in a sexual manner

Always respect and maintain professional boundaries with your patients. Ensure that your patient is reasonably informed about treatments before they are rendered. Make sure that your patients are comfortable with the treatments and that you cause them no embarrassment. **NEWSLETTER-SPRING 2002**

STUDENTS PERFORMING ANIMAL ACUPUNCTURE

At its March meeting, the Board had reviewed the legality of Maryland Acupuncture schools offering courses in animal acupuncture to students and concluded that the legislation that allows for the practice of acupuncture on animals does not authorize this practice. **MINUTES-JULY 14, 1998**

STUDENTS NEEDLING IN CONTINUING EDUCATION WORKSHOPS

A licensee wrote to the Board requesting approval for students to attend a needling course she wanted to sponsor. The course was designed to teach softer insertion and would be conducted in a non-educational facility for continuing education purposes. The Board voted to deny student participation in the workshop. **MINUTES-JULY 13, 1999**

TAI CHI AND CHI GONG

The Board has decided that Tai Chi and Chi Gong are indeed within the scope of practice of the Maryland Acupuncture Practice Act. **CORRESPONDENCE-NOVEMBER 20, 2003**

ZERO BALANCING

Zero balancing would appropriately fall under §1a-101(2)(iii) Manual.....therapies only when performed in accordance with the principles of oriental acupuncture medical theories. **MINUTES-APRIL 26, 2000**