

California Acupuncture Board Meeting

March 22, 2024



Board Members

John Harabedian, Esq., President
Dr. Yong Ping Chen, L.Ac., Ph.D, Vice President
Hyun "Francisco" Kim, M.S., L.Ac.
Dr. Shu Dong Li, Ph.D
Dr. Amy Matecki, M.D., L.Ac.
Ruben Osorio



Board Meeting Agenda



1625 North Market Blvd., Suite N-219
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



**CALIFORNIA ACUPUNCTURE BOARD
FULL BOARD MEETING NOTICE AND AGENDA**

Friday, March 22, 2024

9:00 a.m. to 5:00 p.m. or upon completion of business

Physical Address:

1625 North Market Blvd., Suite 102
Sacramento, CA 95834

Remote Access:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mc005c9140280139f768914abe94fc61e>

If joining using the link above

Webinar number: 2485 821 9286

Webinar password: ACU322

If joining by phone

+1-415-655-0001 US Toll

Access code: 2485 821 9286

Passcode: 228322

The California Acupuncture Board will host an in-person meeting at the above time and address, pursuant to Government Code, sections 11122.5 and 11123, subd. (a).

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA.

Members of the Board

John Harabedian, Esq., President

Dr. Yong Ping Chen, L.Ac., Ph.D, Vice President

Dr. Amy Matecki, M.D., L.Ac.

Hyun "Francisco" Kim, M.S., L.Ac.

Dr. Shu Dong Li, Ph.D

Ruben Osorio

- 1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, President)**
- 2. President's Remarks (Harabedian)**
- 3. Review and Possible Approval of Board Meeting Minutes for October 26, 2023 (Harabedian)**

4. Executive Management Report

- (A) Budget Update
- (B) Licensing Report Q2 2023-24
- (C) Enforcement Report Q2 2023-24

5. Legislative Report (Brothers)

- (A) Bills of Interest to the Board Introduced in 2024
 - i) [AB 2269](#) (Flora) Board membership qualifications: public members
 - ii) [AB 2862](#) (Gipson) Licenses: African American applicants
 - iii) [SB 1067](#) (Smallwood-Cuevas) Healing arts: expedited licensure process: medically underserved area or population

6. Regulatory Report (Brothers)

- (A) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure (Title 16 CCR section 1399.469)
- (B) Section 100 Amend and Repeal Curriculum and Educational and Training Regulations (Title 16 CCR sections 1399.415, 1399.438 and [*heading (TBD) of Article of 3.5*])
- (C) Align Curriculum Standards and Approval Related Regulations with Statute (Title 16 CCR sections 1399.434, 1399.435, 1399.437 and 1399.439)
- (D) Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service (Title 16 CCR sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, and 1399.416.4, 1399.417 and 1399.419)
- (E) Application for Retired Status; Retired Status (Title 16 CCR section 1399.419(3) and 1399.460)
- (F) Continuing Education: Law and Ethics Requirement (Title 16 CCR sections 1399.483 and 1399.489)
- (G) Standards of Practice for Telehealth Services (Title 16 CCR section 1399.452.1)
- (H) Hand Hygiene Requirements (Title 16 CCR section 1399.451)

7. Discussion and Possible Action to Consider Adoption of Proposed Clarifying Amendments Identified by Office of Administrative Law Relating to Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service Rulemaking (16 CCR sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, and 1399.416.4, 1399.417 and 1399.419)

8. Discussion and Possible Adoption of Continuing Education: Law and Ethics Requirement Rulemaking (16 CCR sections 1399.480, 1399.489 and 1399.489.1, Including Consideration of Comments Received) (Brothers)

9. Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Establish Section 1399.419(3) in Title 16 of the California Code of Regulations: Application for Retired Status; Retired

Status; Restoration (Brothers)

- 10. Review and Possible Action on the Board's Draft Strategic Plan (Bodea)**
- 11. Review and Possible Action on the Board's Administrative Manual (Bodea)**
- 12. Public Comments for Items Not on the Agenda (Harabedian)**

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)
- 13. Future Agenda Items (Harabedian)**
- 14. Adjournment (Harabedian)**

Informational Notes:

Discussion and action may be taken on any item on the full board meeting agenda. The agenda, as well as any available Board meeting minutes and materials, can be found on the California Acupuncture Board website: www.acupuncture.ca.gov.

The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting at: <https://thedcapage.wordpress.com/webcasts/>.

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please attend at a noticed location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact the Board at (916) 515-5200; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

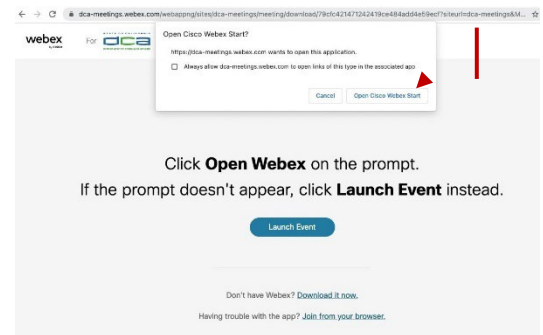
Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

If joining using the meeting link

1 Click on the meeting link. This can be found in the meeting notice you received.

2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click “Open Cisco Webex Start” or “Open Webex”, whichever option is presented.

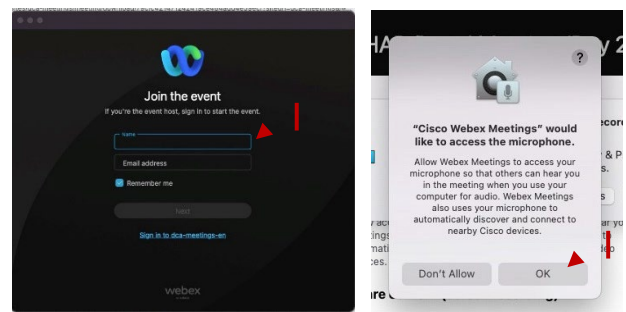
DO NOT click “Join from your browser”, as you will not be able to participate during the meeting.



3 Enter your name and email address.

Click “Join as a guest” .

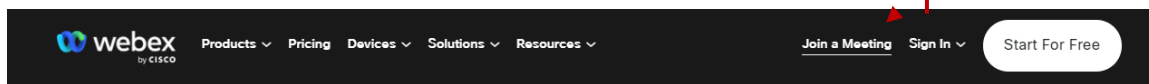
Accept any request for permission to use your microphone and/or camera.



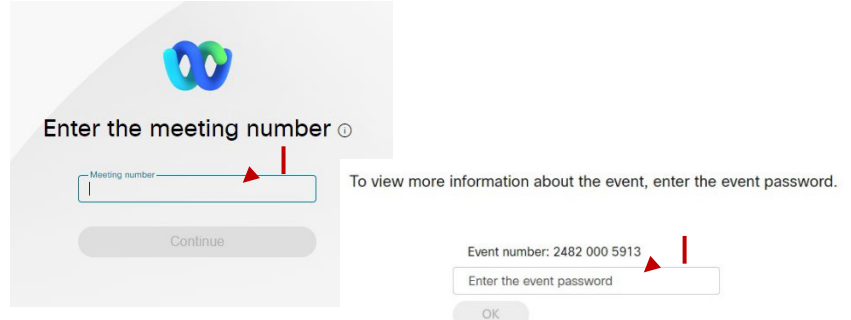
OR

If joining from [Webex.com](https://www.webex.com)

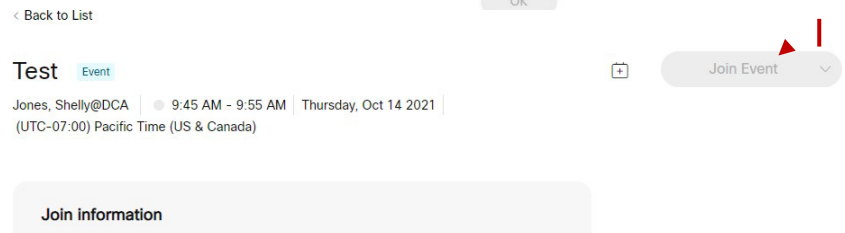
1 Click on “Join a Meeting” at the top of the Webex window.



2 Enter the meeting/event number and click “Continue” . Enter the event password and click “OK” . This can be found in the meeting notice you received.



3 The meeting information will be displayed. Click “Join Event” .



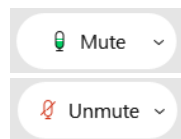
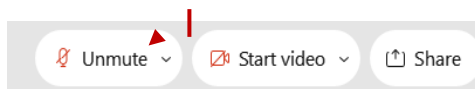
OR

Connect via telephone:

You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

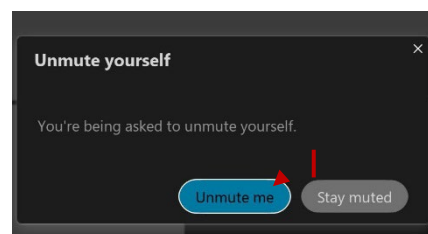
Microphone control (mute/unmute button) is located on the command row.



Green microphone = Unmuted: People in the meeting can hear you.

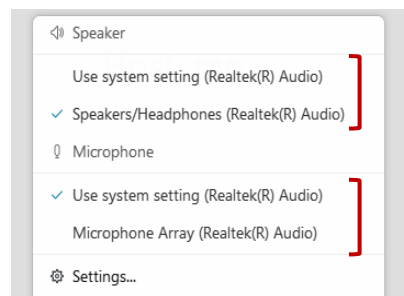
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on “Unmute Me”.



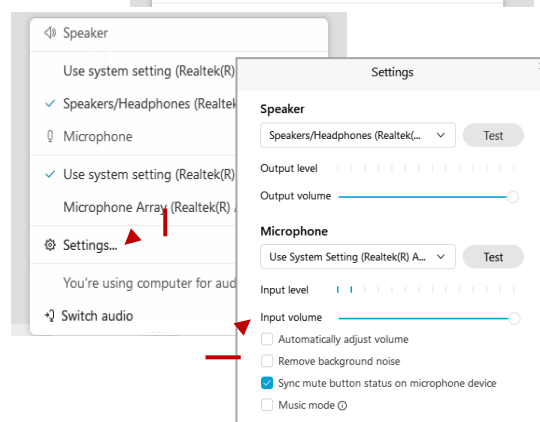
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

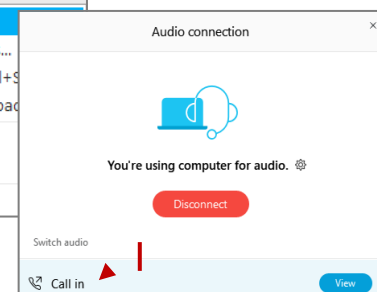
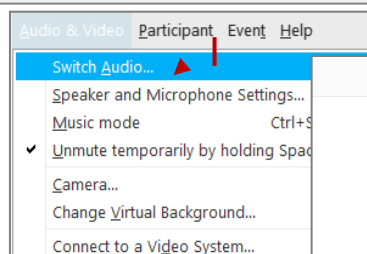
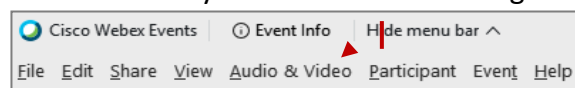
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on “Settings...”:
 - Drag the “Input Volume” located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through webex. Your phone will then become your audio source during the meeting.

- 1 Click on “Audio & Video” from the menu bar.
- 2 Select “Switch Audio” from the drop-down menu.
- 3 Select the “Call In” option and following the



directions.

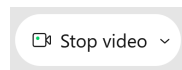
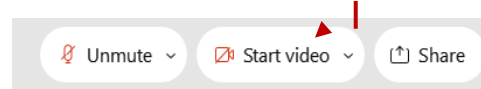
Webex QuickStart

Web Camera

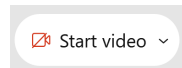
Web Camera

Only panelists (e.g. staff, board members, presenters) can access the web camera feature.

Camera control (Start Video/Stop Video button) is located on the command row.



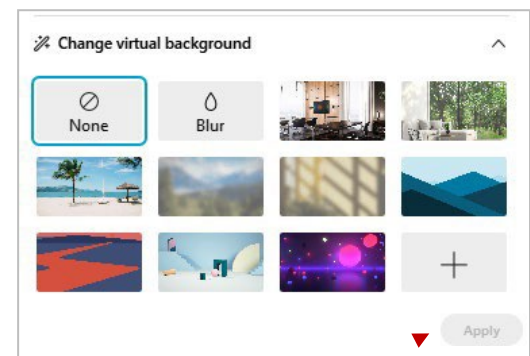
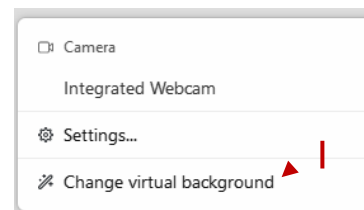
Green dot in camera = Camera is on: People in the meeting can see you.



Red dot in camera = Camera is off: No one in the meeting can see you.

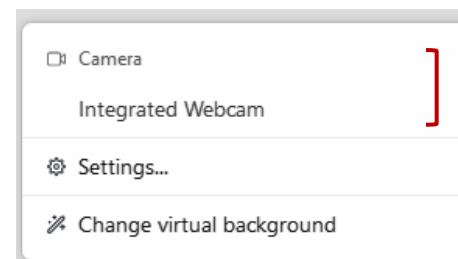
Virtual Background

- 1 To access virtual backgrounds, click on the bottom facing arrow located on the video button.
- 2 Click on "Change Virtual Background".
- 3 From the pop-up window, click on any of the available images to display that image as your virtual background and click "Apply".



If you cannot be seen

- 1 Locate the command row – click on the bottom facing arrow located on the video button.
- 2 From the pop-up window, select a different camera from the list.





**3 - Board Meeting
Minutes 10/26/23**



BOARD MEETING MINUTES October 26, 2023

LOCATION:

1747 North Market Boulevard
Suite 186
Sacramento, CA 95834

Remote Access via Web Ex Teleconference

Staff Present

Benjamin Bodea, Executive Officer
Ryan Marcroft, Legal Counsel
Brennan Meier, Legal Counsel
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager
Kristine Brothers, Policy Coordinator

Members of the Board

John Harabedian, Esq. President
Dr. Yong Ping Chen, Ph.D., L.Ac., Vice President
Hyun “Francisco” Kim, M.S., L.Ac.
Shu Dong Li, Ph.D.
Dr. Amy Matecki, M.D., L.Ac.
Ruben Osorio

Item 1 – Call to Order, Roll Call, and Establishment of Quorum

Meeting commenced at 9:05 a.m.

Roll call taken. All members present. Quorum established.

Item 2 – President’s Remarks

Board President John Harabedian (Harabedian) welcomed members, staff, and the public to the meeting.

Executive Officer Benjamin Bodea (E.O. Bodea) requested that agenda Items 10 and 9 be moved up in the agenda. Hearing no objections from the board members and the public, the request was accommodated.

Item 10 – Closed Session

The California Acupuncture Board (Board) convened to a closed session to confer with and receive advice from legal counsel and deliberate regarding the following matter:

A.F. Rothschild Fund v. Harabedian, et al.; San Mateo County Superior Court, Case No. 23-CIV-00708

Item 3 – Review and Possible Approval of Board Meeting Minutes for April 7, 2023

Board members reviewed the minutes from the April 7, 2023, meeting.

MOTION

Board Member Matecki motioned to approve the April 7, 2023 meeting minutes.

Vice President Chen (VP Chen) seconded.

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0

Motion Passes

Public Comment

A public comment was made requesting a public commenter be identified in meeting minutes during board meetings.

Item 4 – Review and Possible Approval of Board Meeting Minutes for June 23, 2023

Board members reviewed the minutes from the June 23, 2023, meeting.

MOTION

Board Member Osorio motioned to approve the June 2023 meeting minutes.

Board Member Kim seconded.

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0

Motion Passes

Public Comment

A public comment inquired how comments in future agenda items can be included on upcoming board meetings.

Item 9 – Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

Policy Coordinator Kristine Brothers (Brothers) gave a brief background of the memo. The package incorporates three different bills: SB 1441, which is the actual uniform standards related to substance-abusing licensees; SB 1448, which is a mandatory probation status disclosure; and AB 2138, which deals with denial of applications and criminal convictions. The Board last reviewed the proposed language to update the disciplinary guidelines and implement the uniform standards during the December 2020 Board meeting. Amendments to the proposed language establish a presumption that the licensee is a substance-abusing licensee if the conduct is found to be a ground for discipline which involves drugs and/or alcohol. This gives notice to the licensee that they have the burden of rebutting that presumption. The Quarterly Report Form was also incorporated in the language. Finally, changes were made to improve the document as a whole.

MOTION

VP Chen moved to rescind the Board's December 2020 order to initiate a rulemaking for this proposal, relating to Articles 6.1, 6.2, and section 1399.469 of the California Code of Regulations (CCR), Title 16, and approve new Articles 6.1, 6.2, and the newly proposed regulatory text for section 1399.469, including the incorporated disciplinary guidelines and quarterly report presented at this meeting. The Board authorizes initiation and possible adoption of new text as follows:

Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer and Board staff to take all steps necessary to complete the rulemaking and amend section 1399.469 and adopt new Articles 6.1 and 6.2 of Division 13.7 of Title 16 of CCR as noticed.

Board Member Kim seconded.

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

Public Comment

A public comment was made asking if the Board has a process on how to disseminate the updated disciplinary guidelines and implementation of the uniform standards.

E.O. Bodea replied that the Board will be posting an update on the Board's website about the recently approved regulations. The Board will also be sending out email notifications to licensees as well as external stakeholders who are subscribed to the Board's mailing list, and a notification by postal mail to the licensee's address of record.

Item 5 - Executive Management Report

(B) Budget Update

Sarah Hinkle from the Budget Office presented the Board's fund condition and expenditure projections reporting that the Board is spending well within its authorized budget. The Budget Office will continue to monitor the Board's revenues and expenditures and report back to the Board with the expenditure projections as they continue to close fiscal months in the current fiscal year. Sarah also noted that one of the main factors driving the expenditure increase in future years is personal service adjustments which includes general salary increases as well as employee compensation and retirement rate adjustments.

Board Member Matecki inquired about the decline of total revenue, transfers, and other adjustments. E.O. Bodea responded that the Board is monitoring the situation since the economy is volatile.

Board Member Osorio asked why revenue from renewal fees went down. E.O. Bodea answered the projection shows to have less renewals because there were less exam and license applicants in the past few years.

(A) Strategic Plan Announcement

E.O. Bodea reported that the Board has received the results of the Strategic Plan Environmental Survey and thanked the stakeholders that participated. The Strategic Plan Meeting is scheduled for the following day, October 27, 2023.

(C) Licensing Report Q4 FY 2022-23

Licensing Manager Jay Herdt (Herdt) reported the data for Licensing, Continuing Education, Tutorial, and Training Programs.

(D) Licensing Report Q1 FY 2023-24

Mr. Herdt reported the data for Licensing, Continuing Education, Tutorial, and Training Programs.

Mr. Herdt added that exam retakers are now allowed to retake the California Acupuncture Licensing Exam 120 days from failure of the test rather than the previous 180 days.

Board Member Osorio inquired why many active practitioners do not have a wall license. Mr. Herdt responded that it is a concern and the Board plans to do a significant outreach to the licensees.

(E) Enforcement Report Q4 FY 2022-23

E.O. Bodea reviewed the complaints/convictions and investigations data for quarter four of 2022-23 Fiscal Year (April 1 – June 30, 2023).

(F) Enforcement Report Q1 FY 2023-24

EO Bodea reviewed the complaints/convictions and investigations data for quarter one of 2023-24 Fiscal Year (July 1 – September 30, 2023).

Public Comment

A public comment was made asking why a course is being denied and if the implementation of the wall license is achieving its purpose. The commenter also asked guidance on what constitutes incompetence or negligence.

Another public comment was made suggesting that there should be a mechanism in place where a licensee's status should not be cancelled if the licensee passes away and the relatives fail to notify the Board.

E.O. Bodea replied to the first comment by describing the complaint process that involves incompetence by licensees. E.O. Bodea responded to the second comment maintaining that by operation law, when a license is not renewed within three years from expiration, the license cancels.

President Harabedian thereafter asked for an example of incompetence and unprofessional conduct. Ms. Brothers explained Board staff uses the enforcement section of the laws and regs, specifically Section 4955, 4955.1, and 4955.2 as guide in categorizing cases. Furthermore, the categorization of cases may change during the investigation process.

A follow up public comment was made asking for guidance on a possible abandonment scenario and other instances that may constitute a violation. VP Chen and Member Osorio proposed continuing education regarding laws and ethics may be utilized to further educate licensees on unprofessional conduct and negligence. Board Member Li suggested that licensees may also take a more proactive role.

The Board recessed from 10:53 a.m.-11:05 a.m.

Item 6 - Legislative Report

Ms. Brothers provided a report to all the bills that the Board has been tracking over the past year. Seven bills were chaptered.

- AB 1264, the Board's Sunset Bill.
- SB 544, Bagley-Keene Open Meeting Act: teleconferencing;
- AB 883, Business licenses: United States Department of Defense SkillBridge program;
- AB 1707, Health professionals and facilities: adverse actions based on another state's law;
- SB 259, Reports submitted to legislative committees;
- SB 345, Health care services: legally protected health care activities; SB 372, Department of Consumer Affairs: licensee and registrant records: name and gender changes.

President Harabedian asked for a clarification on SB 544. Legal Counsel Ryan Marcroft thereafter enumerated the different scenarios to which SB 544 is applicable.

Public Comment

A public comment was made stating that despite SB 544, the Board's history is to conduct board meetings around the state to get more people involved. A follow up comment was made asking if AB 996 was passed or put on hold. Ms. Brothers replied the bill is dead but may be brought up in 2024.

Item 7 – Regulatory Report

Ms. Brothers summarized the status of each Board regulatory package in progress.

Item 8 – Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Establish Section 1399.452.1 in Title 16 of the California Code of Regulations: Telehealth Services

Ms. Brothers gave a brief background of the regulatory package. She stated the Board previously met on March 25, 2021, and voted to approve the proposed regulatory text. The Board also directed staff to initiate a rulemaking process. Afterwards, additional edits were made to address clarity and consistency. She then proceeded to discuss the changes that were made and recommended that the proposed edits be adopted after rescinding the Board's March 25, 2021, order.

President Harabedian asked what prompted the change, specifically on patient consent. Ms. Brothers replied that other boards, based on best practices, address informed consent in the same manner.

E.O. Bodea reminded that the regulation package is deriving its authority from a general BPC code that authorizes telehealth to several healing arts boards. The Board is codifying the package in the regulations and making it tailored to acupuncture services.

VP Chen asked if there are complaints pertaining to telehealth. E.O. Bodea answered he is not allowed to comment on any cases or complaints that haven't been finalized. He added he could not recall anything that has been finalized regarding telehealth.

MOTION

Board Member Kim motioned to rescind the Board's March 2021 order to initiate a rulemaking for this proposal and instead authorize a rulemaking using the proposed language with all of the changes to Division 13.7, Article 5, section 1399.452.1. The Board authorizes initiation and possible adoption of new text as follows:

Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

If no adverse comments are received during the 45-day comment period and no hearing is requested,

Adopt new Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of CCR as noticed.

And authorize the Executive Officer to take all steps necessary to complete the rulemaking.

Board Member Osorio seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Item 12 – Committee Assignments

E.O. Bodea announced the new committees and respective member assignments, reminding members and stakeholders that the goal of a committee is to start working on an issue before it goes to the full Board.

President Harabedian asked if new items from the public will go through the committees first before coming through the full Board. E.O. Bodea answered future agenda items are established by the Board President in coordination with the Executive Officer. President Harabedian followed up asking what committee Education falls under. E.O. Bodea responded Education would fall under the purview of the Licensing committee.

Public Comment

A public comment was made citing that there was a previous Education Curriculum Competency Committee and an Education Committee. It was noted that the committee recommended 3,800 curriculum hours instead of 3,000.

Board Member Kim remarked that more participation from schools, professional associations, and external stakeholders will lead to more suggestions that may develop into regulatory reform.

Item 13 – Setting 2024 Board Meeting Calendar

The Board discussed meeting dates for 2024. Specific location and dates discussed were:

- San Diego, CA March 21-22;
- Los Angeles, CA June 6-7; and;
- Bay Area, CA August 8-9.

Public Comment

A public comment was made suggesting an earlier Board meeting should take place before the proposed March 21-22 date to give the Board ample time to provide feedback on a bill before the legislature goes into recess.

Board President Harabedian stated the Board will go along with the proposed date and instead do a teleconference meeting if the need arises.

Item 14 – Public Comments for Items Not on the Agenda

A public comment was made expressing that WebEx is more limited compared to Zoom in terms of visualizing the proceedings as well as being able to share documents.

Item 15 – Future Agenda Items

Board President Harabedian explained that future agenda items are put on agendas by the Board President in consultation with staff and the Vice-President. However, he

encouraged other Board members, as well as the public, to communicate with Board staff beforehand if they want an agenda discussed on future board meetings.

Member Matecki expressed her concern about herbal practice standards in general.

Board Member Kim suggested a discussion of disparity of income between licensees. He also floated the idea of an additional subspecialty training program.

Public Comment

A public comment was made stating there is now a congressional mandate for Veterans Affairs to cover acupuncture. In relation to this, acupuncture is now integrated in the Veterans Affairs system.

Another public comment was made outlining recommended future agenda items from the two previous years. The speaker also recommended education, scope, curriculum competency, law, ethics, Asian massage, occupational analysis, and workers compensation as future agenda items.

The last public comment stated that tui na is not being taught as a subject in school.

Item 16 – Adjournment

President Harabedian adjourned the meeting at 12:38 p.m.



4 – Budget Update

Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Reporting Structure(s): 11111700 Support

Fiscal Month: 7

Fiscal Year: 2023 - 2024

Run Date: 03/07/2024

PERSONAL SERVICES

Fiscal Code	Line Item	PY Budget	PY FM13	Budget	Current Month	YTD	Encumbrance	YTD + Encumbrance	Projections to Year End	Balance
5100	PERMANENT POSITIONS	\$876,000	\$798,562	\$914,000	\$80,638	\$552,086	\$0	\$552,086	\$958,908	-\$44,908
5100	TEMPORARY POSITIONS	\$19,000	\$0	\$19,000	\$0	\$0	\$0	\$0	\$110,496	-\$91,496
5105-5108	PER DIEM, OVERTIME, & LUMP SUM	\$12,000	\$497	\$12,000	\$4,997	\$5,353	\$0	\$5,353	\$6,700	\$5,300
5150	STAFF BENEFITS	\$539,000	\$437,401	\$564,000	\$46,238	\$315,464	\$0	\$315,464	\$611,060	-\$47,060
	PERSONAL SERVICES	\$1,446,000	\$1,236,460	\$1,509,000	\$131,873	\$872,903	\$0	\$872,903	\$1,687,164	-\$178,164

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	Line Item	PY Budget	PY FM13	Budget	Current Month	YTD	Encumbrance	YTD + Encumbrance	Projections to Year End	Balance
5301	GENERAL EXPENSE	\$57,000	\$16,681	\$57,000	\$985	\$3,562	\$8,560	\$12,122	\$19,198	\$37,803
5302	PRINTING	\$18,000	\$13,261	\$18,000	\$0	\$6,361	\$16,801	\$23,162	\$23,162	-\$5,162
5304	COMMUNICATIONS	\$18,000	\$3,633	\$18,000	\$342	\$2,209	\$0	\$2,209	\$5,117	\$12,883
5306	POSTAGE	\$6,000	\$1,517	\$6,000	\$0	\$493	\$0	\$493	\$1,800	\$4,200
5308	INSURANCE	\$0	\$17	\$0	\$0	\$0	\$0	\$0	\$17	-\$17
53202-204	IN STATE TRAVEL	\$34,000	\$8,266	\$34,000	\$948	\$7,347	\$0	\$7,347	\$9,947	\$24,053
5322	TRAINING	\$4,000	\$175	\$4,000	\$350	\$525	\$0	\$525	\$525	\$3,475
5324	FACILITIES	\$65,000	\$197,405	\$65,000	\$13,016	\$88,230	\$62,678	\$150,909	\$158,619	-\$93,619
53402-53403	C/P SERVICES (INTERNAL)	\$502,000	\$253,599	\$502,000	\$3,810	\$83,831	\$0	\$83,831	\$214,458	\$287,543
53404-53405	C/P SERVICES (EXTERNAL)	\$557,000	\$508,494	\$653,000	\$25,769	\$99,121	\$155,518	\$254,638	\$485,543	\$167,457
5342	DEPARTMENT PRORATA	\$926,000	\$751,368	\$848,000	\$0	\$617,250	\$0	\$617,250	\$848,000	\$0
5342	DEPARTMENTAL SERVICES	\$334,000	\$179,722	\$334,000	\$47,961	\$107,912	\$0	\$107,912	\$180,871	\$153,129
5344	CONSOLIDATED DATA CENTERS	\$4,000	\$7,878	\$4,000	\$44	\$363	\$0	\$363	\$7,749	-\$3,749
5346	INFORMATION TECHNOLOGY	\$36,000	\$5,070	\$18,000	\$0	\$5,070	\$1,420	\$6,490	\$6,490	\$11,510
5362-5368	EQUIPMENT	\$0	\$9,301	\$0	\$0	\$4,533	\$56	\$4,589	\$5,882	-\$5,882
5390	OTHER ITEMS OF EXPENSE	\$3,000	\$528	\$3,000	\$0	\$0	\$0	\$0	\$0	\$3,000
54	SPECIAL ITEMS OF EXPENSE	\$0	\$4,762	\$0	\$403	\$403	\$0	\$403	\$1,000	-\$1,000
	OPERATING EXPENSES & EQUIPMENT	\$2,564,000	\$1,961,675	\$2,564,000	\$93,628	\$1,027,209	\$245,033	\$1,272,242	\$1,968,377	\$595,623

OVERALL TOTALS	\$4,010,000	\$3,198,135	\$4,073,000	\$225,501	\$1,900,112	\$245,033	\$2,145,145	\$3,655,542	\$417,458
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REIMBURSEMENTS	-\$23,000	-\$23,000	-\$23,000					-\$23,000	
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OVERALL NET TOTALS	\$3,987,000	\$3,175,135	\$4,050,000	\$225,501	\$1,900,112	\$245,033	\$2,145,145	\$3,632,542	\$417,458
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10.31%

Department of Consumer Affairs

Revenue Projection Report

Reporting Structure(s): 11111700 Support

Fiscal Month: 7

Fiscal Year: 2023 - 2024

Run Date: 03/07/2024

Revenue

Fiscal Code	Line Item	Budget	July	August	September	October	November	December	January	Year to Date	Projection To Year End
	Delinquent Fees	\$71,000	\$4,675	\$4,050	\$3,150	\$5,125	\$4,750	\$7,050	\$6,350	\$35,150	\$60,500
	Other Regulatory Fees	\$268,000	\$14,558	\$15,205	\$17,555	\$19,355	\$22,780	\$50,245	\$38,180	\$177,878	\$268,928
	Other Regulatory License and Permits	\$648,000	\$53,721	\$60,628	\$42,556	\$67,184	\$56,304	\$53,559	\$63,947	\$397,899	\$653,929
	Other Revenue	\$64,000	\$25	\$25	\$707	\$40,896	\$696	\$50	\$47,791	\$90,191	\$91,425
	Renewal Fees	\$3,079,000	\$230,722	\$227,033	\$233,370	\$414,654	\$230,755	\$224,717	\$292,400	\$1,853,652	\$3,085,202
	Revenue	\$4,130,000	\$303,701	\$306,941	\$297,338	\$547,214	\$315,286	\$335,621	\$448,668	\$2,554,770	\$4,159,984

Reimbursements

Fiscal Code	Line Item	Budget	July	August	September	October	November	December	January	Year to Date	Projection To Year End
	Scheduled Reimbursements	\$0	\$49	\$0	\$0	\$49	\$49	\$0	\$0	\$147	\$245
	Unscheduled Reimbursements	\$0	\$6,186	\$5,788	\$4,188	\$4,755	\$5,133	\$4,455	\$5,236	\$35,740	\$63,786
	Reimbursements	\$0	\$6,235	\$5,788	\$4,188	\$4,804	\$5,182	\$4,455	\$5,236	\$35,887	\$64,031

0108 - Acupuncture Fund Analysis of Fund Condition
(Dollars in Thousands)

Prepared 3.07.24

2024-25 Governor's Budget With FM 7 Projections

	ACTUAL 2022-23	CY 2023-24	BY 2024-25	BY +1 2025-26	BY +2 2026-27
BEGINNING BALANCE	\$ 3,648	\$ 4,154	\$ 4,488	\$ 4,655	\$ 4,751
Prior Year Adjustment	\$ -173	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,475	\$ 4,154	\$ 4,488	\$ 4,655	\$ 4,751
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$ 63	\$ 61	\$ 75	\$ 75	\$ 75
4127400 - Renewal fees	\$ 3,093	\$ 3,085	\$ 3,080	\$ 3,080	\$ 3,080
4129200 - Other regulatory fees	\$ 268	\$ 269	\$ 268	\$ 268	\$ 268
4129400 - Other regulatory licenses and permits	\$ 702	\$ 654	\$ 678	\$ 678	\$ 678
4163000 - Income from surplus money investments	\$ 98	\$ 88	\$ 58	\$ 70	\$ 70
4171400 - Escheat of unclaimed checks and warrants	\$ 4	\$ 3	\$ 3	\$ 3	\$ 3
Totals, Revenues	\$ 4,228	\$ 4,160	\$ 4,162	\$ 4,174	\$ 4,174
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$ 4,228	\$ 4,160	\$ 4,162	\$ 4,174	\$ 4,174
TOTAL RESOURCES	\$ 7,703	\$ 8,314	\$ 8,650	\$ 8,829	\$ 8,925
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 3,115	\$ 3,592	\$ 3,799	\$ 3,913	\$ 4,030
9892 Supplemental Pension Payments (State Operations)	\$ 43	\$ 43	\$ 31	\$ -	\$ -
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 391	\$ 191	\$ 165	\$ 165	\$ 165
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$ 3,549	\$ 3,826	\$ 3,995	\$ 4,078	\$ 4,195
FUND BALANCE					
Reserve for economic uncertainties	\$ 4,154	\$ 4,488	\$ 4,655	\$ 4,751	\$ 4,730
Months in Reserve	13.0	13.5	13.7	13.6	13.5

NOTES:

1. Assumes workload and revenue projections are realized in BY +1 and ongoing.
2. Expenditure growth projected at 3% beginning BY +1.



4 - Licensing Report Q2 2023-24

FY 23/24 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Active	7533	7708	n/a	n/a
Inactive	2358	2337	n/a	n/a
Delinquent	1778	1685	n/a	n/a
Clear	11669	11730	n/a	n/a
Cancelled	107	117	n/a	n/a
Initial AC License Applications Approved	84	93	n/a	n/a
Initial AC License Applications Denied	0	0	n/a	n/a
AC License Renewals	1229	1252	n/a	n/a
Active Wall Licenses	4365	4528	n/a	n/a
Initial Wall Licenses	354	305	n/a	n/a
Wall License Renewals	391	389	n/a	n/a

FY 23/24 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
New CE Provider Applications Approved	4	19	n/a	n/a
CE Provider Applications Denied	0	0	n/a	n/a
CE Provider Renewals	112	101	n/a	n/a
Course Applications Received	607	1406	n/a	n/a
Course Applications Approved	692	840	n/a	n/a
Course Denials	2	0	n/a	n/a
Total Number of Active CE Providers	270	295	n/a	n/a
Total CE Provider Numbers Issued	1790	1801	n/a	n/a

FY 22/23 Acupuncture Educational and Training Programs

Application for Board Approval of Curriculum (ABAC)	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
ABAC - Received	0	0	n/a	n/a
ABAC - Incomplete	0	1	n/a	n/a
ABAC - Approved	8	1	n/a	n/a
Loss of Approval	0	1	n/a	n/a

FY 22/23 Acupuncture Tutorial Training Programs

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Applications Received	0	9	n/a	n/a
New Program Approvals	5	3	n/a	n/a
Programs Completed	4	2	n/a	n/a
Programs Terminated, Abandoned	1	6	n/a	n/a
Total Approved Programs	51	47	n/a	n/a

EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL

7/1/2023 - 12/31/2023

APPROVED ACUPUNTURE AND EDUCATIONAL TRAINING PROGRAMS	1ST TIME TAKERS			OVERALL (Includes Re-Takers)		
	#PASS	#FAIL	PASS %	#PASS	#FAIL	PASS %
Academy of Chinese Culture & Health Sciences	11	1	92%	13	1	93%
Acupuncture & Integrative Medicine College, Berkeley	5	2	71%	8	5	62%
Alhambra Medical University	10	2	83%	12	7	63%
American College of Traditional Chinese Medicine at CIIS*	5	3	63%	5	3	63%
AOMA Graduate School of Integrative Medicine	1	0	100%	1	0	100%
Bastyr University	0	1	0%	0	1	0%
California Trinity University*	0	0	0%	0	1	0%
Dongguk University Los Angeles	9	5	64%	11	5	69%
Emperor's College of Traditional Chinese Medicine	14	2	88%	15	5	75%
Five Branches University	16	8	67%	19	9	68%
New York College of Health Professions*	0	1	0%	0	1	0%
Pacific College of Health and Science	33	8	80%	36	15	71%
Phoenix Institute of Herbal Medicine & Acupuncture	1	1	50%	1	1	50%
South Baylo University	15	7	68%	19	14	58%
Southern California University School of Oriental Medicine & Acupuncture*	0	2	0%	0	1	0%
Southern California University of Health Sciences	0	2	0%	0	3	0%
University of East West Medicine	8	0	100%	9	4	69%
University of Herbal Medicine*	1	0	100%	1	0	100%
Whitewater University of CA	11	0	100%	11	0	100%
Yosan University	2	0	100%	2	1	67%
Tutorials	3	1	75%	5	1	83%
Foreign	5	2	71%	6	3	67%
GRAND TOTAL	150	48	76%	174	81	68%

*Previously Approved Training Program

EXAMINATION RESULTS STATISTICS - BY LANGUAGE**7/1/2023 - 12/31/2023**

LANGUAGE	#PASS	#FAIL	PASS %
Chinese	50	17	75%
English	103	56	65%
Korean	21	8	72%
GRAND TOTAL	174	81	68%



Enforcement Report

Q2 2023-24



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Enforcement Update for FY 2023/2024: Q2 (October- December 2023)

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category		Received
Substance Abuse/Drug & Mental/Physical Impairment		1
Unsafe/Unsanitary Conditions		1
Fraud		3
Non-jurisdictional		1
Incompetence/Negligence		11
Other		0
Unprofessional Conduct		6
• Billing	1	
• Threats on social media	1	
• Inappropriate touching	1	
• Threaten to sue a patient	1	
• No wall license & use of title of doctor	1	
• Unprofessional conduct	1	
Sexual Misconduct		3
Discipline by Another State Agency		0
Unlicensed/Unregistered		3
Criminal Charges/Convictions**		6
• Applicants	0	
• Licensees	6	
Total		35

The graph above shows the number of complaints received by complaint type for this quarter. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

INVESTIGATIONS*

DCA Category	Received	Closed	Pending**
Substance Abuse/Drug & Mental/Physical Impairment	1	0	1
Unsafe/Unsanitary Conditions	1	1	11
Fraud	3	6	46
Non-jurisdictional	1	4	3
Incompetence/Negligence	11	11	76
Other	0	2	8
Unprofessional Conduct	6	17	83
Sexual Misconduct	3	4	22
Discipline by Another State Agency	0	0	2
Unlicensed/Unregistered	3	5	25
Criminal Charges/Convictions (includes pre-licensure)	6	10	32
Total	35	60	309

* Includes both formal investigations by DCA category conducted by DOI and desk investigations by staff.

** These numbers include current and previous quarters and the DCA Category may change after the investigation is initiated to better categorize the complaint.

Enforcement Performance Measures

Q2 - October 1, 2023 - December 31, 2023

Performance Measure (PM) 1 - Intake Volume: Complaints and Convictions/Arrests received

Total Intake Received (Complaints & Convictions)	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Complaints Received	112	33	29			62
Convictions/Arrest Received	17	14	6			20
Total Intake Received	129	47	35			82

PM 2 - Total Intake Cycle Time

Cycle Time (Target: 10 Days)	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Avg. Days to close or assign	3	5	4			4.5

PM 3 - Inv. Cycle Time -

Includes intake, investigation, and case outcome for complaints not referred to the Attorney General (AG)

Inv. Cycle Time of Non-AG Cases (Target: 200 Days)	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Desk Investigations Closed	19	53	62			115
Field Investigations Closed	2	4	1			5
All Investigations Closed	21	57	63			120
Avg. Days to Close All Investigations	138	307	361			334

The numbers represent investigations closed without AG action in the specified timeframes.

Aging of Non-AG Cases	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Up to 90 Days	17	26	12			38
91 - 180 Days	1	5	5			10
181 Days - 1 Year (364)	1	6	12			18
1 to 2 Years (365-730)	1	15	32			47
2 to 3 Years (731- 1092)	0	2	1			3
Over 3 Years (1093 +)	1	3	1			4

Non-AG Discipline	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Final Citations*	0	0	1			1
Avg. Days to Complete Citations**	0	0	302			302.0
License Denials	0	1	0			1

* A citation is final 30 days after issuance or after the appeal process has resolved.

** A citation is considered complete when respondent has addressed fines and abatement order.

PM 4 Cycle Time-Initial Discipline

Average number of days to close cases submitted to the AG for formal disciplinary action.

AG Cases Target: 540 Days	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Total Final Orders	11	0	0			0
Avg. Days to Complete	1376	0	0			0

AG Actions	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
AG Cases Initiated	0	1	0			1
AG Cases Pending	8	4	3			7
SOIs Filed	0	0	1			1
Accusations Filed	3	1	0			1
Revoked	3	0	0			0
Voluntary Surrender	6	0	0			0
Probation	1	0	0			0
Public Reprimand	1	0	0			0
Closed w/out Disciplinary Action	0	2	1			3

These numbers represents AG cases closed in the specified timeframes.

AG Action Time Frames	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Up to 90 Days	0	0	0			0
91 - 180 Days	0	0	0			0
181 Days - 1 Year (364)	0	0	0			0
1 to 2 Years (365-730)	1	0	0			0
2 to 3 Years (731- 1092)	2	0	0			0
Over 3 Years (1093 +)	8	0	0			0

Other Legal Actions	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PC 23 Ordered	0	0	0			0
Interim Suspension	0	0	0			0

Probationers	FY 2022/23	Fiscal Year 2023/24				
	Prior Year	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Total licensees on Probation	13	13	10			See current Q
Accusation/Petitions to Revoke Filed	0	1	0			1
Subsequent Discipline Final Orders	0	0	1			1



5 -Legislation Report



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DATE	March 22, 2024
TO	Acupuncture Board Members
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	2024 Legislation of Interest as of March 1, 2024

Bills of Interest to the Board Introduced in 2024:

[Assembly Bill 2269](#) (Flora)

Board membership qualifications: public members.

Status: Introduced February 8, 2024. Referred to Committee on Business and Professions February 26, 2024.

Existing Law:

- Establishes specific boards, bureaus, and commissions under the Department of Consumer Affairs for the purpose of licensing and regulating various professions and vocations.
- Establishes qualifications related to prohibited employer/employee and contractual relationships between public members and licensees of a board within five (5) years preceding a public member's appointment to a board.
- Identifies exceptions for specified employee/employer, contractual and patient relationships between public members and licensees of a board, including limited involvement with a licensee's practice or business.

Summary of Bill:

AB 2269 would amend section 450 of the Business and Professions Code (BPC). This bill would revise the statutory qualifications for public members of boards within the Department. Specifically, this bill would limit exemptions related to the requirements that a public member not be an employer, officer, director or a substantially full-time representative of an employer or group of employers of any licensee of a board; maintain a contractual relationship with a licensee of a board; or an employee of a licensee of a board; or representative of the employee for a period preceding their appointment. This bill would also reduce this period from five years to three years prior to appointment, and stipulate that these requirements would apply to public members upon appointment or re-appointment on or after January 1, 2025.

Board Impact:

The Acupuncture Board (Board) consists of seven members. BPC section 4929 specifies that four of the members be public members who do not hold a license as a physician and surgeon or acupuncturist. Each member of the Board shall be appointed for a term of four years. Members may be re-appointed and serve up to two terms.

The Board currently has three public members with terms ending June 1, 2025. None of the current public members are eligible for reappointment. The Governor appointed public member vacancies are required to be filled no later than August 2025; up to 60 days past the

expiration of their term. The Senate Rules Committee and Speaker of the Assembly appointed public member vacancies are required to be filled no later than May 2026, after a permitted one-year grace period.

The new qualifications for public members under AB 2269 will be in effect at this time. This means at the time of reviewing Board appointee applicants, the Governor's Office, Senate Rules Committee, and Speaker of the Assembly will need to assess each applicant's work history and organization affiliations. Since the vetting of board appointees falls on the Governor, Senate Rules Committee, and Speaker of the Assembly, the Board itself will not be significantly impacted by this bill.

Fiscal Impact:

No changes to workload are expected from the provisions of AB 2269. Therefore, there is no projected fiscal impact.

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**[Assembly Bill 2862](#)** (Gipson)

**Licenses: African American applicants**

**Status:** Introduced February 15, 2024. May be heard in Committee March 17, 2024.

**Existing Law:**

- Prescribes requirements for licensure and regulation of various businesses and professions, including healing arts and real estate businesses and professions, by various boards, bureaus, commissions, committees, and departments.

**Summary of Bill:**

AB 2862 would add Section 473 under a new Division 1.1 entitled Prioritization of Licenses to the BPC. This bill would require that, notwithstanding any other law, any board or bureau within the Department to prioritize African American applicants seeking licenses, especially applicants who are descended from a person enslaved in the United States.

**Board Impact:**

Currently, there are three groups of applicants the Board is statutorily mandated to expedite or prioritize in the initial licensure process. AB 2862 would add an additional group of applicants to prioritize during the initial licensure process. This would require adding a question and/or an attestation to the Board's examination and license applications in Connect and its paper form. However, the language of the bill does not specify how the applicant provides eligibility for this prioritization. Without criteria to determine eligibility, this leaves it open to interpretation to the applicant which could hinder the intent of the bill. The Board would also need to amend its regulations that list all of the exam and license application requirements to include the provisions of AB 2862 as an additional form requirement.

**Fiscal Impact:**

Staff expects minimal impacts related to AB 2862. Workforce data published by California Department of Health Care Access and Information (HCAI) collected via electronic license renewals mandated by BPC section 502 reports 0.6% of licensees renewing for July 1, 2023, are Black, Non-Hispanic. It should be noted that demographic data is only collected on electronic renewals and licensees may choose to respond that they do not wish to state. Therefore, the validity and reliability of this data is not optimal.

When this same proportion is applied to licenses issued annually (311 in FY 2021/2022), staff estimates the Board receives approximately two license applications from African Americans a



year. Considering AB 2862 provides the benefit of priority processing for eligible applicants, staff estimates there could be a slight undetermined increase in the volume of applicants for licensure from African Americans.

The initial licensure process workload is about one hour of Associate Governmental Program Analyst's (AGPA) time per application. Even if the volume increased by 50% (one application), the workload increase of one hour will be absorbable. Due to the low volume projected, staff estimates there will not be a significant change in workload for licensing.

The time to add an additional question to the exam and license applications is expected to take two hours of an AGPA time. To amend the exam and license application requirements in regulation, it generally takes 40 hours of AGPA time on a regulatory action for the duration of the rulemaking process. There is also Board member review and discussion time of approximately two hours. The changes effectuated by AB 2862 are absorbable within current budget and staffing resources.

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[Senate Bill 1067](#) (Smallwood-Cuevas)

Healing arts: expedited licensure process: medically underserved area or population

Status: Introduced February 12, 2024. Referred to Committee on Business, Professions and Economic Committee on February 21, 2024.

Existing Law:

- Establishes various boards within the Department of Consumer Affairs to license and regulate various health professionals.
- Requires specified boards to expedite the licensure process of an applicant who can demonstrate that they intend to provide abortions within their scope of practice and specifies the documentation an applicant is required to provide to demonstrate their intent.

Summary of Bill:

SB 1067 would add Section 871 to the BPC. This bill would require each healing arts board in the Department of Consumer Affairs that licenses health professionals to develop a process to expedite the licensure process. Each board would give priority review status to the application of an applicant for a license who demonstrates that they intend to practice in a medically underserved area or serve a medically underserved population, as defined. The bill would authorize an applicant for a license to demonstrate their intent to practice in a medically underserved area or serve a medically underserved population by providing proper documentation, including, but not limited to, a letter from an employer, located in a medically underserved area or which serves a medically underserved population, indicating that the applicant has accepted employment and stating the start date.

Board Impact:

Currently, there are three groups of applicants the Board is statutorily mandated to expedite or prioritize in the initial licensure process. SB 1067 would add an additional group of applicants to prioritize during the initial licensure process. This would require adding a question and the required documentation to the Board's examination and license applications in Connect and its paper form. The bill specifies documentation for applicants entering an employer/employee structure but does not specify the documentation to allow for self-employed applicants to demonstrate eligibility. The majority of licensed acupuncturists are self-employed so during implementation of this bill staff will need to identify forms of documentation for self-employment that will demonstrate an applicant's intention to practice in a medically underserved area or

on a medically underserved population. This will require research without the forms of documentation for self-employment specified in the bill. The Board would also need to amend its regulations that list all of the exam and license application requirements to include the provisions of SB 1067 as an additional form requirement.

Fiscal Impact:

Based on the analysis of the number of licensees who currently have an address of record within a medically underserved area of California based on medically underserved zip codes provided by the California Department of Insurance 14% of the licensee population of California are located in medically underserved areas, which is approximately 1,652 licensees.

When this same proportion is applied to licenses issued annually (311 in FY 2021/2022), staff estimates the Board receives approximately 44 license applications from applicants who intend to work in medically underserved areas, the population eligible under SB 1067. Given the new prioritization of these applicants under SB 1067, staff estimates the legislation may bring an unknown increase in applicants from these areas.

The initial licensure process workload is about one hour of AGPA time per application. If the volume increased by 50% (22 more applications), the workload increase of 22 hours will be absorbable. There are always constant changes in the volume of applicants year to year due to different variables, so with this projection, it is estimated there will not be a significant change in workload for licensing.

The time to research reliable forms of documentation to demonstrate intention of self-employment in a medically underserved area or population and add an additional question to the exam and license applications is expected to take five hours of an AGPA's time. To amend the exam and license application requirements in regulation, it generally takes 40 hours of AGPA time on a regulatory action for the duration of the rulemaking process. There is also Board member review and discussion time of approximately two hours. The changes effectuated by SB 1067 are absorbable within current budget and staffing resources.



6 - Regulatory Report



DATE	March 22, 2024
TO	Acupuncture Board Members
FROM	Board Staff
SUBJECT	Regulatory Update

The following list displays the status of the Board's current regulatory packages:

- Division 13.7, Article 6.1 and 6.2, Title 16 CCR sections 1399.469 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
11/28/2018	2012	N/A	10/26/2023	11/2023		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package reflects updates to the Board's Disciplinary Guidelines, which include incorporating relevant portions of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. It brings Board regulations in line with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) which required the development of the Uniform Standards.

The Board approved revised text and updates to Guidelines at the October 2023 Board meeting. Staff is currently updating the rulemaking documents.

**2. Disclosure of Probation Status to Patients – SB 1448
(Implemented through Disciplinary Guidelines Package – See #3)**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
11/28/2018	2012	N/A	10/26/2023	11/2023		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

These changes (included as part of the package on updating the Board's Disciplinary Guidelines) will establish regulations consistent with SB 1448 (Hill, Chapter 570, Statutes of 2018), which requires licensees on probation pursuant to a probationary order made on or after July 1, 2019, to disclose that status to a patient or their guardian or health care surrogate prior to the patients first visit.

The Board approved revised text and updates to Guidelines at the October 2023 Board meeting. Staff is currently updating the rulemaking documents.

**3. 16 CCR 1399.415, 1399.438, and title of Article 3.5:
Section 100 Amend and Repeal Curriculum and Educational and Training Regulations:**

PRODUCTION PHASE		FINAL FILING PHASE		
Staff & Legal Counsel Draft Package	Reg Unit Review	OAL Review	OAL Decision	Effective Date
5/22/2023	6/1/2023 / 12/28/2023	6/30/2023 / 2/14/2024	8/4/2023 / Due in March	

This package will make additional changes to regulations to ensure compliance with SB 1246 (Lieu, Chapter 397, Statutes of 2014). The law changed the Board's authority from approving schools and colleges of acupuncture to approving education and training programs in acupuncture. It is the second package from the Board in connection with SB 1246.

A portion of the regulatory package was converted to a Section 100 package and was filed with OAL on June 30, 2023. Staff withdrew the package on August 4, 2023, due to some necessary technical clean up and pulling over some of the proposed changes to a regular rulemaking. Non-substantive changes without regulatory effect to sections 1399.415, 1399.438, and title of Article 3.5 were re-submitted to OAL on February 14, 2024. OAL's decision is due in March 2024.

**4. 16 CCR 1399.434, 1399.435, 1399.437, and 1399.439
Align Curriculum Standards and Approval Related Regulations with Statute:**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
2/11/2019	2/11/2019	6/13/2019	3/26/2021	1/21/2021		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package will make additional changes to regulations to ensure compliance with SB 1246 (Lieu, Chapter 397, Statutes of 2014) and updates to conform to the transition to computer-based testing for the exam. The law changed the Board's authority from approving schools and colleges of acupuncture to approving educational and training programs in acupuncture. It is the third package from the Board in connection with SB 1246.

Staff is working on a review of the proposed language with Licensing and Education staff along with updates to the draft rulemaking documents.

5. 16 CCR 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, 1399.419:

Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service:

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
11/28/2018	2018/2019	3/25/2021	8/26/2021	9/2021	12/20/2021	3/29/2021

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text
9/8/2023	10/24/2023		

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date
11/17/2023	n/a	11/22/2023		

This package sets regulations for the Board to approve credential evaluation services for evaluating the foreign education of applicants for licensure including, amendments addressing the licensing examination, documentation required during the applications process, and applications for examination and re-examination.

The regulatory action was filed with OAL November 22, 2023. On January 5, 2024, staff withdrew the regulatory action to work on modification to the text to address some issues OAL provided. The modified language will be discussed at the Board's March 2024 meeting to put out for a 15 – day notice.

6. **16 CCR 1399.419.3:
Application for Retired Status; Retired Status; Restoration**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
1/2020	4/2019	6/13/2019	8/16/2019	2021		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package will establish a retired license status, and outline the restrictions of a retired license, as well as how to apply for one and how to restore a retired license to active status. The Board has authority to establish such a license status from BPC Section 464.

The Board approved regulatory language in August 2019. After further review from the Regulatory Unit, some issues with the language were found requiring revision. New and updated proposed language is scheduled for discussion at the March 2024 Board meeting.

7. **16 CCR 1399.483, 1399.489:
Continuing Education Requirements**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
1/2020	3/2019	3/29/2019	6/23/2023	3/26/2021	3/9/2023	9/22/2023

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text
10/6/23	11/21/23	3/22/2024	

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package will set requirements for continuing education in law and ethics for licensees (both in terms of the number of units and an end-of-class testing requirements) and clean up existing language. While the Board has previously required law and ethics courses in continuing education for licensees, this has not been the case since 1999.

The regulatory action was filed with OAL on October 6, 2023. The 45-day public comment period ended November 21st. The Board is scheduled to review the public comments received at its March 2024 meeting.

**8. 16 CCR 1399.452.2:
Standards of Practice for Telehealth Services**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
1/1/2021	12/2020	12/17/2020	3/26/2021 / 10/26/2023	3/26/2021		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package will provide specific guidance and requirements for delivering acupuncture services via telehealth. This was prompted by the COVID-19 pandemic and the subsequent encouragement by the Governor through Executive Orders to use telehealth to maximize the abilities of California's health care workforce.

The Board approved revisions to the proposed language at the October 2023 Board meeting. Staff is working on the rulemaking documents which will be ready for the Regulation Unit's review later this year.

9. **16 CCR 1399.451:
Hand Hygiene Requirements**

CONCEPT PHASE			PRODUCTION PHASE			
Added to Rulemaking Calendar	R&D	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Reg Unit & DCA Budget Review	Agency Review
1/1/2023	2013 / 11/2023	1/2014	10/2018	2014		

INITIAL FILING PHASE			
Notice Published by OAL	45-Day Comment Period Ended	Board Approval of Responses and Modified Text	15-Day Notice of Modified Text

FINAL FILING PHASE				
DCA Review	BCSH Agency Review	OAL Review	Filed w/Secretary of State	Effective Date

This package was initially approved by the Board in February 2014 to update existing regulations and bring them up to then-current public health and health industry standards. Package was set aside for higher priority regulations and in October 2018 the Board restated its interest in proceeding with regulations. Revisions of the proposed language were sent to the Regulations Unit on November 1, 2023. Staff and the Regulation Unit are in the collaborative drafting process.



**7 – App Process /
AB 2190
Rulemaking**



DATE	March 22, 2024
TO	Board Members, Acupuncture Board
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	Discussion and Possible Action to Consider Adoption of Proposed Clarifying Amendments Identified by Office of Administrative Law Relating to Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service Rulemaking (16 CCR sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, and 1399.416.4, 1399.417 and 1399.419)

Background

At its August 26, 2021, meeting, the Board approved regulatory language to implement Assembly Bill 2190 (AB 2190) (Salas, Chapter 667, Statutes of 2016) with the following:

- Create minimum requirements for Board approval of credential evaluation services.
- Set forth Board requirements, criteria, an application process, and an approval/revocation process for credential evaluation service applicants.
- Provide a section of definitions for terms used throughout the article.
- Set requirements for applicants applying and re-applying for the California Acupuncture Licensing Examination based on domestic applicants (Board approved educational and training program and tutorial program) versus foreign-trained.
- Remove outdated deadlines and policy that related to the exam being administered twice a year versus the current process of being accessible by computer all year long.
- Update the documentation and submission requirements accepted by the Board.

The Board approved regulatory text and delegated authority to the Executive Officer to prepare the rulemaking file. Following review and approval by the Director of the Department of Consumer Affairs and the Secretary of the Business, Consumer Services, and Housing Agency, the proposed regulations were noticed on September 8, 2023, for a 45-Day public comment period that concluded on October 24, 2023.

The Board did not receive any public comment and the regulatory action was filed with the Office of Administrative Law (OAL) on November 22, 2023. Based on OAL's feedback following their review, the regulatory action was withdrawn on January 5, 2024, to address substantive edits of the proposed language through a modified 15-day notice of text.

Discussion for Board Meeting

The modified text presented addresses the following:

- Clearly identifies where documentation, applications, and fees are to be submitted throughout text.
- Clarifies the process around the Board waiving certain domestic educational and training documentation standards. Updates the process from the Board's discretion to waive certification to the current process in which the Board shall waive the primary source requirement when an applicant has attested they have exercised due diligence as specified.
- Adds application requirements for examination and licensure to include disclosure of applicants' status related to being any of the following: an active duty member of the United States Armed Forces, honorably discharged member of the U.S. Armed Forces, enrolled in the U.S. Department of Defense SkillBridge program, married to or in a domestic partnership with an active-duty member of the U.S. Armed Forces assigned to a duty station in California, or a refugee granted asylum or in possession of a special immigrant visa. All of these statuses are eligible for the Board to expedite the license application process.
- Clarifies the re-evaluation process for when an examination application is denied and a re-evaluation is requested of the Board.
- Clarifies and updates the process of granting extensions to take the examination at a later date when applicants submit a written statement of their inability to appear for the examination, and other specified information, to the Board prior to the abandonment of their examination application. Removes discretion and basis of "good cause" around granting such extensions based on current process.
- Clarifies and updates the timelines and process associated with the Board's evaluation of examination applications in determining deficiencies or completeness and approval for the examination. Specifies a longer timeline for evaluating examination applications for foreign-trained applicants.
- Incorporates all of the requirements for applying for licensure.
- Updates and corrects references throughout.
- Corrects errors with existing text throughout.
- Makes grammatical and formatting changes throughout.
- Updates terminology throughout for consistency.

Action Requested

Review the modified language as designated by double underline or ~~double strikethrough~~. After review, the Board may consider either of the following actions:

- Option 1 (If Board Members have no edits to the modified language and approve as presented):

Move to approve the proposed modified regulatory text and changes to 16 CCR, Division 13.7, sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, and 1399.419, and

Direct staff to submit the proposed modified text to the Director of the DCA and the Business, Consumer Services, and Housing Agency for review.

If no adverse comments are received, authorize the Executive Officer to take all steps necessary to continue the rulemaking process, make any technical or non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 15-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed.

- Option 2 (If Board Members have any edits to the modified language):
Move to approve the proposed modified regulatory text as amended:

Note the amendments

...to the language with all of the changes to 16 CCR, Division 13.7, sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, and 1399.419.

The Board authorizes staff to submit the proposed modified text to the Director of the DCA and the Business, Consumer Services, and Housing Agency for review.

If no relevant, adverse comments are received, authorize the Executive Officer to take all steps necessary to complete the rulemaking process, make any technical or non-substantive changes to the proposed regulations, and set the matter for a hearing if requested. If no adverse comments are received during the 15-day comment period and no hearing is requested, authorize the Executive Officer to adopt the proposed regulations as noticed.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. ACUPUNCTURE BOARD

MODIFIED TEXT

**Application Process for Licensing Examination and Re-examination, and
Criteria and Procedures for Approval of a Credential Evaluation Service**

Legend: For the originally proposed language:

Added text is indicated with an underline.

Omitted text is indicated by (* * * *)

Deleted text is indicated by ~~strikeout~~.

Corrections to existing text that was erroneously noticed as added text or omitted is shown in *Italics* and **Bold**.

Modifications to the originally proposed regulatory language are shown double underline for new text and ~~double strikethrough~~ for deleted text.

Add new titles and sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and amend sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 in California Code of Regulations, Title 16, Division 13.7, Article 2 to read as follows:

§ 1399.409. Definitions.

For purposes of the regulations contained in this Article, the following definitions apply:

- (a) “Foreign-trained applicant” means a person who completed education outside of the United States.
- (b) “Credential evaluation” means an evaluation sent from a board-approved credential evaluation service to the Board, as required by section 1399.416.3.
- (c) “Credential evaluation service” or “Service” refers to the agency or organization defined in section 4939 of the Code, which must be approved by the Board pursuant to 1399.416.4 in order to submit credential evaluations to the Board.
- (d) “Transcript” means a copy of a student's permanent academic record issued by a school, college, or university identifying the student and attesting to the student's completion of specific courses with grades, credit hours, dates of attendance, academic major(s), degree or diploma granted, if any, including

date of graduation, and any awards or honors.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938, 4939, 4940, and 4941, Business and Professions Code.

§ 1399.411. Certification of Documentation.

(a) Domestic Transcripts. Documentation of transcripts or completion of an approved educational and training program (“program”) as required by section 1399.416(a), or of supervised clinical hours, submitted by or on behalf of the applicant, shall be originals, and certified by the appropriate official responsible for the records such as the registrar, or by governmental seal or other authority. Such documentation shall be mailed or sent by primary source (directly from the program to the Board) at its current physical address or email as listed on its website in an unopened, sealed envelope. Documentation may also be sent by secure electronic submission directly from the program or from a transcript service which contracts with the program. The Board ~~in its discretion may~~ shall waive ~~this the certification~~ primary source requirement when it is determined that it cannot be obtained through the exercise of due diligence, ~~including the closure of the program or if the program does not maintain such records.~~ For the purposes of this section, “due diligence” means the applicant provided documentation, signed and dated by the applicant, affirmatively declaring that the applicant first attempted to obtain documentation directly from the program, then attempted to obtain documentation from the program’s appointed custodian of records, if applicable, and both attempts are ineffective.

(b) Foreign Transcripts. For transcripts of education received outside of the United States, the Board shall only accept certified copies of original transcripts used by an approved credential evaluation service and provided directly to the Board by that service as provided in section 1399.416.3.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Section 4938, 4939, and 4944, Business and Professions Code.

§ 1399.413. Application for Licensing Examination Deadline.

(a) All new applications for examination shall be complete and ~~shall be~~ submitted on a form provided by to the Board, at its current physical address listed on its website or through the Board’s online portal accessible through the Board’s website accompanied by such statements and documents as required by this subsection. ~~All such applications shall be received in the Board’s Sacramento office at least 120 calendar days prior to the date of the examination for which the application is made. A~~ completed application for examination shall include the application fee required by

Section 1399.460 and all of the following information:

- (1) Applicant's full legal name (Last Name) (First Name) (Middle Name) and/or (Suffix).
- (2) Other name(s) applicant has used or has been known by.
- (3) Applicant's physical address.
- (4) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address.
- (5) Email address, if any.
- (6) Applicant's telephone number.
- (7) Applicant's Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.
- (8) Applicant's birthdate (month, day, and year).
- (9) Examination language preference.
- (10) Whether the applicant has previously applied for the examination.
- ~~(10) Color copy of a U.S. state or federal government issued picture identification.~~
- (11) The following additional applicant-identifying information, to expedite the application process, if applicable:
 - (A) Whether the applicant is serving, or has previously served, in the United States Armed Forces.
 - (B) Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.
 - (C) Whether the applicant is an active-duty member of a regular component of the United States Armed Forces enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10

of the United States Code.

(D) Whether the applicant is married to or in a domestic partnership or other legal union with an active-duty member of the United States Armed Forces assigned to a duty station in California under official active-duty military orders. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: certificate of marriage, certificate of domestic partnership, or proof of other legal union; a copy of the applicant's spouse's or partner's military orders reflecting assignment to a California duty station; and proof of being licensed to practice acupuncture in another state, or U.S. territory or district.

(E) Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide any of the following items of documentation, as applicable, with the application to receive expedited review:

(i) Form I-94, arrival/departure record, with an admission class code such as "RE" (refugee) or "AY" (asylee) or other information designating the person a refugee or asylee.

(ii) Special Immigrant Visa that includes the "SI" or "SQ".

(iii) Permanent Resident Card (Form I-551), commonly known as a "green card", with a category designation indicating that the person was admitted as a refugee or asylee, or

(iv) An order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Board that the applicant qualifies for expedited licensure pursuant to section 135.4 of the Code.

~~(11)~~(12) For applicants who have completed an approved educational and training program(s) as defined in Section 4927.5 of the Code, provide:

(A) the name and location of each school or college where acupuncture education and training was obtained, including any higher education, undergraduate education, and education for which transfer credit was later awarded by another acupuncture school or college, if applicable.

(B) the dates of attendance for each approved educational and training program; and,

(C) the documentation required by section 1399.416(a), provided to the

Board in the manner prescribed by section 1399.411.

~~(12)~~(13) For foreign-trained applicants, provide:

- (A) a list of the name(s) and address(es) of schools where acupuncture or Asian medicine education was obtained,
- (B) the dates of attendance for each school,
- (C) certified transcripts from each school for each educational program completed and provided to the Board in the manner prescribed by section 1399.411; and,
- (D) the results of an evaluation of the applicant's education from a credential evaluation service provided directly to the Board by the service as prescribed by Section 1399.416.3.

~~(13)~~(14) For applicants who completed a tutorial program in the practice of an acupuncturist that is approved by the Board pursuant to section 1399.425, provide tutorial program start and completion date(s).

~~(14)~~(15) A list of any other acupuncture or healing arts license or certification in any jurisdiction, including any state, agency of the federal government or country, and providing the type of license, license number, date of issuance, and dates of practice.

~~(15)~~(16) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.

(b) All applications for re-examination shall be complete and submitted on a form provided by to the Board at its current physical address listed on its website or through the Board's online portal accessible through the Board's website ("Application Update for Examination/Licensure", revised 3/96), accompanied by such statements and documents as required by subsection (c). ~~All such applications shall be received in the Board's office at least 30 calendar days prior to the date of the examination for which the application is made.~~

(c) A completed application for re-examination includes the fee required by section 1399.460 and all of the following information:

- (1) Applicant's full legal name (Last Name) (First Name) (Middle Name) and/or (Suffix).
- (2) Applicant's Examination ID Number,
- (3) Applicant's current mailing address, if different than previously supplied,

- (4) Applicant's email address, if any,
 - (5) Applicant's telephone number,
 - (6) Examination language preference; and,
 - (7) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.
- (c) ~~All transcripts and supporting documents from qualifying educational institutions or tutorial supervisors shall be received in the Board's office at least 30 calendar days prior to the date of examination for which an application was made.~~
- (d) ~~The Board may waive the foregoing filing dates if there are difficulties with the administration of the examination or other circumstances warrant.~~

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 24, 27, 29.5, 30, 31, 114.5, 115.4, 115.5, 135.4, 325, 326, 494.5, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

§ 1399.414. Request for ~~Re-evaluation of Denial~~ of Applications to ~~Take Licensing Examination~~; Approval to Test.

- (a) Any applicant whose application to take the licensing examination is denied, may submit within fifteen (15) calendar days from the date of ~~rejection~~ denial, a request in writing that the applicant's application be ~~presented to the Board for further evaluation~~. The request for re-evaluation shall be submitted to the Board at its current physical address or email listed on its website. The request for re-evaluation shall be limited to re-evaluation of the factual and legal basis for the Board's denial. The Board's re-evaluation shall include a review of the applicant's documentation on file along with any new documentation and justification provided with the applicant's written request for re-evaluation. The Board shall respond, in writing via email or mail, to the request within fifteen (15) calendar days from the date the request is received.
- (b) If the Board determines that an applicant has met the requirements for acupuncture licensure set forth under subsection (a) paragraphs (1), (2), and (5) of Section 4938 of the Code, it shall ~~schedule~~ approve the applicant to take for the examination.
- (c) Nothing in this section shall ~~be constructed to deprive~~ be construed to deny an applicant of ~~their~~ ***the applicant's*** rights of appeal as afforded by other provisions of law.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938 and 4944, Business and Professions Code

§ 1399.416. Equivalent Educational Training and Clinical Experience Qualifying for Licensure.

(a) ~~In order~~ **For** documented educational training and clinical experience to qualify for licensure under Section 4938(a)(2)(C) of the Code, ~~the~~ **an** applicant shall document that such education and experience meets the curriculum requirements of Section 1399.434, including certified transcripts, and certificates of completion of a course in cardiopulmonary resuscitation (CPR) pursuant to Section 1399.434(f)(3) or clean needle technique (CNT) pursuant to Section 1399.434(b)(2)(K), if not specified in the transcript.

(b) ~~All foreign-trained applicants shall submit documentation of their~~ ¹~~his or her~~ **the applicant's** education and clinical experience to a credentials evaluation service approved by the ~~Board, that is a member of the National Association of Credentials Evaluation Services, Inc. pursuant to Section 1399.416.4 for review and a report to the Board~~ a course-by-course evaluation. This report shall be filed by the applicant with the applicant's application for examination. ~~All foreign-trained applicants must have successfully completed equivalent coursework to the coursework set forth under section 1399.434.~~

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4925, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

§ 1399.416.2. Foreign-Trained Applicant Equivalent Educational Training and Clinical Experience Qualifying for Licensure; Processing and Remediation.

(a) Once the Board has received the foreign-trained applicant's credential evaluation, the Board shall examine the results of the evaluation to determine if the foreign-trained applicant is eligible to take the licensing examination and notify the applicant in writing if they have met the experience requirements. If the foreign-trained applicant does not meet the educational requirements set forth in section 1399.434, the Board will notify the foreign-trained applicant in writing that the foreign-trained applicant is missing courses or training and that they may submit new or additional courses or training for consideration by the board within 180 days of the date of the written notice to allow the foreign-trained applicant to qualify for the licensing examination.

(b) The missing courses or training, if applicable, must be taken at the following:

¹ "His or her" was erroneously shown as existing language and struckthrough in the originally noticed proposed regulatory language.

- (1) An educational institution with a Board-approved acupuncture educational and training program, as defined by section 4927.5 of the Code and meeting the curriculum requirements of section 1399.434. The approved educational and training program shall not require the foreign-trained applicant to complete any coursework beyond what has been identified by the list of missing courses provided by the Board.
 - (2) A private institution of higher education accredited by an accrediting agency recognized by the United States Department of Education and approved by the Bureau for Private Postsecondary Education; or,
 - (3) A public institution of higher education, as defined by “public higher education” in Education Code section 66010.
- (c) Upon submission of certified transcripts sent directly to the Board as required by section 1399.411 showing completion of the missing courses, the foreign-trained applicant shall be approved to take the examination.

Note: Authority cited: Sections 4933 and 4939 Business and Professions Code.
Reference: Sections 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code.

§ 1399.416.3. Requirements for Education and Training Curriculum Evaluations Provided to the Board by Credential Evaluation Service.

Each evaluation provided by a Board-approved Service shall:

- (a) Be originals furnished directly to the Board in English and delivered or sent by United States mail either by first class or priority mail.
- (b) Affirm, in a written statement, that the evaluation is based only upon verified authentic, official original transcripts and degrees.
- (c) Include the specific method or methods of authentication for the transcripts, certification, degrees, and other education evaluated for the purposes of the report.
- (d) Include a report of each degree held by the foreign-trained applicant, along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree.
- (e) Include an English translation of the course titles, and the semester unit equivalence for each course.

- (f) Provide the total number of units completed and evaluated by the Service;
- (g) Include certified copies of all original documents submitted by the foreign-trained applicant;
- (h) Include the name or names of the foreign-trained applicant, as shown on the transcripts submitted, as well as the name under which the foreign-trained applicant requested the evaluation; and,
- (i) Include the following disclaimer: "This evaluation service is not authorized by the California Acupuncture Board to include in this evaluation any opinion as to whether certain courses will be accepted by the Board as meeting the Board's requirements or whether the applicant meets the Board's requirements for taking the licensing examination or for licensure."

Note: Authority cited: Sections 4933 and 4939, Business and Professions Code.
Reference: Sections 4925, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

§ 1399.416.4. Requirements for Approval or Renewal of Agency or Organization to Provide Credential Evaluation Services; Process for Denial or Revocation of Service Approvals; Appeal Procedures.

- (a) To receive and maintain Board approval, a Service shall submit a completed application to the Board containing the information and documents required by this section.
- (b) The application for a Service to apply for Board approval shall contain the following:
 - (1) Applicant identifying and contact information that includes all of the following:
 - (A) Legal Name of applicant and type of entity (agency or organization),
 - (B) Applicant's physical address,
 - (C) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,
 - (D) Applicant's phone number,
 - (E) Applicant's fax number, if any,
 - (F) Applicant's Internet web site address, if any.

- (G) Applicant's email address, if any.
- (H) The name and title of the individual who will be the applicant's primary contact ("primary contact") for the Board.
- (I) The primary contact's phone number; and,
- (J) The primary contact's email address, if any.
- (2) A copy of the Service's credential evaluation policy.
- (3) A complete list of terminology and evaluation terms used in producing the Service's credential evaluations.
- (4) A written statement affirming that the applicant bases its evaluations only upon verified authentic, official transcripts and providing a detailed description of the specific methods utilized for credential authentication by the Service.
- (5) A list of at least three colleges or universities accredited by an association recognized by the Secretary of the United States Department of Education or other licensing agencies currently using its services, along with a contact person at each institution.
- (6) Résumés or curriculum vitae for each evaluator and translator, including years as a translator, a list of languages spoken, and places worked.
- (7) Three sample evaluations that comply with the requirements of Section 1399.416.3, and,
- (8) A written statement affirming all of the following:
- (A) The Service is a member of a nationally recognized foreign credential association such as, but not limited to, the American Association of Collegiate Registrars and Admissions Officers (AACRAO) and the National Association of Credential Evaluation Services (NACES).
- (B) The Service maintains a complete set of reference materials. "Complete" means that the materials include all necessary information to prepare complete, accurate evaluations and are the most current editions available; and,
- (C) The Service has, or agrees to establish and maintain, within thirty (30) days of Board approval, a minimum six-year document retention policy.
- (c) In addition to the information required in subsection (b), the applicant shall also

furnish the following information as part of the application:

- (1) A copy of the Service's current written procedure for identifying fraudulent transcripts, and a statement certifying to the Service's compliance with that procedure;
 - (2) A copy of the Service's appeal procedure for foreign-trained applicants, and a statement certifying that the Service is in compliance with that procedure;
 - (3) Three letters of reference from public or private agencies that have worked with the Service; and,
 - (4) Statistical information on the number of applications processed, annually, for the past five years.
- (d) The Service shall report to the Board in writing any change to the information previously provided to the board pursuant to this section within 60 calendar days of the date of such change. Approval issued under this section shall expire five (5) years after the date of issuance. As a condition of renewal, the Service shall successfully undergo re-evaluation by the Board by submitting the application and information required by subsections (a)-(c) and meeting the requirements of this section.
- (e) In order to remain as a Board-approved Service, the Service shall respond to any inquiries by the Board, submit any documents and provide any information requested by the Board, and cooperate in any investigation conducted by the Board regarding the Service's compliance with the Board's requirements. Failure to respond to the Board within thirty (30) days of the date of the Board's written inquiry or request for documents or information constitutes grounds for revocation of approval by the Board pursuant to subsection (g).
- (f) Approval may be denied or revoked if the Service fails to comply with any of the requirements of this section or furnishes any false, inaccurate, incomplete and/or misleading information to the Board.
- (g) The Board shall provide the Service with a written notice of the denial or revocation of the Service's approval when the Board seeks to deny an application or revoke an approval pursuant to this section. The notice shall include the basis for either the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The Service may submit a written request for reconsideration to the Board's designee of either the denial or revocation within fifteen (15) days of the date of the Board's written notice of such denial or revocation. The written request shall provide the reasons the Service warrants a reconsideration of the denial or revocation. The Service, by availing itself of this request for reconsideration, does not waive its right to appeal under subsection (i).
- (h) Regardless of whether or not the Service requests reconsideration as provided in

subsection (h), the Service may appeal the denial or revocation of an approval by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within thirty (30) days of the date of the Board's written notice specified in subsection (h).

- (i) If the denial or revocation notice is withdrawn by the Board's designee after the board grants a reconsideration, the application shall be deemed approved or the approval deemed unrestricted and the request for an informal hearing shall be deemed to be withdrawn.

Note: Authority cited: Section 4933 and 4939, Business and Professions Code; Section 11445.20, Government Code. Reference: Sections 27, 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code; Sections 11445.10, 11445.20, Government Code.

§ 1399.417. Abandonment of Applications.

- (a) An application for examination shall be deemed to have been abandoned and the applicant's fee forfeited in any of the following circumstances:

~~(1) The applicant fails to complete the applicant's application within 180 calendar days after it has been filed. An application shall be deemed complete when all documents and information required to determine eligibility for examination have been submitted to the Board.~~

~~(2) The applicant fails to take the licensing examination within two (2) years after the date that the applicant is notified by the Board of the applicant's eligibility to take the examination, unless, prior to the application being deemed abandoned, if the applicant submits a written explanation statement to the Board, containing of the applicant's inability to appear for the examination, the applicant's name, and examination ID to its current physical address or email as listed on its website, then the Board may shall extend the applicant's eligibility to take the examination for two (2) more consecutive administrations of the examination one (1) year.~~

~~(3) The applicant, after failing the examination, fails to take a re-examination within two (2) years after the date the applicant was notified of such failure, unless, prior to the application being deemed abandoned, if the applicant submits a written explanation statement to the Board, containing explaining the cause of the applicant's inability to appear for the examination the applicant's name, and examination ID to its current physical address or email as listed on its website, then the Board may shall extend the applicant's eligibility to take the examination for two more consecutive administrations of the examination one (1)~~

~~year, upon a showing of good cause to the Board.~~

- (b) An application submitted after the abandonment of a former application for examination shall be treated as a new application.
- (c) An applicant who, after passing the examination, fails to submit a complete application for licensure within three (3) years after the date the applicant is notified ~~that of the applicant's eligibility for licensure~~²~~he or she the applicant~~ passed the examination shall be deemed to have abandoned the applicant's application for licensure. An application submitted after the abandonment ~~for~~ of a former application for licensure shall be treated as a new application and the applicant shall qualify for, and take and pass the examination, if any, which would be required of the applicant if an initial application for licensure was being made.
- ~~(d) For the purposes of this section "good cause" includes:~~

~~(1) Death of an immediate family member (spouse, child, or parent).
Documentation, such as a copy of the death certificate, must be submitted.~~

~~(2) Catastrophic illness, contagious disease, or major traumatic injury to the applicant or immediate family member (spouse, child, or parent).
Documentation, such as an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature, must be submitted.~~

~~(3) Natural disaster (earthquake, flood, fire, etc.).~~

~~(4) Non-issuance of visa for travel to the U.S.. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.~~

~~(5) Service of the licensee on extended active duty with the Armed Forces of the United States. Documentation, such as copies of current Leave and Earnings Statements or military orders, must be submitted.~~

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938₁ and 4944, Business and Professions Code.

² "He or she" was erroneously shown as existing language and struckthrough in the originally noticed proposed regulatory language.

§ 1399.419. Review and Processing of Licensing Exam Examination Applications; Requirements for Licensure.

- (a) For applicants who completed a Board approved educational and training program or tutorial program, ~~W~~within forty-five (45) calendar days after receipt of an application for examination and application fee, the Board shall inform the applicant by email or mail of one of the following:
- (1) ~~whether~~ ~~‡~~The application is complete as set forth in Section 1399.413 and accepted for filing ~~approved~~ the applicant is eligible to pay the examination fee to initiate scheduling of the examination.
- (2) ~~or that it~~ ~~‡~~The application is deficient and what specific information or documentation is required to complete the application as set forth in Section 1399.413.
- (b) For foreign-trained applicants, within ninety (90) calendar days after receipt of an application for examination and application fee, the Board shall inform ~~an~~ the applicant ~~will be notified~~ by email or mail of one of the following:
- (1) The application is complete as set forth in Section 1399.413 and the applicant is eligible to pay the examination fee to initiate scheduling of the examination.
- (2) The application is deficient and what specific information or documentation is required to complete the application as set forth in Section 1399.413.
- (c) For applicants who were previously notified by the Board pursuant to (a) (2) or (b) (2) of this section, the Board shall inform the applicant ~~An applicant will be notified~~ by email or mail ~~of their eligibility for the examination~~ ~~W~~within forty-five (45) calendar days of receipt of a completed application for examination as set forth in Section 1399.413 that the applicant is eligible to pay the examination fee to initiate scheduling of the examination ~~received by an applicant from an approved educational and training program or tutorial program.~~, the applicant will be notified as to the applicant's eligibility for the written examination.
- ~~(c) For foreign-trained applicants, an applicant will be notified by email or mail of~~
~~his or her the applicant's eligibility for the examination within ninety (90)~~
~~calendar days of receipt of a completed application.~~
- (ed) Within thirty (30) calendar days from the date the written examination is

³ "His or her" was erroneously shown as existing language and struckthrough in the originally noticed proposed regulatory language.

administered, candidates will be notified of their results by the Board, or its designee, and if the applicant has passed the examination, will be offered, a license to practice acupuncture upon meeting all of the following:

(1) Submission of a completed application for license to the Board at its current physical address listed on its website or through the Board's online portal accessible through the Board's website. A completed application for license shall include all of the following information:

(A) Applicant's full legal name ((Last Name) (First Name) (Middle Name)).

(B) Other name(s) applicant has used or has been known by.

(C) Applicant's physical address.

(D) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address.

(E) Applicant's telephone number.

(F) Email address, if any.

(G) Applicant's Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.

(H) Applicant's birthdate (month, day, and year).

(I) The following additional applicant-identifying information, to expedite the application process, if applicable:

(i) Whether the applicant is serving, or has previously served, in the United States Armed Forces.

(ii) Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.

(iii) Whether the applicant is an active-duty member of a regular component of the United States Armed Forces enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10 of the United States Code.

(iv) Whether the applicant is married to or in a domestic partnership or other legal union with an active-duty member of the United States Armed Forces assigned to a duty station in California under official active-duty military orders. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: certificate of marriage, certificate of domestic partnership, or proof of other legal union; a copy of the applicant's spouse's or partner's military orders reflecting assignment to a California duty station; and proof of being licensed to practice acupuncture in another state, or U.S. territory or district.

(v) Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide any of the following items of documentation, as applicable, with the application to receive expedited review:

(I) Form I-94, arrival/departure record, with an admission class code such as "RE" (refugee) or "AY" (asylee) or other information designating the person a refugee or asylee;

(II) Special Immigrant Visa that includes the "SI" or "SQ";

(III) Permanent Resident Card (Form I-551), commonly known as a "green card", with a category designation indicating that the person was admitted as a refugee or asylee; or

(IV) An order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Board that the applicant qualifies for expedited licensure pursuant to section 135.4 of the Code.

(J) Excluding actions based upon the applicant's criminal conviction history, disclosure of license denial or license suspension, revocation, voluntary surrender, or other discipline of any professional health care license in California, any other state or United States territory, or by any other governmental agency or foreign country within the preceding seven (7) years of the date of application for license,

(K) Disclosure and explanation of a medical condition which currently impairs

or limits the applicant's ability to practice acupuncture with reasonable skill and safety.

(L) Whether the applicants has a place of practice in California pursuant to Section 4961 subsection (g) of the Code. If yes, include its business name, phone number, email address, and address.

(M) A statement signed and dated by the applicant under penalty of perjury under the laws of the State of California that all statements made in the application are true and correct.

(2) ~~Payment~~ of the initial license fee specified fee in section 1399.460 in the following accepted forms:

(A) credit card through the Board's online portal accessible through the Board's website, or

(B) personal check drawn from a U.S. bank, cashier's check, or money order mailed to or provided in person at the Board's current physical address listed on its website.

(3) Applicants eligible for an expedited license application process as specified in (d)(1)(I)(iv) of this section shall also be granted a waiver of the initial license fee pursuant to Section 115.5 of the Code.

(4) ~~Submission of a full and complete fingerprints to the Board for use in conducting criminal history record checks through the California Department of Justice and the Federal Bureau of Investigation set of fingerprints for the purposes of the Board conducting a criminal history record check through the California Department of Justice and the Federal Bureau of Investigation submitted in the following manner; and~~

(A) Applicants residing in California shall take the completed California Department of Justice form "Request for Live Scan Service" to a Live Scan Service location to have their fingerprints taken by the operator. The applicant will be required to pay all fingerprint processing fees payable to the Live Scan operator, including the Live Scan operator's "rolling fee," if any, and fees charged by the California Department of Justice and the Federal Bureau of Investigation. For current information about fingerprint background checks, and Live Scan locations, please visit the Attorney General's website.

(B) Applicants residing outside of California who cannot be fingerprinted electronically through Live Scan in California must have their fingerprints taken at a law enforcement agency in their state of residence, using fingerprint cards. Applicants shall complete and mail two fingerprint cards, together with the California Department of Justice and the Federal Bureau of Investigation fingerprinting fees

(either personal check drawn on a U.S. bank, money order or certified check), payable to the "Acupuncture Board of California," to its current physical address listed on its website, and

- (5) The applicant is not subject to denial pursuant to Division 1.5 (commencing with Section 475) of the Code and sections 1399.469.4 and 1399.469.5.

a license to practice acupuncture.

~~(cd) The minimum, median, and maximum processing times for examination results from the time of receipt of a complete application until the Board makes a decision are set forth below.~~

~~Minimum – 130 calendar days~~

~~Median – 155 calendar days~~

~~Maximum – 180 calendar days~~

~~These processing times apply to those candidates who take and pass the first available examination and who submit a complete application by the first available application deadline.~~

- (e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to safely perform as an acupuncturist, ~~safely~~ because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the Board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the Board. The Board shall pay the full cost of such examination. An applicant's failure to comply with ~~the~~ this requirement shall render the applicant's application incomplete.

The report of the evaluation shall be made available to the applicant.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 27, 29.5, 30, 31, 114.5, 115.4, 115.5, 135.4, 144, 480, 820, 4938, and 4944, Business and Professions Code.



8 – CE Law & Ethics Rulemaking



DATE	March 22, 2024
TO	Board Members, Acupuncture Board
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	Discussion and Possible Action on the Consideration of Public Comments on Proposed Regulatory Text to Amend CCR, Title 16, sections 1399.480, 1399.483, 1399.489, and 1399.489.1: Continuing Education: Law and Ethics Requirement

Background

At its June 23, 2023, meeting, the Board approved regulatory language to implement a new continuing education (CE) requirement for active licensees to complete a minimum of four hours in law and ethics (as part of the biennial 50-hour CE requirement) as a condition of renewal on active status. The proposed regulatory package also adds a definition of “0.5” or “one half hour” and amends the existing requirement of 22 hours of Category 1 CE coursework to 22.5 hours for licensees restoring their license to active when their license was inactive for less than a year.

The Board approved regulatory text and delegated authority to the Executive Officer to prepare the rulemaking file. Following review and approval by the Director of the Department of Consumer Affairs and the Secretary of the Business, Consumer Services, and Housing Agency, the proposed regulations were noticed on October 6, 2023, for a 45-Day public comment period that concluded on November 21, 2023. The rulemaking package is available on the Board’s website:

https://www.acupuncture.ca.gov/about_us/relevant.shtml

The Board received two (2) comments during the comment period. The Board did not receive any requests for a public hearing. Board staff are now asking for your consideration of the comments and approval of the proposed responses to public comments received.

Public Comments and Proposed Responses

Below are the summarized comments the Board received regarding the proposed text during the 45-day public comment period, followed by Board staff’s proposed responses. The Board may choose to adopt or modify the below proposed responses or suggest alternative responses.

A. Email received October 6, 2023, from Commenter 1:

Comment A-1

Summary of Comment:

The commenter suggested that there might not be enough material about law and ethics to learn about every two (2) years, opining that every eight (8) to ten (10) years

there would still “not have much that is new to learn.” The commenter suggested that two (2) hours of law and ethics would be more reasonable and effective.

Proposed Response:

The Board has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

As described on pages 5-10 of the Initial Statement of Reasons, the proposed regulatory text establishes that four (4) hours of continuing education (CE) in law and ethics is appropriate.

In the Board's experience, the Board's proposal to set the minimum hours of law and ethics at four (4) hours in the two (2) years immediately preceding expiration date is sufficient to meet these public protection goals and ensure thorough understanding and notice of the current standards of the law and professional practice. The requirements to take law and ethics on renewal is also consistent with the public policies of other similar healing arts licensing boards, i.e., Board of Chiropractic Examiners and Physical Therapy Board (see e.g., CCR sections 361 and 1399.93).

In response to the commenter's statement that there won't be enough material about laws and ethics to comply with the proposal, Board staff conducted a search on the Board's website in the CE Connect portal. Results for current Board-approved CE related to ethics produced 97 separate courses that amounts to 725.5 hours (see Attachment C). In addition, the topics of ethics and laws can pertain to different specialties, concentrations, and subject matter. There are constant changes with best practices and medical/industry standards that a licensee should be updated on every two years. Based on current coursework available, the relevant material to meet the proposed minimum four (4) hours is abundant.

B. Email received October 11, 2023, from Commenter 2:

Comment B-1

Summary of Comment:

The commenter asked the Board when the new requirement for law and ethics, is effective, and stated that they are about to renew their license and could only find 2 CEU programs about law and ethics.

Proposed Response:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The comment is a question, and the Board responded that it will be effective in the future. The nature of the comment has no substantive material and, therefore, will not impact the regulation text.

Action Requested

Review the proposed responses and consider whether to accept or reject the comments. After review, the Board may consider any of the following actions:

- Option 1 (If Board Members agree with the proposed responses):

Direct staff to accept the comments, but reject the action(s) requested in the proposed comments, provide the responses to the comments (as indicated in the meeting materials), and use when completing the regulatory process, as authorized by the motion at the Board's March 22, 2024, meeting. Direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the proposed regulations, and adopt the proposed regulations either as described in the proposed text or with any potential amendments, if no relevant, adverse comments are received within a modified text comment period.

- Option 2 (If Board Members have any edits to the proposed responses or wish to accept any comments or make any text changes):

Direct staff to accept the recommendations made by the commenters in specific comments and make edits to the proposed regulatory text, as identified, but otherwise reject the comments, as set forth in the meeting materials. Direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the proposed regulations, and adopt the proposed regulations either as described in the proposed text or with any potential amendments, if no relevant, adverse comments are received within a modified text comment period.

Attachments:

Attachment A – Email received October 6, 2023, from Alan Sunbeam, L.Ac.

Attachment B – Email received October 11, 2023, from Itzel Coronado, L.Ac.

Attachment C – CE Ethics Courses in Connect as of 12.20.23

Public Comments

Brothers, Kristine@DCA

From: Acorn Alan Sunbeam <acornavatar@gmail.com>
Sent: Friday, October 6, 2023 10:07 PM
To: AcuPolicy@DCA
Subject: New CEU requirements

Follow Up Flag: Follow up
Flag Status: Flagged

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I wonder that there will be 4 hours of law and ethics to learn about every 2 years. It seems to me that once every 8 or ten years would stil not have much that is new to learn.

Maybe 2 hours every 2 years of Law & Ethics would be more reasonable and effective.

Thank you - Sincerely, Alan Sunbeam, L. Ac, #2560

Brothers, Kristine@DCA

From: Itzel Coronado <icoronadoc@cocoracupuncture.com>
Sent: Wednesday, October 11, 2023 11:52 PM
To: AcuPolicy@DCA
Subject: Concerning new rule about the law and ethics requirements

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To whom it may concern:

Reading the letter sent from the board about the minimum 4 hours requirement in law and ethics, could you please Tell me when this new requirement is becoming effective? I'm about to renew my license and I only can find 2 CEU programs about law and ethics.

Thank you.

Itzel Coronado, L. Ac.
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CE Ethics Courses

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#1051	OnlineCE www.OnlineCE.com 860-463-9003		Ethics and Aging 201a - The History of Ethics and Aging	Category 1		N/A	2
#0100	Pacific College of Health and Science www.pacificcenterforlifelonglearning.com (619)736-5910		Ethics and Clinical Boundaries: Crossings vs. Violations (On-Demand)	Category 1		N/A	2
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Ethics: Standards of Conduct and Professional Practice	Category 1		N/A	4
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Safety, Medical errors and Ethics: Complications and Contraindications	Category 1		N/A	5
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Reproductive Medical Ethics and the Psychology of the Infertility Patient	Category 1		N/A	2
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Safety and Ethics: Reports, Risks and Guidelines for Gua sha (press-stroking) & Ba guan (cupping)	Category 1		N/A	5
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #5	Category 1		N/A	2
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #3	Category 1		N/A	2
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Pediatrics: Exploring Vaccination: Integrative Perspectives on Ethics, History, Controversies, and Integrative Care	Category 1		N/A	6
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Safety and Ethics: Herb-Drug Interactions #1	Category 1		N/A	4

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Distress and the Human Heart: The Other Pandemic East Asian Medicine Safety & Ethics in the 21C	Category 1		N/A	4
#1252	John Ellis www.gocjohnellis.com 415-810-7916		The Intake: Objective	Category 1		N/A	2
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Acupuncture Fundamentals in a Community Setting, Part I	Category 1		N/A	8
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Safety and Ethics: Acupuncture & Pneumothorax	Category 1		N/A	4
#0215	TCM Online University, LLC www.tconlineuniversity.com 310-623-2384		Acupuncture Accidents, Ethics, and Disciplinary Actions	Category 1		N/A	4
#1051	OnlineCE www.OnlineCE.com 860-463-9003		Ethics and Aging 201a - The History of Ethics and Aging	Category 1		N/A	2
#1051	OnlineCE www.OnlineCE.com 860-463-9003		Ethics and Aging 202a - Aging and the Aged Body	Category 1		N/A	2
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Safety and Ethics: Herb-Drug Interactions #2	Category 1		N/A	4
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Understanding and Treating the Breast Cancer Patient – Integration on All Levels	Category 1		N/A	16
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Integrity in the Healing Relationship: Ethics & Spiritual Psychology for the Health Professionals	Category 1		N/A	4
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Ethical Considerations for Practitioners	Category 1		N/A	2

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Ethics and Patient Management	Category 1		N/A	8
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Ethical Mandatory Reporting	Category 1		N/A	2
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Major Issues in Medical Ethics	Category 1		N/A	2
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture	Category 1		N/A	2
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Sexual Impropriety in the Medical Practice	Category 1		N/A	2
#1021	Net of Knowledge www.easterncurrentscapuncture.com (604)376-1754		Ethics from the Chinese Medical Classics	Category 1		N/A	2
#0679	Sharon Weizenbaum www.whitepineinstitute.com 413-549-4021		Buddhist Precepts as the Basis for Professional Ethics	Category 1		N/A	2
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #4	Category 1		N/A	2
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		"#1 – 20" True Meaning of Large Intestine Acupoints	Category 1		N/A	20
#1038	Michelle Gellis www.gellisacupuncture.com 443-980-5047		Ethics in Facial Acupuncture	Category 1		N/A	2

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#0041	Medical Hani Academy www.scusoma.edu 213-605-5893		Ethics for Acupuncturist	Category 1		N/A	3
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #2	Category 1		N/A	2
#0619	Acupuncturists Without Borders www.acuwithoutborders.org 503-477-9731		Ethics in the Treatment of Trauma Survivors	Category 1		N/A	5
#0619	Acupuncturists Without Borders www.acuwithoutborders.org 503-477-9731		Community Organizing for Trauma Recovery-How to Be Effective, Ethical, and Inclusive	Category 1		N/A	15
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #3	Category 1		N/A	2
#0865	Grasshopper Education www.grasshoppereducation.com 805-637-3118		Practical Office Ethics	Category 1		N/A	4
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Ethics In Acupuncture #5	Category 1		N/A	2
#0215	TCM Online University, LLC www.tconlineuniversity.com 310-623-2384		Acupuncture Accidents, Ethics, and Disciplinary Actions	Category 1		N/A	4
#1763	BRICs Practice Management https://www.brics-practice-management.com (831) 663-0444		Small Business Fundamentals - SBF 101 - Small Business Literacy	Category 2		N/A	5

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Safety and Ethics: Herb-Drug Interactions #1	Category 1		N/A	4
#1527	American Society of Acupuncturists www.asacu.org 630-853-7389		American Society of Acupuncturists' Pre-Conference Webinar Series	Category 1		N/A	13
#0329	Healthcare Medicine Institute (HealthCMI) www.healthcmi.com 831-359-9129		Conception Vessel Acupoints	Category 1		N/A	20
#0591	Healthy Seminars www.healthyseminars.com 778-861-3826		Ethical Practice for Cosmetic Facial Acupuncture	Category 1		N/A	2
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182		Major Issues in Medical Ethics	Category 1		N/A	2
#1051	OnlineCE www.OnlineCE.com 860-463-9003		Ethics and Aging 202a - Aging and the Aged Body	Category 1		N/A	2
#0024	Blue Poppy Enterprises www.bluepoppyce.com 503-974-8570		Healthy Boundaries & Real-Life Ethical Dilemmas for Acupuncturists	Category 1		N/A	2
#0469	Teachings with Dr. Martha Lucas www.cosmetiCacupunctureseminars.com 303-947-6224		Acupuncture Ethics and Safety	Category 1		N/A	4
#1704	Rosefinch Academy https://courses.rosefinchacademy.com 503-807-0158		Acupuncture for Fertility: Ethics	Category 1		N/A	2
#0799	Acupuncture - CEUs.com Inc https://Acupuncture-CEUs.com 480-743-9358		Ethics in Acupuncture Practice	Category 1		N/A	5

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#0799	Acupuncture - CEUs.com Inc https://Acupuncture-CEUs.com 480-743-9358		Ethical Relationship between Acupuncturists	Category 1		N/A	5
#0799	Acupuncture - CEUs.com Inc https://Acupuncture-CEUs.com 480-743-9358		Ethics of Bedside Manners for Acupuncturists	Category 1		N/A	5
#1304	Acupuncture Continuing Education www.acupuncturecontinuingeducation.com (401) 360-5357		A Basic Ethics Guide in Billing: Laws, Regulations, & Fraud	Category 2		N/A	2
#1304	Acupuncture Continuing Education www.acupuncturecontinuingeducation.com (401) 360-5357		2 Ethical Billing & Coding Tips	Category 2		N/A	2
#1651	TCM Hub LLC TCM-hub.com 857-272-3996		Integrated Pediatrics: From Basics to Practice with Heather Peterman, DAOM: Part 1	Category 1		N/A	2.5
#1561	Hani Times https://hanitimes.com/ 213-700-4950		Ethics 3	Category 1		N/A	2
#1021	Net of Knowledge www.easterncurrentscare.com (604)376-1754		Ethics in the Field of Acupuncture, Beginner Course	Category 1		N/A	2
#1349	Integrative Medicine Council www.integrativemedicinecouncil.org 619-368-3098		Five Elements of Acupuncture Medical Ethics	Category 1		N/A	3
#1759	Victor Tong, DC, DACBR https://tongscseminar.com 626-242-0868	1/1/2023	Ethics & Law	Category 2		1/1/2023	3
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	1/9/2023	Evidence-Informed Practice (section 52)	Category 1		1/9/2023	30

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#1051	OnlineCE www.OnlineCE.com 860-463-9003	2/10/2023	ASHI February 2023 Continuing Education Program	Category 1	San Diego, CA	02/10/2023, 02/11/2023	15
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	2/20/2023	Evidence-Informed Practice (section 51)	Category 1		2/20/2023	30
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	2/20/2023	Evidence-Informed Practice (section 53)	Category 1		2/20/2023	30
#1332	National University of Health Sciences www.nuhs.com 630-889-6604	2/21/2023	Integrative Rounds Oral Case Presentations- Session 7	Category 1		2/21/2023	1
#1002	TCMzone, LLC www.TCMzone.com 480-968-8880	2/24/2023	Ethical Standards In Acupuncture	Category 1		2/24/2023	2
#0862	Ok-Go Acupuncture Health care Inc. 714-392-3903	2/26/2023	Clinic management(insurance claim) and Medical Ethics	Category 1	Fullerton, CA	02/26/2023, 06/04/2023, 08/13/2023, 09/17/2023, 11/12/2023, 02/18/2024	8
#0436	AIMC Berkeley www.aimc.edu (510) 422-5550	3/6/2023	The Advanced Medical Qigong Therapy I	Category 1	Berkeley, CA	3/6/2023	14
#0323	Tao of Wellness www.taooofwellness.com 310-917-2200	4/7/2023	TCM biohacking for infertility	Category 1		4/7/2023	2
#1561	Hani Times https://hanitimes.com/ 213-700-4950	4/16/2023	Ethics 3	Category 1	ARTESIA, CA	4/16/2023	2
#0383	Lotus Institute of Integrative Medicine www.elotus.org 626-780-7182	4/22/2023	Acupuncture Fundamentals in a Community Setting, Part I	Category 1		4/22/2023	8
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	5/1/2023	Evidence-Informed Practice (section 51)	Category 1		5/1/2023	30

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	5/6/2023	Evidence-Informed Practice (section 52)	Category 1		5/6/2023	30
#1527	American Society of Acupuncturists www.asacu.org 630-853-7389	5/13/2023	American Society of Acupuncturists 2023 Conference Envisioning our Future	Category 1	Washington, DC	05/13/2023, 05/14/2023	16.5
#0517	David C. Kim 213-675-9848	5/20/2023	Ethics & Safety for Health Care Practitioners	Category 2	Anaheim, CA	5/20/2023	5
#1332	National University of Health Sciences www.nuhs.com 630-889-6604	5/30/2023	Integrative Rounds Oral Case Presentations- Session 18	Category 1		5/30/2023	1
#0833	Asian American Acupuncture Association www.aculover.com 213-386-4517	6/18/2023	CPR & First Aid Training (4CEU)/ Ethics & Safety (4CEU)	Category 1		6/18/2023	8
#0049	Five Branches University www.fivebranches.edu 408-260-0208	7/16/2023	Clinical Practice Ethics Review	Category 1	san jose, CA	7/16/2023	1
#1038	Michelle Gellis www.gellisacupuncture.com 443-980-5047	7/30/2023	Ethics in Facial Acupuncture	Category 1		7/30/2023	2
#0436	AIMC Berkeley www.aimc.edu (510) 422-5550	8/19/2023	Advanced Medical Qigong Therapy III	Category 1	Berkeley, CA	8/19/2023	14
#1021	Net of Knowledge www.easterncurrents.ca (604)376-1754	9/10/2023	Five Elements of Medical Ethics	Category 1		9/10/2023	3
#1021	Net of Knowledge www.easterncurrents.ca (604)376-1754	9/10/2023	Five Elements of Medical Ethics	Category 1		9/10/2023	3
#1631	Acutonic Institute 213-550-6266	9/30/2023	Ethics in the Hospital	Category 1	Los Angeles, CA	9/30/2023	4
#1332	National University of Health Sciences www.nuhs.com 630-889-6604	10/10/2023	California CE Application Session 6	Category 1		10/10/2023	1

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#1332	National University of Health Sciences www.nuhs.com 630-889-6604	10/17/2023	Integrative Grand Rounds: Session 7	Category 1		10/17/2023	1
#1332	National University of Health Sciences www.nuhs.com 630-889-6604	10/24/2023	Integrative Grand Rounds: Session 8	Category 1		10/24/2023	1
#1721	ASE Seminars, LLC. aseminarsllc.com 315-935-5414	10/27/2023	Treatment of Pelvic Floor Disorders with Acupuncture	Category 1	Tampa, FL	10/27/2023	18.5
#0096	Oriental Acupuncture Association of America www.pswacupuncture.com 408-295-7380	12/3/2023	Principles of Medical Ethics	Category 1	San Jose, CA	12/3/2023	8
#1027	K. A. A. M. A. (Korean Acupuncture & Asian Medicine Association in USA) (805)358-3694	12/9/2023	Medical Ethics and Safety	Category 1	Los Angeles, CA	12/9/2023	6
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	1/8/2024	Evidence-Informed Practice (section 51)	Category 1		01/08/2024, 01/22/2024, 01/29/2024, 02/05/2024, 02/12/2024, 02/19/2024, 02/26/2024, 03/04/2024, 03/11/2024, 03/18/2024	30
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	1/10/2024	FACE Theory (part 1)	Category 1		01/10/2024, 01/17/2024, 01/24/2024, 01/31/2024, 02/07/2024, 02/14/2024, 02/21/2024	28
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	1/14/2024	Evidence-Informed Practice (section 52)	Category 1		01/14/2024, 01/21/2024, 01/28/2024, 02/04/2024, 02/11/2024, 02/18/2024, 02/25/2024, 03/03/2024, 03/10/2024, 03/17/2024	30
#0613	Dennis Bahk 562-360-2339 TCMzone, LLC	1/20/2024	Law and Ethics with Definition of Ethics for Acupuncturist	Category 1	La Habra, CA	1/20/2024	5
#1002	www.TCMzone.com 480-968-8880	1/24/2024	Ethical Standards In Acupuncture	Category 1		1/24/2024	2

CE Ethics Courses as of 12/20/23							
CEP #	Provider Name And Contact Information	Course Start Date	Course Title	Course Category	Course Location	All Course Dates	# of CE Hours
#1721	ASE Seminars, LLC. aseminarsllc.com 315-935-5414	1/26/2024	Foundations of Lumbo-Pelvic Dry Needling & Pelvic Floor Acupuncture with Jamie Hampton, DAOM	Category 1	Tampa, FL	1/26/2024	23
#1051	OnlineCE www.OnlineCE.com 860-463-9003	2/2/2024	ASHI February 2024 Continuing Education Program	Category 1	San Diego, CA	02/02/2024, 02/03/2024	15
#1432	Pacific College of Health and Science - San Diego www.pacificcollege.edu 619-574-6909	2/28/2024	FACE Theory (part 2)	Category 1		02/28/2024, 03/06/2024, 03/10/2024, 03/20/2024, 03/27/2024, 04/03/2024, 04/10/2024	28
#0128	Yo San University of T.C.M. www.yosan.edu (818) 255-6291	4/12/2024	Chinese Medical Psychology	Category 1	Los Angeles, CA	04/12/2024, 04/13/2024	15



9 – Retirement Status



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DATE	March 22, 2024
TO	Board members, Acupuncture Board
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Section 1399.419.3 in Title 16 of the California Code of Regulations: Application for Retired Status; Retired Status; Restoration

Background

Business and Professions Code (BPC) section 464 authorizes any board within the Department of Consumer Affairs (DCA) to establish, by regulation, a system for a retired category of licensure for individuals who are not actively engaged in the practice of their profession.

Staff last brought proposed regulatory language for discussion at the August 16, 2019 Board meeting where the Board voted to approve the proposed regulatory text and directed staff to initiate the rulemaking process.

During the initiation of rulemaking documents, staff worked with Regulatory Counsel to review the retirement language. It was during this time that a number of areas were identified that would require some substantive edits. Staff was referred to a few boards (Dental Hygiene, Architects, and Physical Therapy) who recently received approval of their proposed retirement regulation from the Office of Administrative Law (OAL). Staff conducted a thorough review of the options and discussed the pros and cons of each approach. Staff determined a redirect in language is necessary and has brought the new language for Board discussion and review.

Proposed Amendments:

Staff used the language adopted by the Physical Therapy Board with some Board specific changes. The language provides the following:

- Clarifies what “disciplinary reasons” refers to in applying the statutory requirement that a retired license shall be issued to a person who was not placed on inactive status for disciplinary reasons. This would include disciplinary orders resulting from accusations and interim suspension orders.
- Sets forth the requirements for an applicant to be eligible for a retired license to include:
 1. Submission of an application for retired license with specified information instead of incorporation of a prescribed form;
 2. Payment of a retired license application fee;
 3. Have an active or inactive license issued by the Board;

4. Not placed on inactive status by the Board due to disciplinary reasons; and
 5. Not be engaged in the practice of acupuncture or an activity that requires them to be licensed by the Board.
- Sets forth the requirements for a holder of a retired license to include not engaging in any activity which requires an active license and to use their professional title with the word "retired" before or after the professional designation.
 - Sets forth the requirements to restore a retired license to active status within three (3) years of the issuance of a retired license. These requirements are comparable to an expired license under BPC section 4966, which also provides three (3) years from expiry to restore or renew before the license is considered lapsed and permanently cancelled. The requirements for restoration include:
 1. Submission of an application to restore a retired license with specified information instead of incorporation of a prescribed form;
 2. Payment of the biennial renewal fee;
 3. Completion of a minimum of 50 hours of continuing education within the last two (2) years prior to applying to restore the license to active status; and
 4. Submission of fingerprints if an electronic record does not exist in the Department of Justice's criminal offender identification database.
 - Due to a retired license being comparable to an expired license, three (3) years is provided to restore to active status. At that point, if a licensee who has been in retired status for more than three (3) years seeks active status, they will be required to apply for a new license just as a cancelled license does under BPC section 4967. BPC section 4967 identifies the steps required to obtain a new license.
 - Sets the retired license application fee at \$85 supported by the workload analysis.

Recommendation

Staff is recommending the Board adopt the new proposed retirement language.

Recommended Motion Language

Option 1: Move to Approve

- I move that the Board rescind prior proposed text approved August 16, 2019, and approve the newly proposed regulatory language and changes to Division 13.7, Article 2, section 1399.419.3 and Article 6, section 1399.460, as provided in the materials, and...
- Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.
- If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to

complete the rulemaking, and adopt new Section 1399.419.3 of Article 2 and amend Section 1399.460 of Article 6 of Division 13.7 of Title 16 of CCR as noticed.

Option 2: Move to Approve, as Amended

- I move that the Board rescind prior proposed text approved August 16, 2019, and approve the newly proposed regulatory language and changes to Division 13.7, Article 2, section 1399.419.3 and Article 6, section 1399.460, as provided in the materials, as amended:

Note the amendments

- ... And to direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.
- Authorize the Executive Officer to take all steps necessary to complete the rulemaking, and if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt new Section 1399.419.3 of Article 2 and amend Section 1399.460 of Article 6 of Division 13.7 of Title 16 of CCR as noticed.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. ACUPUNCTURE BOARD

PROPOSED REGULATORY LANGUAGE
Retired Status

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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Add section 1399.419.3 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.419.3. Application for Retired Status; Retired Status; Restoration.

(a) For the purposes of this section, "disciplinary reasons" means that the applicant's practice was restricted by order of the Board for violations of the Acupuncture Licensure Act, Acupuncture Regulations, or Section 822 of the Code, including orders resulting from:

(1) An accusation filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code seeking to revoke, suspend, or place the license on probation; or,

(2) An interim suspension order filed pursuant to Section 494 of the Code.

(b) An acupuncturist ("applicant") may apply for and, upon compliance with the requirements in subdivision (d), be issued a license by the Board in retired status ("retired license").

(c) A holder of a retired license is not required to renew that license or meet the continuing education requirements of section 1399.489.

(d) In order to be eligible for a retired license an applicant shall:

(1) Submit a completed application for retired license with the following information:

(A) California acupuncture license number,

(B) Licensee first and last name,

(C) Date of birth,

(D) Contact information including, the applicant's address of record, phone number, and an email address (if any),

(E) A statement regarding whether the applicant is engaged in any activity for which an acupuncture license is required, and,

(F) A statement signed under penalty of perjury that the information provided on the application is true and correct;

- (2) Pay the nonrefundable retired license application fee as set forth in section 1399.460, as applicable;
 - (3) Have an active or inactive license issued by the Board;
 - (4) Not have been placed on inactive status by the Board due to disciplinary reasons: and;
 - (5) Not be actively engaged in the practice of acupuncture or engaged in any activity that requires them to be licensed by the Board.
- (e) A holder of a retired license issued pursuant to this section shall:
- (1) Not engage in any activity for which an active license is required;
 - (2) Utilize their professional title only with the unabbreviated word “retired” preceding or after the professional designation.
- (f) To be eligible to restore a retired license to active status within three (3) years of being issued a retired license, an applicant shall:
- (1) Submit a complete application to restore a retired license to active status with the following information:
 - (A) California acupuncture license number,
 - (B) Licensee first and last name,
 - (C) Contact information including, the applicant's address of record, phone number, and an email address (if any),
 - (E) A disclosure since retirement, if the applicant has been convicted of, or under investigation for, any violation of the law in this or any other state, the United States, or other country,
 - (F) A disclosure since retirement, if the applicant has not been subject to discipline against any other healthcare license they hold, and,
 - (G) A statement signed under penalty of perjury that the information provided on the application is true and correct;
 - (2) Pay the nonrefundable biennial renewal fee for an acupuncturist as set forth in section 1399.460 as applicable;
 - (3) Have completed a minimum of 50 hours of continuing education within the last two years prior to applying to restore the license to active status in compliance with section 1399.489; and,
 - (4) If an electronic record of the submission of fingerprints does not exist in the Department of Justice's criminal offender identification database, and, on written request of the Board, furnish to the Department of Justice a full set of fingerprints for the purposes of conducting criminal history record checks pursuant to Section 144 of the Code.

(g) If a licensee who has been in retired status for more than three (3) years seeks an active license, the individual may apply for a new license in accordance with Section 4967 of the Code.

Note: Authority cited: Sections 464 and 4933, Business and Professions Code.
Reference cited: Sections 118, 144, 464, 4938, 4955, 4967 and 4970 Business and Professions Code.

Amend section 1399.460 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.460. Fees.

(a) The application fee shall be two hundred fifty dollars (\$250).

* * * *

(m) The fee for a letter of endorsement shall be one hundred dollars (\$100).

(n) The retired license application fee shall be eighty-five dollars (\$85).

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 464, 4938, 4940, 4941, 4944, 4961, 4965, 4966, 4970 and 4972, Business and Professions Code.

Acupuncture Board Retired License - Office Technician and AGPA (Workload Costs)				
Workload Tasks	Per Application	Minutes Per Application	OT	AGPA
Receive, log, and file application	1	10	10	-
Cashiering - Data entry	1	10	-	10
Initial review of application - identify eligibility & deficiencies	1	15	15	-
Respond to inquiries, monitor applications & other admin duties	1	12	-	12
Update status in IT system	1	5	5	-
Notify licensee	1	5	5	-
Minutes per Classification			35	22
Hours by Classification			0.58	0.37
Costs by Classification			\$48	\$37
Workload Costs per Application:			\$85	



10 – Strategic Plan



2024-2028 Strategic Plan

[once finalized, Adopted: [date], will be listed]

Prepared by:

SOLID Planning Solutions

Department of Consumer Affairs

Table of Contents

Board Members..... 3

California Acupuncture Board..... 4

Message from the President 5

Mission, Vision, and Values 6

Goal 1: Licensing and Education 7

Goal 2: Enforcement 8

Goal 3: Legislation and Regulation 9

Goal 4: Outreach and Communication..... 10

Goal 5: Administration and Customer Service..... 11

Strategic Planning Process..... 12

DRAFT

Board Members

John C. Harabedian, Governor Appointee, Board President, Public Member

Yong Ping Chen, Ph.D., Governor Appointee, Board Vice President, Licensee Member

Hyun “Francisco” Kim, L.Ac., Governor Appointee, Licensee Member

Shu Dong Li, Ph.D., Assembly Appointee, Public Member

Dr. Amy Matecki, MD, L.Ac., Governor Appointee, Licensee Member

Ruben A. Osorio, Senate Appointee, Public Member

Gavin Newsom, Governor

Tomiquia Moss, Secretary, Business, Consumer Services and Housing Agency

Kimberly Kirchmeyer, Director, Department of Consumer Affairs

Benjamin Bodea, Executive Officer, California Acupuncture Board

California Acupuncture Board

About the Board

The Board of Medical Examiners (now called the Medical Board of California) began regulating acupuncture in 1972 under provisions that authorized the practice of acupuncture under the supervision of a licensed physician as part of acupuncture research in medical schools.

In 1975, Senate Bill 86 (Chapter 267, Statutes of 1975) created the Acupuncture Advisory Committee under the Board of Medical Examiners and allowed the practice of acupuncture but only upon a prior diagnosis or referral by a licensed physician, chiropractor, or dentist. In 1976, California became the eighth state to license acupuncturists. Subsequent legislation in 1978 established acupuncture as a "primary health care profession" by eliminating the requirement for prior diagnosis or referral by a licensed physician, chiropractor, or dentist.

In 1980, the law was amended to abolish the Acupuncture Advisory Committee and replace it with the Acupuncture Examining Committee within the Division of Allied Health Professions with limited autonomous authority; to expand the acupuncturists' scope of practice to include electroacupuncture, cupping, and moxibustion; to clarify that Asian massage, exercise and herbs for nutrition were within the acupuncturist's scope of practice; and to provide that fees be deposited in the Acupuncture Examining Committee Fund instead of the Medical Board's fund. Most of these statutory changes became effective on January 1, 1982.

In 1982, the Legislature designated the Acupuncture Examining Committee as an autonomous body. Effective January 1, 1990, through AB 2367 (Chapter, 1249, Statutes of 1989) the name was changed to Acupuncture Committee to better identify it as a state licensing entity for acupuncturists. The legislation further provided that, until January 1, 1995, the California Acupuncture Licensing Examination (CALE) would be developed and administered by an independent consultant, which was later extended to June 2000.

On January 1, 1999, the committee's name was changed to Acupuncture Board (SB 1980, Chapter 991, Statutes of 1998) and the Committee was removed from within the jurisdiction of the Medical Board of California (SB 1981, Chapter 736, Statutes of 1998) becoming an autonomous body under the California Department of Consumer Affairs (DCA).

Message from the President

[Most board presidents use this space to express enthusiasm for the new strategic plan. Let us know if you would like some examples.]

DRAFT

Mission, Vision, and Values

Mission

To protect the people of California by upholding acupuncture and herbal medicine practice standards through the oversight and enforcement of the Acupuncture Licensure Act.

Vision

~~A model regulatory framework for the exemplary practice of acupuncture and herbal medicine for the health and safety of the people of California.~~

A model regulatory framework for the exemplary practice of acupuncture and herbal medicine for the health and safety of the people of California.

Values

- Collaboration
- Consumer Protection
- Excellence
- Integrity
- Professionalism

Goal 1: Licensing and Education

Establishes and maintains requirements to protect consumers through education, examination, licensing, professional competencies, and reasonable access to the profession.

- 1.1 Create a continuing education (CE) policy to accept additional entities' healing arts courses to offer licensees access to more integrative medical education and promote consumer protection.
- 1.2 Consult with DCA's Office of Professional Examination Services to gather information on the differences between the national certification exam and the California licensing exam.
- 1.3 Collaborate with acupuncture schools and the accreditor to designate fewer degree titles to improve clarity among consumers and allied health professionals.
- 1.4 Pursue statutory authority to establish an educational and training program application and renewal fee to maintain adequate funding.
- 1.5 Develop and implement a continuing education audit component to the Board's online Connect system to facilitate compliance with the ongoing continuing education requirements.

Goal 2: Enforcement

Protects the health and safety of consumers through the enforcement of the laws and regulations governing the practice of acupuncture and herbal medicine.

- 2.1 Develop and implement the enforcement component of Connect to promote efficiency in enforcement operations.
- 2.2 Complete digitization of hard copy enforcement documents to enhance efficiency in operations.
- 2.3 Create a tracking system to identify and monitor complaints related to the new Acupuncture Assistant role and report that information to the Board.

DRAFT

Goal 3: Legislation and Regulation

Advocates for statutes and adopts regulations, policies, and procedures that strengthen and support its mandate, mission, and vision.

- 3.1 Update the continuing education regulations to align with current statute.
- 3.2 Align regulations with Business and Professions Code Section 730.5 to clarify scope and protect consumers from unlicensed activity.
- 3.3 Seek legislative clarity and authority over Asian massage and manual therapy to alleviate consumer confusion.
- 3.4 Explore the Board's capability of addressing the prescription of medical-grade herbs to provide clarity and accountability to consumers and physicians.
- 3.5 Explore the feasibility of requiring that foreign-trained and tutorial applicants that take the licensing exam in a language other than English meet a minimum English proficiency to promote effective communication between practitioners and patients.
- 3.6 Simplify the definitions around cupping and related practices to ensure clarity for consumers and licensees.
- 3.7 Seek statutory authority to allow domestically trained applicants to complete missing education requirements at Board approved educational and training programs.

Goal 4: Outreach and Communication

Educates consumers, licensees, and other stakeholders about the practice and regulation of acupuncture and herbal medicine.

- 4.1 Provide stakeholder meetings to offer licensees and the public opportunities to inquire about Board activities and to gather input about issues of interest arising in the industry.
- 4.2 Collaborate with DCA's Office of Public Affairs to create and utilize social media accounts to engage diverse stakeholders.
- 4.3 Identify ways to increase awareness regarding the profession and its offerings.
- 4.4 Collaborate with other U.S. state regulatory boards to build relationships and engage in discussion about a national standard and license portability.
- 4.5 Enhance communication with licensees and consumers to clarify the Board's role and authority as well as explain policy decisions.

Goal 5: Administration and Customer Service

Continues to build and maintain an excellent organization through the development of staff, responsible management, strong leadership, and effective Board governance.

- 5.1 Conduct an internal fee study to monitor financial resources and re-assess fees such that, if needed, the Board can show cause for changes in the 2028 Sunset Report.
- 5.2 Partner with DCA to update the Board website to improve access and responsiveness.
- 5.3 Expand and diversify the pool of subject matter experts available to the Board.
- 5.4 Update staff process manuals to reflect the new Connect system.
- 5.5 Explore ways to implement a Customer Relations Management service that allows the Board to create tickets to track and close issues.

Strategic Planning Process

To understand the environment in which the Board operates as well as identify factors that could impact the Board's success in carrying out its regulatory duties, the Department of Consumer Affairs' SOLID Planning Unit (SOLID) conducted an environmental scan of the Board's internal and external environments by collecting information through the following methods:

- Interview was conducted with the executive officer in April of 2023.
- Interviews were conducted with board members in April and May of 2023.
- Online surveys were distributed to staff and external stakeholders in August and September of 2023.
 - During an introduction at the March 2023 board meeting, board members expressed enthusiasm at potential participation in a translation pilot program through SOLID Planning, where strategic planning surveys would be offered in a variety of languages. Due to the Board offering the licensing examination in Korean, Chinese, and English, those languages were included in the pilot program. Spanish was also included, as it is the most commonly spoken language in California after English.

The responses were submitted as follows.

Language of Response	Number of Responses
English	396
Chinese (simplified)	345
Korean	175
Spanish	4

The most significant themes and trends identified from the environmental scan were discussed by Board Members, the Executive Officer, managers, and staff during a strategic planning session facilitated by SOLID on October 27, 2023. This information guided the Board in the development of its strategic objectives outlined in this 2024-2029 strategic plan.

California Acupuncture Board

1625 North Market Boulevard
Suite N-219
Sacramento, CA 95834
Phone: (916) 515-5200

<https://www.acupuncture.ca.gov/>

Strategic plan adopted on [date TBD].

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the California Acupuncture Board on October 27th, 2023. Subsequent amendments may have been made after the adoption of this plan.



Prepared by:
SOLID Planning Solutions
1747 N. Market Blvd., Ste. 270
Sacramento, CA 95834



11 – Administrative Manual

State of California

California Acupuncture Board
Board Member
Administrative Manual

Adopted August 27, 2020



Department of Consumer Affairs, State of California

Members of the Board

Dr. Amy Matecki, MD, L.Ac, President, Licensed Member

Kitman Chan, Vice President, Public Member

Dr. Yon Ping Chen, L.Ac., Ph.D., Licensed Member

John Harabedian, Public Member

Hyun Francisco Kim, Licensed Member

Dr. Shu Dong Li, Ph.D., Public Member

Ruben Osorio, Public Member

Executive Officer

Benjamin Bodea, Executive Officer

This procedure manual is a general reference including a review of important laws, regulations, and basic Board policies to guide the actions of Board ~~members~~Members and ensure Board effectiveness and efficiency.

This Administrative Procedure Manual, regarding Board Policy, can be amended by a majority of affirmative votes of any current or future Board.

TABLE OF CONTENTS

CHAPTER 1. Introduction	Page
Mission Statement	5
Brief History	5
Function of the Board.....	6
State of California Acronyms	6
General Rules of Conduct	7
CHAPTER 2. Board Members and Meeting Procedures	
Membership	8
Board Meetings	8
Quorum	8
Board Member Attendance at Board Meetings	8
Public Attendance at Board Meetings.....	9
Agenda Items	9
Notice of Meetings	9
Notice of Meetings Posted on the Internet.....	9
Mail Ballots.....	9
Holding Disciplinary Cases for Board Meetings.....	10
Record of Meetings	10
Audio Recording	10
Meeting Rules.....	11
Public Comment.....	11
CHAPTER 3. Travel & Salary Policies & Procedures	
Travel Approval	12
Travel Arrangements.....	12
Out-of-State Travel.....	12
Travel Claims	12
Salary Per Diem	12
CHAPTER 4. Selection of Officers and Committees	
Officers of the Board	14
Election of Officers.....	14
Officer Vacancies.....	14
Board Member Addresses	14
Board Member Written Correspondence and Mailings	14
Communications: Other Organizations/Individuals/Media	14
Committee Appointments.....	14
Committee Meetings.....	15
Attendance at Committee Meetings	15

CHAPTER 5. Board Administration and Staff

Executive Officer	16
Board Administration	16
Executive Officer Evaluation	16
Board Staff	16
Board Budget	16
Communication with Organizations & Individuals	17
Business Cards	17

CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions	18
Terms and Removal of Board Members	18
Resignation of Board Members	18
Conflict of Interest	19
Contact with Licensees and Applicants	19
Contact with Respondents	19
Service of Legal Documents	19
Serving as an Expert Witness	19
Gifts from Licensees and Applicants	20
<i>Ex Parte</i> Communications	20
The Honoraria Prohibition	21
Required Training	21

CHAPTER 1. Introduction

Mission Statement – [Request to match Approved Strategic Plan wording]

To protect the people of California by upholding acupuncture practice standards through the oversight and enforcement of the Acupuncture Licensure Act.

Brief History

The Board of Medical Examiners (now called the Medical Board of California) began regulating acupuncture in 1972 under provisions that authorized the practice of acupuncture under the supervision of a licensed physician as part of acupuncture research in medical schools.

In 1975, Senate Bill 86 (Chapter 267, Statutes of 1975) created the Acupuncture Advisory Committee (committee) under the Board of Medical Examiners and allowed the practice of acupuncture but only upon prior diagnosis or referral by a licensed physician, chiropractor or dentist. In 1976 California became the eighth state to license acupuncturists. Subsequent legislation in 1978 established acupuncture as a "primary health care profession" by eliminating the requirement for prior diagnosis or referral by a licensed physician, chiropractor or dentist; and AB 2424 (Chapter 1398, Statutes of 1978) authorized MediCal payments for acupuncture treatment.

In 1980 the law was amended to abolish the Acupuncture Advisory Committee and replace it with the Acupuncture Examining Committee within the Division of Allied Health Professions with limited autonomous authority and expanded the acupuncturists' scope of practice and provided that fees be deposited in the Acupuncture Examining Committee Fund instead of the Medical Board's fund. Most of these statutory changes became effective on January 1, 1982.

In 1982, the Legislature designated the Acupuncture Examining Committee as an autonomous body, and effective January 1, 1990, through AB 2367 (Chapter 1249, Statutes of 1989) the name was changed to the Acupuncture Committee to better identify it as a state licensing entity for acupuncturists. On January 1, 1999, the committee's name was changed to the Acupuncture Board (SB 1980, Chapter 991, Statutes of 1998) and removed the Committee from within the jurisdiction of the Medical Board of California (SB 1981, Chapter 736, Statutes of 1998).

In 2002, AB 1943 (Chapter 781, Statutes of 2002) was signed into law that raised the acupuncture training program curriculum standards requirement to 3,000 hours, which included 2,050 hours of didactic training and 950 hours of clinical training.

In 2006, SB 248 (Chapter 659, Statutes of 2005) repealed the nine-member Board and reconstituted it as a seven-member board with four public members and three licensed acupuncture members. The quorum requirements were changed

to four members including at least one licensed member constituted a quorum. In 2014, SB 1246 (Chapter 397, Statutes of 2014), was signed into law. This bill extended the Board's sunset date to January 1, 2017. On September 26, 2016, AB 2190 (Chapter 667, Statutes of 2016) was signed into law. This bill extended the Board's sunset date to January 1, 2019. On October 10, 2023, AB 1264 (Chapter 682, Statutes of 2023) was signed into law, which extended the Board's sunset date until January 1, 2028.

Function of the Board

The Acupuncture Board's (Board) legal mandate is to ~~regulate~~protect the public through regulating the practice of acupuncture and Asian medicine in the State of California. The Board ~~established~~establishes and maintains entry standards of qualification and conduct within the acupuncture profession, primarily through its authority to license. The Acupuncture Licensure Act commences with Business and Professions ~~(B&P)~~ Code, Section 4925, et seq. The Board's regulations appear in Title 16, Division 13.7, of the California Code of Regulations (CCR).

The ~~primary responsibility of the Acupuncture Board is to protect~~protects California consumers from incompetent, and/or fraudulent practice through the enforcement of the Acupuncture Licensure Act and the Board's regulations. The Board promotes safe practice through ~~the its licensing standards, the~~maintenance and improvement of educational training standards, continuing education, enforcement of the ~~B&P~~Business and Professions Code, and public outreach.

State of California Acronyms

ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
B & P	Business and Professions Code
CCCCP	California Code of Civil Procedure
CCR	California Code of Regulations
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DOF	Department of Finance
DOI	Division of Investigation
DPA	Department of Personnel Administration
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SCO	State Controller's Office
SCSA	State and Consumer Services Agency
SPB	State Personnel Board

General Rules of Conduct

All Board Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional, and ethical manner at all times. The Board serves at the pleasure of the Governor and the Legislature, ~~and, The Board~~ shall conduct their business in an open and transparent manner, so that the public that they serve shall be both informed and involved in the decision-making process, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- ❖ Board Members shall comply with all provisions of the Bagley-Keene Open Meeting Act.
- ❖ Board Members shall not speak or act for the Board without proper authorization.
- ❖ Board Members shall not privately or publicly lobby for or publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, when those are in direct opposition to an official position adopted by the Board.
- ❖ Board Members shall not discuss personnel or enforcement matters outside of their official capacity in properly noticed and agendaized meetings or with members of the public or the profession.
- ❖ Board Members shall never accept gifts from applicants, licensees, or members of the profession while serving on the Board.
- ❖ Board Members shall maintain the confidentiality of confidential proceedings, procedures, documents, and other information related to Board business.
- ❖ Board Members shall commit the appropriate time ~~and to~~ prepare for Board responsibilities including the reviewing of board meeting notes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the Board Members by staff, which is related to official Board business.
- ❖ Board Members shall recognize the equal role and responsibilities of all Board Members.
- ❖ Board Members shall act fairly, be nonpartisan, impartial, and unbiased in their roles of protecting the public and enforcing the Acupuncture Licensure Act.
- ❖ Board Members shall treat all consumers, applicants ~~and~~, licensees, and stakeholders in a fair, professional, courteous, and impartial manner.
- ❖ Board Members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- ❖ Board Members shall not use their positions on the Board for personal, familial, or financial gain. Any employment subsequent to employment as a board member shall be consistent with Executive Order 66-2.

CHAPTER 2. Board Members & Meeting Procedures

Membership

~~(B & P Business and Professions Code Section, Sections 130, 131, 4928, 4929, 4930)~~

The Board consists of seven members. Three members are licensed acupuncturists with at least five years of experience and four are public members: who do not hold a license or certificate as a physician, surgeon, or acupuncturist. The Governor appoints the three licensed members and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. All members appointed by the Governor are subject to Senate confirmation. The members serve a four-year term for a maximum of two terms. The licensed members should represent a cross section of the cultural backgrounds of the acupuncturist profession.

Board Meetings

~~(B & P Code Business and Professions, Section 101.7)~~

~~(Government Code Section 11120, et seq. — Bagley-Keene Open Meeting Act.)~~

The full Board shall meet at least ~~three~~two times each calendar year. The Board shall meet at least once each calendar year in northern California and at least once each calendar year in southern California in order to facilitate participation by the public and its licensees.

The Board, ~~as a statement of policy,~~ shall comply with the provisions of the Bagley-Keene Open Meeting Act, ~~and. The Board shall~~ conduct ~~their business meetings~~ in accordance with Robert's Rules of Order, as long as that does not conflict with any superseding laws or regulations.

Due notice of each meeting and the time and place thereof must be given to each member in the manner provided by the Bagley-Keene Open Meeting Act.

The Board may call a special meeting at any time in the manner provided by the Bagley-Keene Open Meeting Act, Government Code Section 11125.4.

Quorum

~~(B & P Code Business and Professions, Section 4933)~~

Four members of the Board, including at least one acupuncturist, shall constitute a quorum to conduct business. An affirmative vote of a majority of those present at a meeting of the Board is required to carry any motion.

Board Member Attendance at Board Meetings

(Board Policy)

Being a member of the Board is a serious and important commitment to the ~~governor and the~~ people of the State of California. Board ~~members~~Members shall strive to attend all scheduled board meetings and shall attend a minimum of 75% of ~~all scheduled board~~ meetings. If a member is unable to attend, they must contact the Board President or the Executive Officer and provide a written explanation of their absence.

~~Public Attendance at~~

~~Bagley-Keene and Board Meetings~~

~~(Government Code, Section 11120, et seq.)~~

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This Act governs meetings of the state regulatory Boards and meetings of committees of those Boards where the committee consists of three or more ~~than two~~ members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. The Board may only discuss items in a closed session if authorized by the Act. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Board Members should not discuss items within the Board's jurisdiction with other Board Members outside a scheduled board meeting.

Agenda Items

(Board Policy)

Each meeting's agenda is developed by the Board President in consultation with the Executive Officer and legal counsel. The Board President will strive to ensure that the agenda addresses items raised by Board Members and stakeholders while taking into consideration the Board's mission and resources.

Board Members may submit agenda items for a future Board meeting during the "Future Agenda Items" section of a Board meeting or directly to the Board President up to two weeks after a Board meeting. To the extent possible, the Board President will calendar each Board Member's request on a future Board meeting.

In the event ~~of~~the Board President cannot include all requested agenda items at a conflict future meeting, the Board President shall make the final decision on what items are included on the agenda. The Board President will work with the Executive Officer to finalize the agenda.

If a Board Member requests an item be placed on the agenda, and that request cannot be complied with at the immediate upcoming meeting, then the requested agenda item shall be placed on the next regularly scheduled meeting and shall never be postponed more than two meetings.

Notice of Meetings

(Government Code Section ~~11120 et seq.,~~ 11125)

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board's mailing list and posted to the Board's website at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

Mail Ballots

(Notice ~~Frankel v. Board~~ of Meetings Posted on the Internet

~~{Dental Examiners (1996) 46 Cal.App.4th 534, Government Code, Section 11125 et seq.}~~

~~Meeting notices shall be posted on the Board's web site at least 10 days in advance of the meeting, and include the name, address, and telephone number of staff who can provide further information prior to the meeting.~~

11526; See also Mail Ballots

~~{Government Code, Section 11500, et seq.}~~

The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are mailed to each Board Member for their vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the mail ballot. A five-calendar day deadline generally is given for the mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Holding Disciplinary Cases for Board Meetings

~~{Government Code, Sections 11517 and 11526; Board Policy}~~

When voting on mail ballots for proposed disciplinary decisions or stipulations, a Board Member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked "hold for discussion," and the reason for the hold must be provided on the mail ballot. This allows staff the opportunity to prepare information being requested.

If two votes are cast to hold a case for discussion, the case is set aside and not processed (even if four votes have been cast on a decision). Instead, the case is scheduled for a discussion during a closed session at the next Board meeting.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

Record of Meetings

~~{Board Policy}; See also Government Code, Section 11120, et seq.}~~

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board Members before the next Board meeting.

Board minutes must be approved or disapproved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting. The recordings of each Board meeting shall be maintained and not destroyed.

Audio or Video Recording

~~{Government Code, Section 11124.1(b)}~~

The meeting may be audio and/or video recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members of the public may audio record, video record, or otherwise record a meeting unless they are

disruptive to the meeting and the President has specifically warned them ~~of their~~ being to cease such disruptive behavior, then the President may order that their activities be ceased.

The Board may place the recorded public board meetings on its web site at:
www.acupuncture.ca.gov

Meeting Rules

~~(Board Policy)~~

~~The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order are clarified by the Board's legal counsel.~~

Public Comment

~~(Government Code, Sections 11123(a) and 11125.7; 75 Ops.Cal.Atty.Gen. 89 (1992); Board Policy)~~

~~Public comment is always encouraged and allowed. Depending on the time allocated to the meeting, the number and complexity of each agenda item, and the number of persons wishing to comment, the Board President may adopt reasonable procedures to limit the time allocated to each topic and each speaker. When the Board limits time for public comment, it will allow twice the allotted time to non-English speakers who address the Board through a translator.~~

Public Comment on Investigations and Proceedings

~~(Board Policy)~~

~~Public comment is always encouraged and allowed, however, if time constraints mandate, the comments may be limited as determined by Board President.~~

Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate its Executive Officer to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or

otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.

CHAPTER 3. Travel & Salary Policies & Procedures

Travel Approval

(Board Policy)

Board ~~members~~Members shall receive Executive Officer approval for all travel and salary or per diem reimbursement, ~~except. The Executive Officer shall approve all reasonable expenses incurred by Board Members~~ for regularly scheduled Board, committee, and conference meetings to which a Board ~~member~~Member is assigned.

Travel Arrangements

(Board Policy)

~~Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Board Liaison on lodging accommodations.~~

Out-of-State Travel

(~~SAM~~State Administrative Manual Section 700, et seq.)

Out-of-state travel for all persons representing the State of California is controlled and must be approved by the Governor's Office.

Travel Claims

(~~SAM~~State Administrative Manual, Section 700, et seq.)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Board Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Board President for approval.

It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip.

Salary Per Diem

(~~B & P~~Business and Professions Code ~~Section, Sections~~ 103 and 4931)

Each member of the Board shall receive a per diem in the amount provided in Section 103 of the Business and Professions ~~(B & P)~~ Code. Board Members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed travel expenses.

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by the ~~B & P~~Business and Professions Code, Section 103. In relevant part, ~~B & P~~Business and Professions Code, Section 103 provides for the payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties," and provides that the Board Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Salary Per Diem

(Board Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board Members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board Member.

~~Attendance~~In order to receive a salary per diem or reimbursement for attendance at gatherings, events, hearings, conferences or meetings (other than official Board or committee meetings) in which a substantial official service is performed, ~~the Board Member shall notify~~ the Executive Officer ~~shall be notified~~ and obtain approval ~~shall be obtained~~ from the Board President prior to the Board Member's attendance.

2. The term "day actually spent in the discharge of official duties" shall mean (a) such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned, or (b) attendance at gatherings, events, hearings, conferences, or meetings (other than official Board or committee meetings) in which a substantial official service is performed, as determined, and authorized by the Board President.

If a member is absent for a portion of a meeting, hours are then reimbursed for time actually spent. Travel time is not included in this component.

3. For Board-specified work, Board Members will be compensated for time actually spent in performing work authorized by the Board President. This may also include, but is not limited to, authorized attendance at other events, meetings, hearings, or conferences. Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions. However, Board Members will not receive more than \$100 for preparation time per meeting without the approval of the Executive Officer and Board President. Board Members will not receive more than \$100 for reading and deliberating on mail ballots for disciplinary actions for each group of ballots shard by the Board's staff.
4. Reimbursable work does not include miscellaneous reading and information gathering unrelated to board business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the members duties with the Board.
5. Board Members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the President. Requests must be submitted in writing to the President for approval and a copy provided to the Executive Officer. However, Board Members should recognize that even when representing themselves as "individuals," their positions might be misconstrued as that of the Board.

CHAPTER 4. Selection of Officers & Committees

Officers of the Board

The Board shall elect a President and Vice President.

Election of Officers

Elections of the officers shall occur annually at the second meeting of each calendar year, or the first meeting after a Sunset Hearing if during a Sunset Hearing year.

Officer Vacancies

If an office becomes vacant during the year, the President may appoint a member to fill the vacancy for the remainder of the term until the next annual election.

If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers shall then serve the remainder of the term.

Board Member Addresses

Board Member addresses ~~and~~, telephone numbers, and emails are confidential and shall not be released to the public without expressed authority of the individual Board Member. A roster of Board Members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Board Member Written Correspondence and Mailings

All correspondence, press releases, articles, memoranda, or any other ~~communication~~ communications or publications written by any Board Member in their official capacity must be provided to the Executive Officer. The Executive Officer will retain a copy in a chronological file.

Communications: Other Organizations/Individuals/Media

All communications relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board President, their designee, or the Executive Officer. Any Board Member who is contacted by any of the above should inform the Board President or Executive Officer of the contact.

Committee Appointments

The President shall establish committees as they deem necessary.

The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President and the Executive Officer.

Committee Meetings

Each committee will be comprised of at least two Board Members. The committees are an important venue for ensuring that staff and Board Members share information and perspectives in crafting and implementing strategic objectives.

The Board's committees allow Board Members, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's strategic goals. They also allow the Board to consider options for implementing components ~~ferof~~ the strategic plan.

The committees are charged with coordinating Board efforts to reach Board goals and achieving positive results on its performance measures.

The Board President designates one member of each committee as the committee's chairperson.

The chairperson coordinates the committee's work, ensures progress toward the Board's priorities, and presents reports as necessary at each meeting.

During any public committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a committee. These meetings shall also be run in accordance with the Bagley-Keene Open Meeting Act.

Attendance at Committee Meetings

If a Board Member wishes to attend a meeting of a committee of which they are not a member, the Board Member must obtain permission from the Board President to attend and must notify the committee chair and staff.

Board Members who are not members of the committee that is meeting cannot vote during the committee meeting.

~~If there is a quorum of the Board at a committee meeting,~~ Board Members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

The Board's legal counsel works with the Executive Officer to assure ~~any meeting that fits the requirements for a public meeting is appropriately noticed.~~ the committee meetings comply with the Bagley-Keene Open Meeting Act.

CHAPTER 5. Board Administration & Staff

Executive Officer

~~(B & P~~Business and Professions Code, Section 4934)

The Board may appoint an Executive Officer. The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Board, and may be terminated, with or without cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act and other applicable law.

Board Administration

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Board.

Executive Officer Evaluation

On an annual basis, the Executive Officer is evaluated by the Board President during a closed session, conducted in accordance with the Bagley-Keene Open Meeting Act. Board members provide information to the President on the Executive Officer's performance in advance of this meeting.

Board Staff

~~(B & P~~Business and Professions Code, Section 4934)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements.

~~Because of~~ Due to this complexity, the Board delegates ~~this~~the authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Board.

Board Members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Board Members shall not become involved in the personnel issues of any state employee.

Board Budget

(Government Code, Section 13324; Budget Act)

The Board and the Executive Officer have a responsibility to ensure proper fiscal management and administration of the Board's fund. The Board and the Executive Officer shall work with staff and DCA to review the Board's expenditures and ensure sound fiscal policy.

The Board will not vote for or authorize the spending of money in excess of the amounts authorized by law, or for unauthorized purposes. The Board and the Executive Officer will take steps to correct any budgetary deficit.

The Executive Officer or the Executive Officer's designee will attend and testify at the legislative budget hearings and shall communicate all budget issues to the

Administration and Legislature.

Communication with Other Organizations & Individuals

All communications relating to any Board action or policy to any individual or organization shall be made only by the President of the Board, their designee, or the Executive Officer.

Any Board Member who is contacted by any of the above should inform the Board President or Executive Officer of the contact immediately.

All correspondence shall be issued on the Board's standard letterhead and will be disseminated by the Executive Officer's office.

The Board and its staff shall coordinate with its legal counsel and other advisors to appropriately respond to communications.

Business Cards

Business cards will be provided, upon request, to each Board Member with the Board's name, address, telephone and fax number, and website address.

CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions

If a Board Member violates any provision of the Administrative Procedure Manual, the President will provide in writing, notice to the member of the violation. If the member disagrees with the notice, the Board Member must provide a reply in writing. After giving the board member an opportunity to respond to the notice, the President, at their discretion may meet in person or discuss by telephone with the Board Member to discuss the violation. The President may ask a third person to be present during the meeting. If the matter is not resolved at the end of the meeting or it is resolved but the Board Member continues to violate the procedures in the manual, the President may agendaize at the next board meeting an item asking for censure of the Board Member.

If the violation concerns the President's conduct, the Vice-President will handle the matter.

Terms and Removal of Board Members

(B & P Business and Professions Code, Sections 130, 131, 4928, 4929 and 4930)

The Governor appoints three acupuncturist members and two public members of the Board. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall serve more than two consecutive terms on the Board.

Each Governor appointee shall serve until his successor has been appointed and qualified or until 60 days has elapsed since the expiration of his term whichever first occurs. Each Senate Rules Committee and the Speaker of the Assembly appointee shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs.

The Governor has the power to remove any member from the Board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct.

Resignation of Board Members

(Government Code, Section 1750(b))

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor's Office, Senate Rules Committee, or the Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Board President and the Executive Officer.

Conflict of Interest

(Government Code, Section 87100)

No Board Member may make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest.

Any Board Member who has a financial interest shall disqualify themselves from making or attempting to use their official position to influence the decision.

Board Members should not participate in any decision in which they have a personal conflict of interest.

Any Board Member who feels they are entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Licensees and Applicants

Board Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all contacts or inquiries to the Executive Officer.

Contact with Respondents

Board Members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Board Member to disqualification in any future disciplinary action against the licensee. If a Board Member is contacted by a respondent or their attorney, the Board Member should refer the individual to the Executive Officer.

Service of Legal Documents

If a Board Member is personally served as a party in any legal proceeding related to their capacity as Board Member, they must contact the Executive Officer immediately.

Serving as an Expert Witness

(Executive Order 66.2)

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of State involvement for the appointee's private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other

than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of their State employment or as a part of the appointee's duties as a State officer.

Gifts from Licensees and Applicants

(Government Code, Section 81000, et seq.; FPPC Regulations, Title 2, Division 6)

Board Members shall comply with all restrictions on gifts imposed by the Political Reform Act, accompanying regulations of the Fair Political Practices Commission, and other relevant law and guidance.

A gift of any kind to Board Members from licensees, applicants for licensure, continuing education providers or approved schools is not permitted. Gifts must be returned immediately.

If Board Members have specific questions, they should reach out to the Board's legal counsel.

Ex Parte Communications

(Government Code, Section 11430.10, et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board Members are prohibited from making an ex parte communication with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once they realize it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, they should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Board's legal counsel.

If the person insists on discussing the case, they should be told that the Board Member will be required to recuse themselves from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that they have received an unlawful ex parte communication, they should contact the Executive Officer and the Board's legal

counsel.

The Honoraria Prohibition

(Government Code ~~Section 89503~~, Sections 89501 and 89502; FPPC Regulations, Title 2, Division 6)

As a general rule, members of the Board should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A member of a state board is precluded from accepting an honorarium from any source, if the member would be required to report the receipt of income or gifts from that source on their statement of economic interest.

Board Members are required to report income from, among other entities, professional associations, and continuing education providers. Therefore, a Board Member should decline all offers for honoraria for speaking or appearing before such entities.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:

- (1) When an honorarium is returned to the donor (unused) within 30 days;
- (2) When an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and,
- (3) When an honorarium is not delivered to the Board Member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

In light of this prohibition, members should report all offers of honoraria to the Board President so that they, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

Required Training

California law ~~requires~~ and Board policy require all appointees to take the following training:

- **Board Member Orientation** (Business and Professions Code, Section 453)
The Board Member orientation is a full day session that shall be given to new and reappointed Board Members within one year of assuming office.
- **Ethics** (Government Code, Section 11146.3)
An ethics orientation within the first six months of appointment and to repeat this ethics orientation every two years throughout their term.
- **Sexual Harassment Prevention Training** (Government Code Section 12950.1)
Board Members are required to complete sexual harassment prevention training and education upon appointment and every odd year.
- **Defensive Driver Training** (State Administrative Manual, Sections 0751 and 0752)
Upon appointment and completed once every four years.