



# Deconstructing HB 374 / SB 370

(An argument **against** the bill. Speaking entirely for myself.)

Now that we have heard the arguments being used by HB 374 / SB 370's advocates, **the case against it** becomes even clearer. I would summarize it as follows:

## I. The bill's regulatory scheme is ill-founded

- A) Acupressure is not acupuncture; the Acupuncture Board's mandate is to regulate acupuncture, not all of East Asian medicine
- B) Legitimate scope of practice laws govern the objective *actions* a therapist can use. Law cannot reasonably dictate subjective *ideas* in a practitioner's head or the theoretical basis for them. Scopes of practice can overlap. Advocates suggest an interpretation of law that violates the First and Fourteenth Amendments
- C) Acupressure does not pose a threat to the public

## II. The bill will not effectively address the scourge of human trafficking

- A) Anti-trafficking efforts must be directed at **traffickers**, not wellness practitioners
- B) Acupressure is not unique in being exploited by bad actors
- C) This bill works against the interests of members of vulnerable populations who find low-barrier CAM therapies a valuable employment skill

**III. The bill is fundamentally flawed and should receive an unfavorable report from the committee. But if the committee is determined to issue a favorable report, I have some suggested amendments to mitigate the disaster.**

- A) Scope of practice
- B) Registering Acupressure
- C) Removing references to electromagnetic energy
- D) Punishing traffickers who use wellness for cover
- E) Protecting families

**IV. For context, it is important to be aware of the crisis in the acupuncture profession. This bill seems a panicked response to the "acu-pocalypse": schools are closing and acupuncturists are talking about the end of the acupuncture profession. Let's not let a way of thinking that has already almost destroyed one profession, destroy others.**

## I. The bill's regulatory scheme is ill-founded

### A. Acupressure is not acupuncture just because they share a basis in TCM theory, just as deep tissue massage is not surgery just because they share a basis in anatomical theory; the Acupuncture Board's mandate is to regulate acupuncture, not all of East Asian medicine

In the Senate hearing, the bill's sponsor **Senator Augustine** – almost certainly relying on **bad information provided to him by others** – wrongly claimed that

**“Acupressure is identical to acupuncture** in that it relies on the system of East Asian medical principles and theories indicating the application of pressure to mapped areas on meridians and acupoints...Acupressure is just one form of East Asian bodywork and therefore requires license [from the Acupuncture Board] to advertise and practice legally.”

The Senator also spoke of “the Board of Acupuncture’s mission to protect the public through the regulation of acupuncture and East Asian medicine”. But this is not the Board’s statutory mission; the board is an **acupuncture board, not a “Board of East Asian Medicine”**. It has no statutory authority to regulate East Asian herbal medicine or East Asian bodywork therapy.

The fact that acupressure and acupuncture share the points and meridians model doesn’t make them identical, any more than deep tissue massage and surgery are identical because they share an anatomical model. **This interpretation of statute flies in the face of decades of interpretation and application**, where it has been accepted practice – including at massage schools, in hospitals, and under continuing education requirements – for LMTs to practice and teach acupressure, shiatsu, tui na, and other forms of East Asian bodywork.

It should be noted that **the Acupuncture Board is already using this new aggressive and inaccurate interpretation** against the Washington Institute of Natural Medicine; the threat is real and does not originate with Senator Augustine.

**Acupressure and acupuncture are distinct practices.** As one example of many, the historical fact of the difference is illustrated by our ABT colleagues who practice **Jin Shin Do Bodymind Acupressure**. **"Bodymind acupressure" is a registered trademark** of the Jin Shin Do Foundation, registered in California in 1986, in the U.S. in 2007, and in Canada in 2015. It is **established under federal trademark law that acupuncturists do not have exclusive rights to the word "acupressure"**.

**Certifications like this, enforced via trademark law, are the appropriate way** for practitioners of professional forms of complementary and alternative medicine (CAM) like Jin Shin Do to separate themselves from simple “folk” forms learned in a weekend seminar.

**Just as you can learn CPR and first aid in a weekend (and I hope you will) and save lives, a person can learn some basic acupressure in a weekend and help people.** That training doesn’t

compare with the professional-grade training of an ABT, an LMT who adopts Asian modalities, or an acupuncturist; just as first aid training isn't first responder or EMT training. But **we can distinguish ourselves with voluntary certifications rather than licensure backed by incarceration and crippling fines.**

(This is also the way that practitioners of East Asian martial arts – an unregulated field with much more potential for harm than acupressure! – distinguish themselves. Anyone may open a karate dojo; but I am a **trademark licensee of a specific organization, and that is how I demonstrate my credentials.** It's also the way that my father, a "Realtor", separated himself from other real estate agents. **Trademark and the free market are sufficient for this.**)

As another example, the National Center for Education Statistics, part of the federal **Department of Education, recognizes acupressure** and Asian Bodywork as distinct from acupuncture.

<https://nces.ed.gov/ipeds/cipcode/searchresults.aspx?y=56&aw=acupressure>

And a **2025 bill in the Massachusetts legislature** (<https://www.billtrack50.com/billdetail/1865226>) properly defined "Asian Bodywork Therapy" as "the practice of Chinese bodywork lineages (Forms), such as **Acupressure, Shiatsu, or Tuina.** Asian Bodywork Therapy is one of the professional branches of Chinese Medicine nationally recognized by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)." While the bill does not seem to have gotten out of committee, I hope Maryland legislators can take this example from their peers as evidence of how inaccurate the claims of HB 374 / SB 370's advocates are.

## **B. Legitimate scope of practice laws govern the objective *actions* a therapist can use. Law cannot reasonably dictate subjective *ideas* in a practitioner's head or the theoretical basis for action. Scopes of practice can overlap. Advocates suggest an interpretation of law that violates the First and Fourteenth Amendments**

There are many ideas about what a human being is. Are we risen clay, or fallen from a divinely created origin? Is our fundamental nature physical or are we a vortex of energy and spirit? It is **virtuous for a healthcare practitioner to be familiar with different theories, perspectives, and models** of the human being and healthy functioning, and to apply them in their craft.

**It cannot be the case that if I press a point on the shoulder and call it a "trigger point" I am within scope of practice as a licensed massage therapist, but if I call it "Shoulder Well" I am not,** because of my thoughts, beliefs, and words.

If it is the argument of the bill's advocates that this is the current state of statute, then current statute is void for vagueness and in conflict with **First Amendment** free speech protections. I address this in the proposed amendments below.

It's also vague just what types of bodywork therapy the Acupuncture Board believes it has statutory scope to control. The AOBTA considers **traditional Thai bodywork** to be a form of ABT, and I've taken training in it at an AOBTA convention. Many more LMTs practice Thai bodywork than shiatsu, acupressure, or tui na. **Does the Board believe they have the power to criminalize Thai bodywork?**

The Japanese healing art of reiki purports to affect the same qi/ki energy as acupuncture does via the "laying on of hands", literally a "manual", "performed with the hands", therapy; **does the Board believe they have the power to criminalize reiki practitioners?**

I also know that there are licensed acupuncturists who are skeptical that acupuncture involves the "electromagnetic function" mentioned in statute, and believe in physiological explanations for acupuncture's effectiveness – perhaps involving fascia, cutaneo-visceral reflexes, nerves and dermatomes, subtle embryological connections, cell-to-cell signaling via connexon hemichannels, or the interstitium. I trust the Board would not attempt to **regulate the thoughts or beliefs** of acupuncturists about these theories.

They have no more authority to regulate the thoughts of a massage therapist who learns about TCM theory and uses it to inspire their use of manual therapies.

The use of manual therapies by both acupuncturists and massage therapists is merely an example of the common phenomenon of **overlapping scopes of practice**. From the furor this bill is already causing, it seems many massage therapists have no intention of abandoning this overlapping territory.

**Senator Lam's** cogent question in Tuesday's hearing pointed out that there is a **double standard** in the way that acupressure is proposed to be treated differently than other traditional bodywork therapies.

Proponents of this bill ask us to believe that it is fine for a massage therapist to become familiar with and apply to their practice, e.g., Ayurvedic theories, or the Polynesian theories behind Lomi-Lomi, but that one must become an licensed acupuncturist to learn about traditional or classical Chinese medicine.

This interpretation flies in the face of **Fourteenth Amendment equal protection**, one of the most glorious provisions of our Constitution.

I certainly do **not** believe any advocate of this bill is racist! But there seems to be a hangover of **anti-Asian racism in the historical context**, and that should be noted and addressed.

## **C. Acupressure does not pose a threat to the public**

As **Senator Kramer** pointed out in Tuesday's hearing, the force of state regulation – using fines or **incarceration** against people – is **justified only when there is a danger to the well being of the public**.

In terms of the danger posed, and thus the need for regulation, **acupressure is no different than reflexology**. Both are systems which work on fully clothed persons under a theory whereby pressure on one part of the body is claimed to affect a distal part of the body, including the internal organs. Both are

systems that can be practiced informally after minimal training, or as a dedicated skilled profession. **Both fall under the “laying on of hands” exemption to the statutory definition of massage therapy.**

**If one of these systems requires two years of graduate level work and training whose costs runs into six figures, they both do; if one does not, the other does not.**

Yet, in their testimony, proponents of the bill said **they worked with the Baltimore School of Reflexology**. They seem to be content to let reflexology be completely unregulated, while requiring a master's degree, a national certification exam, and a state-issued license to do acupressure, under penalty of \$50,000 fines and years of incarceration.

This is, bluntly, unreasonable; and I point out again the **Fourteenth Amendment equal protection** implications here.

(Indeed the history of acupuncture itself, brings into question whether even safely applying needling requires two years of graduate level work. The “Barefoot Doctors” who revived the Chinese medical tradition in the Maoist years, performing not only acupuncture but herbal medicine for their communities, had only a secondary school education and three to six months of training. Acupressure may well have over-regulated itself into an acu-pocalypse. We’ll return to that issue later.)

It is also noteworthy that proponents contacted reflexologists but not than professionally certified practitioners of the therapy they wish to regulate into oblivion – **the AOBTA, the professional organization for Asian Bodywork Therapists**. Whether that omission was rooted in ignorance about ABT, or a maneuver to keep potential opponents of the bill in the dark, **it is concerning. Nothing about us, without us!**

## **II. The bill will not effectively address the scourge of human trafficking**

I assure you, **NO ONE is more concerned and troubled by sex workers and sex traffickers using words like “acupressure” or “shiatsu” or “Asian massage” than Asian Bodywork therapists!**

There is nothing like getting a phone call on your shiatsu practice line at 10pm on a Friday night, with a man asking you, “How many girls do you have there?”, to highlight the problem. But with that said:

### **A. Anti-trafficking efforts must be directed at traffickers, not wellness practitioners**

It would seem common sense that the way to reduce criminal exploitation of vulnerable people is to **go after exploiters, not innocent wellness practitioners whose only "crime" is being in competition** with more well-connected practitioners. Nevertheless, it seems we must point it out here.

No one would suggest that the way to address **human trafficking in agriculture** – a very large problem – is to **make field hand get degrees or licenses**. Just so, the way to address human traffickers using holistic wellness as cover, is not to go after wellness practitioners.

Let's all – acupuncturists, ABTs, LMTs, and wellness practitioners whose work does not require licensing – go after these bastards together, rather than use them as an excuse to fight among ourselves.

## **B. Acupressure is not unique**

While proponents of this bill have brought in well-meaning and experienced anti-trafficking activists for cover, these activists seem to have fallen into the thought trap of the moral panic: something must be done about this terrible thing; this is something; therefore let us do this.

These activists are unfamiliar with the history of attempts to place overly burdensome regulations on healthcare and wellness providers. Faced with regulatory laws, bad actors – or good actors of a (small) libertarian bent, or with resources too limited to comply – **change just enough of their practice to avoid the legal definition**. (In fact I've read a claim that this is the origin of the word "shiatsu" in Japan, to get around regulation of anma!)

**Traffickers use acupressure for cover because it provides a pretext to operate a storefront where people can come and have private contact with others.** Should the term "acupressure" become unavailable to those enslaving people into sex work, **they will use other pretexts** and claim to be doing "reflexology". Should that be unavailable, they will claim to be doing "reiki", or "therapeutic touch", and so on. **You can't address that problem by outlawing or forcing into licensure any business that involves private contact with customers.**

(While some believers in technocratic bureaucracy may be tempted to try that route, they will discover the truth that Princess Leia spoke to Darth Vader: **"The more you tighten your grip, the more star systems will slip through your fingers."**)

## **C. This bill works against the interests of members of vulnerable populations who find low-barrier CAM therapies a valuable self-employment skill**

I am thinking specifically of a woman I know who escaped a murderous domestic violence situation and was homeless, and during this time practiced reiki for income. I am thinking of another woman I know who worked on Baltimore's infamous Block as a "dancer" where she was pressured to perform sex work, and who left that life in part by doing "spiritual healing" work.

**Low barrier CAM therapies** – a category which includes simple acupressure as "laying on of hands" exempt from licensure in the same way as reflexology or reiki – **allow people to quickly obtain a skill which they can put to work in formal or informal self-employment.**

(To be clear, I am neither endorsing nor condemning low-barrier CAM therapies. But what is clear is that **none of them pose a significant danger to the public**, while there is **definite harm – especially to vulnerable demographic groups – in criminalizing practitioners, imposing fines and incarceration.**)

### **III. I urge an unfavorable report from the committee, but suggest amendments to mitigate the disaster if it passes**

This bill is based on serious misunderstandings about acupressure, Asian Bodywork, and massage therapy. **I urge an unfavorable report from the committee.** But if the committee is determined to issue a favorable report, I am begging you on behalf of Asian Bodywork Therapists, massage therapists, our clients, and the people of Maryland, to include some **suggested amendments to mitigate the disaster.**

#### **A) Scope of practice**

One of **Senator Lam’s staffers** suggested that this provision of § 1A-102 would at least protect Licensed Massage Therapists:

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

But it seems to be the argument of the bill’s advocates that anyone who uses knowledge of East Asian Medicine is doing “acupuncture” and not their own occupation. I suggest adding clarifying language that this is not the case:

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article, **or to learn, make use of, or teach relevant elements of traditional East Asian medical practices in so doing, or to use the terms “acupressure”, “shiatsu”, “tui na”, “anma”, “amma”, “qi gong”, “Nuad Bo 'Rarn”, “Chi Nei Tsang”, or similar terms, as an accurate description of their work.**

I believe this would protect Asian Bodywork Therapists who have LMT status, and LMTs who learn Asian modalities. It still leaves Asian Bodywork Therapists who are not LMTs, and practitioners of what I’ve called above “folk” acupressure, in the lurch.

#### **B) Registering Acupressure**

I repeat that **there is no need to regulate acupressure** for public safety any more than reflexology is regulated. But if I have been unable to convince you of this fact, if the legislature is determined to do so, something like this seems the least harmful way:

**The Acupuncture Board shall register, at no cost and with no expiration, practitioners of acupressure who present to the Board evidence of at least 15 hours training from one of the following:**

- **a licensed healthcare professional including a physician, nurse, physical therapist, licensed acupuncturist, or licensed massage therapist;**
- **an instructor at an accredited school of one of these professions;**
- **a nationally credentialed provider of continuing education to one of these professions;**
- **or a Certified Practitioner, Registered Instructor, or Certified Instructor of the American Organization for Bodywork Therapies of Asia;**
- **or other body as the Board may name.**

**A person so registered may practice the “laying on of hands” therapies described in § 6-101(f)(3)(iii), including for remuneration, and may describe the practice as “acupressure”.**

**A person who is not so registered may not use the word “acupressure” to describe any work they do for remuneration, with a civil penalty of \$100 per instance for an unregistered provider, and a civil penalty of \$1000 per instance for any employer who employs or contracts with an unregistered provider to perform acupressure.**

**The Board may inspect the business location of any employer who employs or contracts with more than two persons engaged in providing acupressure for more than 20 hours a week, conduct private interviews with such providers regarding their employment conditions, and report to the local police or the Department of Labor any evidence of abuse.**

**Funds for this registration and related operations shall be allocated from the General Fund.**

This provides protections for those employed by others by allowing the Board to investigate suspected abusive practices, while leaving self-employed acupressure practitioners alone beyond filling out a form.

(I would be happy to have the Massage Board take the place of the Acupuncture Board here. **But I repeat that there is no need to regulate acupressure at all.**)

## C) Removing references to electromagnetic energy

The bill makes reference to “electromagnetic or energetic function”; the existing language of § 6-101(f)(3)(iii) (the “laying on of hands” exception in massage law) similarly refers to “electromagnetic energy or energetic field”.

Giovanni Maciocia’s classic textbook *The Foundations of Chinese Medicine* notes that the term “qi” is “so particular to Chinese Medicine as to be nearly impossible to translate.” Qi/ki is a functional phenomenon, “energy” is a questionable translation of it, and claiming it to be “electromagnetic” may very well be a wrong hypothesis.

There is no reason to introduce this problematic notion into §1A-101; changing § 6-101(f)(3)(iii) to read “**to specifically affect the nervous system, reflexology systems, or the theoretical energies of various traditional medical systems**” would be clearer and more explicitly include reflexology, and traditional medicine systems from cultures other than East Asia, on an **equal basis**.

## D) Punishing traffickers who use wellness for cover

Traffickers use acupuncture for cover because it provides a pretext to operate a storefront where people can come and have private contact with others. The proper course to fight this is to **amend Criminal Law code, § 11-304** to include additional penalties for those who “receive or acquire money or proceeds from the earnings of a person engaged in prostitution” under such cover. I would add something like:

**(d) A person who violates this section while claiming or advertising that the person engaged in prostitution, is engaging in any healthcare, wellness, or health promoting practice**

- **whether such practice does or does not require state licensure**
- **including but not limited to acupuncture, massage, acupuncture, bodywork, reiki or other therapies commonly known as “energy work”, yoga, qi gong, personal athletic training, assisted stretching, therapeutic touch, aesthetician services, or cosmetology services**

**is, in addition to the penalties of part (b), subject to imprisonment not exceeding X years or a fine not exceeding \$Y,000 or both.**

## E) Protecting families

As the Acupuncture Board seems to be on a criminalization tear, I respectfully ask the committee to add language **protecting the use of traditional medicine in the home** as § 1A-102(e):

**(e) Nothing in this title shall be taken to criminalize the use of traditional medical therapies for self-care, or for care of those living in the same household.**

## IV This bill seems a panicked response to the “acu-pocalypse”

I consider acupuncturists senior colleagues in applying the traditional medical theories of East Asian medicine. My life was changed by acupuncture, and that is what led me to Asian Bodywork Therapy. I have learned TCM theory from acupuncturists and studied forms of bodywork from those who combine it with acupuncture. I am a booster and a fan, and not uncommonly refer clients to acupuncturists.

I regret finding myself on the opposite side of this issue as some acupuncturists – but I am grateful for the support of those who have already joined the fight against this bill.

To speak bluntly, **the acupuncture profession has already raised too many barriers to practice, and now faces an “acu-pocalypse”**. They will not escape it with classist elitism, or anti-competitive legislation. or by **applying the same ideas that wrecked their own profession to other professions**.

As Lisa Rohleder of the blog “**Acupuncture Can Change the World**” at <https://workingclassacu.substack.com> writes,

I’m not sure the acupuncture profession really wants to survive and I doubt that it’s willing to prioritize the lowest common denominator. In my experience the acupuncture profession is allergic to everything low and common.

...

Another term for “prioritizing the lowest common denominator” is *being inclusive*.

...

The core problem that the acupuncture profession is facing is that, as one person working on a Borrower’s Defense application put it, “you can’t earn enough money with the education you get at an acupuncture school to pay back the loans it costs to go there.” – “*On Shame and Class and the Acupocalypse*”, <https://workingclassacu.substack.com/p/on-shame-and-class-and-the-acupocalypse>

**This bill is literally the opposite of inclusive**; and people with basic training in acupressure from a weekend seminar, whom the bill’s advocates railed against, are the “lowest common denominator” in the practice of East Asian traditional medicine.

**You can learn CPR and first aid in a weekend, and save lives.** That doesn’t make you an EMT or a physician, but it is good! **You can learn some basic acupressure in a weekend and help people** – that’s how wonderful this work is. That training doesn’t compare with the professional-grade training of an ABT, an LMT who adopts Asian modalities, or an acupuncturist, but it is **a good thing...unless one’s primary concern is blocking competition**.

Using **fines and incarceration** to keep people without graduate degrees from using the ideas of traditional East Asian medicine, is not going to help acupuncturists. **Inclusivity, not exclusivity**, is the way forward.

Let's make Maryland a model by adopting inclusivity as our watchword as we share the benefits of the rich East Asian medical tradition with the world.