

2017

# MARYLAND BOARD OF ACUPUNCTURE

## NEWSLETTER

### BOARD CONTACT NUMBERS

**TELEPHONE:**  
410-764-4766

**TOLL FREE:**  
1-800-530-2481

**FAX:**  
410-358-7258

**WEBSITE:**  
[https://  
health.maryland.  
gov/bacc/Pages/  
index.aspx](https://health.maryland.gov/bacc/Pages/index.aspx)

**ADDRESS:**  
4201 Patterson  
Avenue  
Baltimore, MD  
21215  
Room 311

### FAREWELL TO BOARD MEMBER

**Kate Carter, L.Ac.**

The Board bids farewell to Kate Carter for her eight years of dedicated service. Kate served as both Chair and Vice Chair and devoted many hours to resolve Board issues and to protect the interests of Maryland patients. The Board thanks Kate for her many years of service and wishes her well in her future endeavors.

### WELCOME NEW BOARD MEMBER

**Sherrie Black L.Ac., RN, Esq.**

Sherrie Black received a Diploma of Nursing from Allentown Hospital College of Nursing in 1966, and subsequently worked as a Registered Nurse for 7 years both at NYU Medical Center and NIH in critical care and oncology. In 1971, she obtained BA in Sociology from George Washington University, and thereafter obtained a law degree from American University, Washington College of Law. Sherrie spent the next 30 years as labor lawyer, serving as a mediator, litigator, and counsel for both federal and state government agencies.

Sherrie graduated from Maryland University of Integrative Health (formerly Tai Sophia) in 2005, and secured a Post-Masters Certification in Holistic Women's Health in 2014. She is a co-founding partner of East-West Healing Arts, LLC, a holistic healthcare practice in Crownsville, MD. She serves as adjunct faculty at MUIH, currently supervising students offering NADA protocol at various locations, including Howard Community College Student Wellness Center, which she was instrumental in establishing in 2006.

### NEW BOARD CHAIR AND VICE CHAIR

**Tom Ingegno, L.Ac. and Sheryl Hongersmeier, L.Ac.**

At its July 11, 2017 meeting, the Board approved Tom Ingegno, L.Ac. as its new Chair and Sheryl Hongersmeier, L.Ac. as its new Vice Chair. Congratulations to both!

### FREE CEU's OFFERED BY THE OFFICE OF MINORITY HEALTH DISPARITIES

The Maryland Department of Health's Office of Minority Health and Health Disparities provides free training on cultural competency for all health professionals. The Board of Acupuncture will accept up to 10 hours of cultural competency training for your CEU requirements.

The Office provides teaching tools on their website to improve cross-cultural communications skills, deliver culturally and linguistically appropriate healthcare services to diverse populations, and develop programs and policies to improve health outcomes and reduce health disparities.

Cultural competency is the ability of health organizations and practitioners to recognize individuals' cultural beliefs, values, attitudes, traditions, language preferences, and health practices and apply this knowledge to influence positive health outcomes. Health literacy is the degree to which individuals have the capacity to obtain, process, and understand basic health information and services needed to make appropriate health decisions. Health information can overwhelm even persons with advanced literacy skills.

To learn more about the Office of Minority Health and Health please visit their website at:  
<https://health.maryland.gov/mhhd/Pages/Cultural-And-Linguistic-Competency.aspx>

If you have questions regarding these classes, please contact the Office of Minority Health and Health directly at 410 767-6500 or toll free at 1-877-463-3454.

# Questions: Retention of Medical Records

## BOARD COMPOSITION

### BOARD MEMBERS

#### CHAIR:

Tom Ingegno, L.Ac.

PROFESSIONAL MEMBER

#### VICE CHAIR:

Sheryl Hongersmeier, L.Ac.

PROFESSIONAL MEMBER

\*\*\*\*\*

Teal Beatty, L.Ac

PROFESSIONAL MEMBER

Sherrie Black, L.Ac

PROFESSIONAL MEMBER

Peter Marinakis, L.Ac., PhD

PROFESSIONAL MEMBER

Jan Exler, M.Ed.

CONSUMER MEMBER

Barbara Heller

Ed.D., R.N., FAAN

CONSUMER MEMBER

\*\*\*\*\*

### STAFF

#### EXECUTIVE DIRECTOR:

Penny K. Heisler

penny.heisler@maryland.gov

#### ADMINISTRATIVE OFFICER:

Cynthia Dobbins

cynthia.dobbins@maryland.gov

#### INVESTIGATOR:

Danielle Vallone

#### BOARD COUNSEL:

David Finkler, AAG

### **1. May I charge patients when they request a copy of their medical records?**

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.

### **2. How long do I have to retain a patient medical record after the patient has died or ceased coming to my practice?**

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.

### **3. May I refuse to disclose a medical record to a patient, if the patient fails to pay for health care rendered by me?**

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)).

### **4. What is considered a "timely response" to a request for medical records?**

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."

### **5. 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?**

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

### **6. Can I keep medial records electronically and destroy the hard copies?**

Yes, you can keep your files solely electronic as long as you abide by the following:

If a medical record is kept in electronic form, a health care provider shall:

- Maintain or have access to compatible electronic hardware and software that will enable the health care provider to generate a legible copy of the record in order to comply with patient and governmental access needs; and
- Prepare and maintain a current back-up copy of electronic medical record files.

To find a complete regulatory reference on medical record keeping, please visit the Division of State Documents website:

[http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.01.16.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.01.16.*)

# 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.

## Questions: CEU Renewal Requirements

### 1. What are the renewal requirements?

You must earn 30 hours every two years (June 1-May 31) or (December 1-November 30)

Hours can be divided as follows:

- 20 hours must be in acupuncture and Oriental medicine.
- 10 hours may be in programs that are relevant to the practice.
- 10 hours are allowed for teaching
- 7 hours are allowed for pro bono work
- 4 hours are allowed for writing peer review articles

### 2. Can I renew online if I am audited for CEU's?

If you are audited for CEU's, you can still renew on-line. Simply complete the on-line renewal form in its entirety, and send in copies of CEU certificates, the same that you have listed on the on-line form. The CEU's listed on-line and the copies of certificates must match or the certificate(s) will not be accepted.

### 3. Can I use a credit card by phone or paper application?

The office cannot accept a licensee's credit card by phone or written on an application. The only acceptable method to charge is online renewal.

### 4. I did not pay my taxes. How will this affect my renewal?

If your tax payments are not current, the Board cannot issue a license to you until your taxes are paid or accounted for payment. Any renewal applicant who may owe outstanding taxes or unemployment insurance contributions should satisfy these debts before attempting to renew his or her license. If the debt cannot be satisfied, the applicant should contact the appropriate party (at the Comptroller's Office or at Labor, Licensing and Regulation) to work out a satisfactory payment plan. For questions or concerns regarding this matter, please feel free to call the Comptroller's Compliance Division at 410 974-2432 or toll-free at 1-888-674-0016, for further information.

### 5. Can I renew if I am in arrears in paying child support?

Under Family Law Article 10-119.3, the Child Support Enforcement Administration (CSEA) under the Department of Human Resources, is authorized to refer the names of delinquent payees to health professional licensing boards to request the suspension of their professional license. The CSEA will send notification to licensing boards when a practitioner is in arrears more than 120 days under the most recent court order. If payments are not made, practitioners could face suspension of their professional license or the denial of an initial application. Practitioners will have 15 days of the date of receiving the notice of referral to a licensing board to pay the arrears in full or request an investigation of the accuracy of the information contained in the notice.

# Procedures for Lost or Stolen Patient Files

The HIPAA Breach Notification Rule, 45 CFR §§ 164.400-414, requires that you and your business associates provide notification following a breach of unsecured protected health information.

## **Breach Notification Requirements**

Following a breach of unsecured protected health information, an acupuncturist must provide notification of the breach to your patients, the Secretary, and, in certain circumstances, to the media. In addition, business associates must notify patients if a breach occurs at or by the business associate.

## **Individual patient files**

An acupuncturist must notify patients following the discovery of a breach of unsecured protected health information. An acupuncturist must provide this individual notice in written form by first-class mail, or alternatively, by e-mail if the patient has agreed to receive such notices electronically. If the acupuncturist has insufficient or out-of-date contact information for 10 or more individuals, the acupuncturist must provide substitute individual notice by either posting the notice on the home page of its web site for at least 90 days or by providing the notice in major print or broadcast media where the patients likely reside. The acupuncturist must include a toll-free phone number that remains active for at least 90 days where individuals can learn if their information was involved in the breach. If the acupuncturist has insufficient or out-of-date contact information for fewer than 10 individuals, the acupuncturist may provide substitute notice by an alternative form of written notice, by telephone, or other means.

These individual notifications must be provided without unreasonable delay and in no case later than 60 days following the discovery of a breach and must include, to the extent possible, a brief description of the breach, a description of the types of information that were involved in the breach, the steps patients should take to protect themselves from potential harm, a brief description of what the acupuncturist is doing to investigate the breach, mitigate the harm, and prevent further breaches, as well as contact information for the acupuncturist (or business associate, as applicable).

## **Media Notice**

Acupuncturists that experience a breach affecting more than 500 patients are, in addition to notifying the patients, required to provide notice to prominent media outlets serving the State or jurisdiction. Covered entities will likely provide this notification in the form of a press release to appropriate media outlets serving the affected area. Like individual notice, this media notification must be provided without unreasonable delay and in no case later than 60 days following the discovery of a breach and must include the same information required for the individual notice.

## **Notice to the Secretary**

In addition to notifying patients and the media (where appropriate), covered entities must notify the Secretary of Health of breaches of unsecured protected health information. Covered entities will notify the Secretary by visiting the HHS web site and filling out and electronically submitting a breach report form.

## **Administrative Requirements and Burden of Proof**

Covered entities and business associates, as applicable, have the burden of demonstrating that all required notifications have been provided or that a use or disclosure of unsecured protected health information did not constitute a breach. Thus, with respect to an impermissible use or disclosure, an acupuncturist (or business associate) should maintain documentation that all required notifications were made, or, alternatively, documentation to demonstrate that notification was not required: (1) its risk assessment demonstrating a low probability that the protected health information has been compromised by the impermissible use or disclosure; or (2) the application of any other exceptions to the definition of "breach."

Covered entities are also required to comply with certain administrative requirements with respect to breach notification. For example, covered entities must have in place written policies and procedures regarding breach notification, must train employees on these policies and procedures, and must develop and apply appropriate sanctions against workforce members who do not comply with these policies and procedures.

## **FAILURE TO NOTIFY BOARD ON ADDRESS CHANGE**

**\$50.00 FINE**

Failure to notify the Board of a change in address will result in a \$50.00 fine. A change in your address can be submitted by mail or email or fax. Whenever the Board receives returned mail from the United States Postal Service, you will automatically receive a fine notice from the Board. Failure to pay the fine may result in disciplinary action against your license.

## **NAME CHANGE REQUESTS**

The Board will change a licensee's name only when a request is received in writing and proper **legal documentation** is attached (example: marriage/divorce certificate). Without this documentation, the Board will not reflect the change. Email requests for name changes will not be accepted.

**PLEASE DO NOT CALL THE OFFICE TO REQUEST ADDRESS OR NAME CHANGES.**

## **IMPORTANT**

### **DUPLICATE LICENSES**

The Board would like to remind licensees that you are **required to post an official license in every office, clinic, or practice setting in which you are working**. It is no longer permissible to post Xerox or scanned copies of your license in your office. The Board will furnish an official duplicate of license to any licensed acupuncturist who currently resides in Maryland, **free of cost**.

**The duplicate license request must be made in writing and an address must be given for each duplicate license requested.** Only one duplicate will be granted for each office. If at anytime a license is lost or destroyed, you may request a duplicate, in writing, stating the circumstance under which the license was lost or destroyed.

## **CODE OF ETHICS**

The Board believes that it is worthwhile to periodically review for licensees portions of its Code of Ethics, which can be found in the Code of Maryland Regulations COMAR 10.26.03.

The Board encourages licensees to familiarize and concern themselves with the Standards of Practice section under COMAR 1.26.03.03, which focuses on the welfare of the patient and professional conduct.

For instance, the regulation states that "a licensee may not:

- (1) Misrepresent the licensee's credentials, qualifications, or affiliations and shall attempt to correct others who misrepresent the licensee's credentials, qualifications, or affiliations;
- (2) Knowingly engage in or condone behavior which is fraudulent, dishonest, or deceitful, or involves moral turpitude;
- (3) Engage in a commercial activity which conflicts with the licensee's duties as a licensed acupuncturist;
- (4) Perform acupuncture on a patient if the contraindication against acupuncture treatment exists; or
- (5) Discriminate against a patient or a health care provider based on race, religion, age, gender, sexual orientation, national origin, or disability".

Also, the regulation states that "a licensee who suffers from a physical, mental, or emotional impairment, including chemical abuse, which impairs the licensee's ability to practice acupuncture, shall seek professional treatment and refrain from the practice of acupuncture until such time as the impairment no longer exists or reasonable accommodations can be made".

The entire Code of Ethics Regulation can be found on the following link:

**[https://health.maryland.gov/bacc/Documents/ethics\\_1208.pdf](https://health.maryland.gov/bacc/Documents/ethics_1208.pdf)**

# 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.

All meetings are held at 4201 Patterson Avenue in Baltimore, usually at 1 PM on the first floor.

These meetings are open to the public and you are encouraged to attend. Please call the Board before the meeting to confirm the proper time and room number.

# Professional Societies

The Board would like to remind all of its licensees that there are national and state acupuncture associations that serve to enhance your profession and work to promote the practice of acupuncture and Oriental medicine.

These societies advocate on your behalf on issues such as insurance coverage, national recognition, educational standards, and national/state laws and regulations.

---

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

