

SUMMER

2008

BOARD CONTACT NUMBERS

TELEPHONE:
410-764-4766

TOLL FREE:
1-800-530-2481

FAX:
410-358-7258

WEBSITE:

www.dhmh.state.md.us/bacc

ADDRESS

4201 Patterson Avenue
Baltimore, MD
21215
Room 320

Individual Highlights:

Online renewal

1

Advertising/Prepayment
Plans

2

Disciplinary Procedures

3 & 4

CEU's

5

Late, Inactive, Reinstate

6

Questions/MHCC

7

MARYLAND ACUPUNCTURE BOARD Newsletter

ONLINE RENEWAL

The Board of Acupuncture completed its first online renewal in May and found it to be completely successful. The Board recommends that all future licensees complete their renewals online as it automatically updates our databank system. This will ultimately remove staff error in updating your records. Sometimes paper applications are hard to read or the applicant will have forgotten to fill out part of the form.

The renewal instructions are easy to read and are posted on the website to facilitate a smooth transaction. If for some reason you are unable to complete your renewal online, you can always download the renewal form from the Board's website, under forms, and mail it with your check. Requests for paper applications can be called into the Board's office, or you may submit the request in writing via letter, email or fax.

There were a few minor complications with applicants logging on to the system. The majority of problems that we found during the renewal period were that applicants struck the letter "O" key instead of the zero key, making it impossible to log on. Applicants also called in to say that they did not know their password, which are the last 4 digits of your social security number. Other than that, the process went smoothly.

The Board hopes that you all favor the system and invite your comments or suggestions to make the process even better.

NEW BOARD OFFICERS

We are pleased to announce that at its May 2008 meeting, Tyme Gigliotti, L. Ac., was elected as the new Chair of the Board of Acupuncture and David Mercier, L.Ac. as its Vice Chair. Barbara Cronin will remain the Board's Secretary. Congratulations to our officers!

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:

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

If you are unsure about whether an advertisement you wish to publish is appropriate, please call the Board office for more information.

IMPORTANT

SUPERVISORS/EXPERT WITNESSES FOR DISCIPLINARY CASES

WANTED

The Board is looking for qualified Maryland acupuncture licensees to provide expertise in disciplinary cases, or to supervise licensees who have been disciplined and require supervision.

The Board is currently compiling a list of available supervisors/experts from which it can draw names as needed. Licensees with knowledge in boundary issues, professional conduct, sexual misconduct, herbal medicine, western medicine, acupuncture, oriental body works, and other oriental therapies, may apply. Applicants must have been in practice for a minimum of five years and must fill out an application provided by the Board.

Volunteers will be compensated at the rate of \$75 per hour. Supervisors will be compensated by the practitioner.

Feel free to call the Board to request an application for either placement.

PRE-PAYMENT PLANS

The Board is recommending that if a practitioner chooses to offer prepayment plans, he/she must carefully explain all terms and conditions to the patient. A contract should detail all terms and conditions of the prepayment plan and be signed by the patient. In addition to full disclosure to the patient of the nature and consequences of treatment, contract must outline payment terms stating exactly what monies will be reimbursed to the patient if the contract is broken, and whether the discounted price will be waived and full charges imposed. It must state whether there is a time limit to the contract. It must also clearly stipulate whether administrative charges will be imposed. If your patient can not make informed decisions on his own, or is a minor, be sure to attain the signature of his or her personal representative. As a rule, if it is not stated in the contract, it can not be imposed.

Please ensure that if your patient wishes to cancel treatment and requests reimbursement of unused payments, they should be paid back immediately. Failure to reimburse your patient or provide the proper informed consent may be considered a violation of the Maryland Acupuncture Practice Act and could lead to disciplinary action against your license.

DISCIPLINARY PROCEDURES

The Board's disciplinary procedures, including investigating complaints, filing charges, hearings, and disciplinary action, are established through the Acupuncture Practice Act, the Board's regulations, and other applicable Maryland laws, such as the Administrative Procedure Act and the Public Information Act. As the Board often receives inquiries concerning these procedures, the following summary explains those procedures.

Complaints and Investigations

Once a complaint is received by the Board, a delegated committee reviews the complaint and first determines whether the Board has jurisdiction over the matter. If the individual is not an acupuncturist licensed in Maryland, the Board may refer the matter to the Office of the Attorney General or to the State's Attorney for judicial action, including criminal prosecution.

If the subject of the complaint is an acupuncturist licensed in Maryland, the Board will review the complaint to determine if the conduct alleged violates any of the disciplinary grounds. If not, the case will be dismissed and no further action taken. If the conduct violates the Act, the Board may handle the matter informally, through an Advisory Letter or Letter of Education, or it may investigate the matter by referring it to an investigator assigned to the Board.

Typically, the investigator will procure relevant records and documents using the Board's subpoena authority and interview potential witnesses, including the complainant(s). After the investigation is complete, the investigator will prepare a written report, which the Board will review to determine whether to issue charges in the case.

Charges and Hearings

If the Board has reasonable cause to believe that the conduct alleged in a complaint or investigative report following the complaint violates the Act, the Board may vote to charge the licensee with those violations. After a vote to charge, the case is referred to the Office of the Attorney General for assignment of an administrative prosecutor. The prosecutor may conduct additional investigation and interviews. The prosecutor then drafts a formal charging document which notifies the licensee of the conduct the Board believes violates the Act, the specific provision(s) violated, and of the right to a hearing. The charging document is not a public document and may not be released by the Board without the licensee's permission.

A licensee who has been charged by the Board is strongly advised to retain legal counsel. Disciplinary action against a licensee may not only impact the acupuncturist's ability to practice in this State, but in other states as well.

The prosecutor may engage in settlement discussions with the licensee or his or her counsel. All licensees are offered the opportunity to appear before the Board's Case Resolution Conference Committee, composed of Board representatives, for an informal conference to discuss settlement of the case, without the necessity of proceeding to a hearing.

(CONTINUED ON PAGE 4)

DISCIPLINARY PROCEDURES (continued)

The licensee may be represented by counsel at the settlement stage. Any settlement reached would have to be subsequently accepted by the full Board. A settlement of the case results only if both the licensee and the prosecutor agree on its terms and it is approved by the Board. A settlement is typically memorialized in a Consent Order, which is a public document, as if the case had been formally adjudicated.

If no settlement of the case is reached, the licensee is entitled to a contested case hearing in which he or she may be represented by counsel, present evidence, call witnesses, challenge or rebut evidence put on by the prosecutor, and cross-examine prosecution witnesses. The hearing may be held either before the Board or before an Administrative Law Judge (ALJ), if the Board delegates the case to the Office of Administrative Hearings. In the latter case, after hearing the evidence presented by both sides, the ALJ prepares a proposed decision with proposed findings.

The ALJ's proposed decision may be challenged by either the licensee or the administrative prosecutor, and may file written exceptions to the proposed decision and responses to the other party's exceptions. If exceptions are filed, the parties may appear before the Board for a hearing on the exceptions, which are considered by the Board prior to its making a final decision.

Final Decision and Order

The Board's decision will be set out in a Final Order, which is typically a public document, available to any member of the public who makes a written request under the Maryland Public Information Act. The Final Order may also be submitted to a data bank to which the Board reports and from which licensing boards in other states may obtain notice and copies of the Board's Final Order.

The Final Order includes a procedural background, the Board's factual findings, conclusions of law based on those findings, and, if the Board has determined that the licensee's conduct has violated the Act, then an order taking some action against the license. The Board's Final Order will also apprise the licensee of his or her right to have the Board's decision reviewed by a court.

Judicial Review

A licensee who has been disciplined by the Board is entitled to have the Board's final decision reviewed by a Maryland Circuit Court. The Circuit Court will act as an appellate court and review the record of the proceedings and the Board's Final Order to determine whether the Board's factual findings are supported by substantial evidence in the record and whether it complied with the law in reaching that decision.

If the Circuit Court upholds the Board's decision, the licensee is also entitled to obtain review of that decision by the Maryland Court of Special Appeals, which is Maryland's intermediate appellate court. Review by Maryland's highest court, the Court of Appeals, is discretionary and that court may accept or decline jurisdiction over a case.

It is important to emphasize that the Board's proceedings outlined above, from the time a complaint is received until the Board issues its Final Order, may take months. Because the proceedings are confidential, the Board may not disclose information to a complainant, except for the status of the complaint, while these proceedings are pending. At the conclusion of the case, the complainant may obtain a copy of the Board's Final Order.

BOARD COMPOSITION

BOARD MEMBERS

CHAIR:

Tyme Gigliotti, L.Ac.

PROFESSIONAL MEMBER

VICE CHAIR:

David Mercier, L.Ac.

PROFESSIONAL MEMBER

SECRETARY:

Barbara Cronin

CONSUMER MEMBER

Steven Kaufman, L.Ac.

PROFESSIONAL MEMBER

Charles Griffin, Ed.D.

CONSUMER MEMBER

Grant Zhang, L.Ac.

PROFESSIONAL MEMBER

David Cai, L.Ac.

PROFESSIONAL MEMBER

STAFF

EXECUTIVE DIRECTOR:

Penny K. Heisler

heislerp@dhhm.state.md.us

ADMINISTRATIVE ASSISTANT

Cynthia Dobbins

dobbinsc@dhhm.state.md.us

BOARD COUNSEL

Richard Bloom, AAG

Continuing Education

The Board believes that the fulfillment of continuing education is a means for practitioners to stay current with acupuncture and oriental medicine profession which subsequently provides better services to patients.

The Board requires that for every two years of licensure, 40 hours of continuing education is earned for renewal. It is the responsibility of the licensee to maintain documentation of continuing education. Documentation is acceptable for the May or November 2-year cycle as follows:

	<u>Month of Expiration</u>	<u>Acceptable Dates for Documentation</u>
2008	November 2008	December 1, 2006 - November 30, 2008
	May 2009	June 1, 2007- May 31, 2009

Continuing education documentation must contain the following information in order to be acceptable to the Board.

- Must be on sponsor letterhead
- Must have the complete name of course
- Must have number of credit hours received
- Must have date(s) credit hours were received
- Must have signature of instructor

Please note that if you answered that you earned the required CEU's and you did not, you have falsified your application and may be subject to disciplinary action.

THE BOARD DOES NOT REQUIRE THAT YOU SUBMIT DOCUMENTATION OF CEU HOURS UNLESS YOU ARE SELECTED FOR AUDIT.

If you are selected for audit, the Board will request that you provide documentation of your hours with your renewal form. Documentation that does not contain the above information will be returned and if replacement documentation is not received, then licensure renewal will not be granted.

Licensees who have not met the continuing education requirement **due to extreme hardship** may request an extension of time to meet the requirement. A request for a time extension must be in writing to the Board, and must outline a plan for completing the requirement, and must be received by the Board prior to the deadline for expiration. The Board has sole discretion in granting/denying extension requests.

A licensee will not be renewed unless the continuing education requirement has been met. Licensees who fail to meet this requirement must apply for reinstatement.

The Board believes that careful oversight of its continuing education requirements is important in implementing its mission and goals. Continuing education is a means for practitioners to stay abreast of current knowledge, practices and regulations -- thereby providing better services to consumers.

VERIFICATION OF LICENSE REQUESTS

Verification of license to another state requires a written request to the board office. The fee is \$20.00, check or money order, made payable to the Maryland Acupuncture Board. Please ensure that the following information is provided with your request:

- Licensee's name
- The appropriate fee
- License number
- The appropriate state's mailing address

LATE RENEWAL, INACTIVE, REINSTATEMENT

What is the difference between a late renewal, being on inactive status and reinstatement?

LATE RENEWAL: A late renewal means that you have sent in your renewal application within a 30-day grace period after the expiration date of your license. If you file a late renewal, you will be required to pay a **\$100 late fee**. Please remember that a late renewal only applies if you submit your application and fee within 30 days after the expiration date.

PLEASE NOTE THAT IF YOU FAIL TO RENEW YOUR LICENSE ON TIME YOU MAY BE CONSIDERED PRACTICING WITHOUT A LICENSE AND MAY BE CHARGED IN VIOLATION OF THE MARYLAND ACUPUNCTURE PRACTICE ACT.

REINSTATEMENT: If you submit your renewal application more than 30 days **after** the expiration date, you will be required to **reinstate** your license. This means that you failed to renew within the 30-day grace period and will have to pay the renewal fee and a reinstatement fee of \$325. You will also have to provide proof of 40 hours of CEU's.

INACTIVE: Recommended for licensees who will not be practicing acupuncture in Maryland for more than 2 years. If you know that you will be out of state for a period or want to go on maternity leave, you may think about placing your license on **inactive** status. This process avoids the high cost and CEU penalties of reinstatement. To become inactive you simply complete an inactive application, pay a \$100 fee and request that you be placed on an inactive list. Upon your return to your Maryland practice, you can easily fill out a renewal form, pay the renewal fee and provide documentation of CEU's for a 2-year period. Inactive status is limited to a 6 year time period.

Board Meeting Schedule

The Board of Acupuncture traditionally meets on the second Tuesday of every other month, starting at 1:00 p.m. Scheduled months are September, November, January, March, May and July.

QUESTION: What kinds of complaints does the Acupuncture Board NOT handle?

The Acupuncture Board cannot:

- help a patient sue an acupuncturist for money
- handle a fee dispute between a patient and their acupuncturist
- resolve disputes about insurance reimbursement or get money back that an acupuncturist or patient may feel is owed to them
- discipline acupuncturists who are not licensed by the Maryland Acupuncture Board, but are licensed in another state
- discipline a health care practitioner that is licensed by another state agency such as a physician or chiropractor


IMPORTANT REMINDER

Maryland Health Care Commission User Fee

The Maryland Health Care Commission currently collects a user fee from eleven “health care practitioner” boards, insurance carriers and third party administrators. The Commission attaches their fee to Board renewal fees and collects the revenue at the end of the year in a lump sum.

Please note that this extra money is realized by the Commission, not the Acupuncture Board. The Commission extracts this extra revenue directly from the Board’s budget, in a lump sum, at the end of each fiscal year.

The Board of Acupuncture has incorporated this user fee in its renewal fee over the past 6 years, so you have probably not noticed that the extra fee was being accessed. However, due to budget constraints, the Board can no longer carry this fee separately and must tack on the additional \$ 29.50 to every renewal fee starting November 2007.



**MARYLAND
ACUPUNCTURE BOARD**
4201 Patterson Ave
Baltimore, MD 21215
Unit 252