



To: Members, California Acupuncture Board

From: CAB staff

RE: Possible 2013 legislation regarding Acupuncture advertising

Problem:

The prevalence of fraudulent acupuncture clinics and offices that are fronts for prostitution has grown to an alarming rate that some cities such as Redondo Beach ban new acupuncture offices or clinics from opening because they cannot tell legal from illegal operations. Acupuncture is a noble profession that has been tainted by an increased number of illegal operations that pose as acupuncture businesses but are really illegal prostitution operations, for example.

It has become difficult for both the public and law enforcement to distinguish the legitimate acupuncture businesses from the illegal ones. This continued unchecked plague taints the profession and impacts the services offered to the public.

Proposal:

One easy way to solve this problem is to help law enforcement and the public distinguish legal from illegal acupuncture businesses by requiring all acupuncture advertising must include the license number of the licensee who owns the business. If there are more than one licensee, then each of their numbers must be displayed after their names.

Since the public can obtain a licensee's license number on the board's website or by requesting it pursuant to the Public Records Act, it wouldn't be difficult to justify the promulgation of a regulation or enactment of a statute that would require acupuncturists to include their license number in all forms of advertising. This would enable a consumer to quickly identify an acupuncturist who is advertising for his or her services, without being required to determine which acupuncturist who shares the same first and last name with other acupuncturists in a city is the correct one. It would also curb the opening of fraudulent acupuncture and massage clinics. Possible fines and or sanctions against these violations could be in the form of fines, suspension or denial of license renewals.

Recommendation:

CAB searches for potential author for a bill that would create this proposed mandate for acupuncture advertising to include the license number of the licensee owner.

Relating to Acupuncturists, California Code of Regulations (CCR) sections
1399.455 (advertising) currently states:

1. (a) *A licensed acupuncturist may advertise the provision of any acupuncture services authorized to be provided by such licensure in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.*
2. (b) *It is improper advertising as provided in Section 4955 of the code to disseminate any advertising which represents in any manner that the acupuncturist can cure any type of disease, condition or symptom.*
3. (c) *It is improper advertising as provided in Section 4955 of the code to disseminate any advertising of a practice, technique or procedure which is not within the scope of the practice of acupuncture as defined in Section 4927 and 4937 of the code and which is the unlawful practice of medicine.*

Specifically for Acupuncturists, in CCR 1399.455 (advertising) the following language could be added:

4. (d) *An acupuncturist who advertises his or her services shall hold a current, active license issued by the California Acupuncture Board, and shall include his or her license number, the name and license number of the establishment at which he or she is employed, and the name of the city or community where the business is located on any television and print advertising including, but not limited to, telephone and other directory listings, business cards and newspaper and magazine advertisements.”*

Discussion:

Several other professional licensing boards have similar advertising requirements. CAB board would not be the first to require a license number to be included in all forms of advertising. The Cemetery and Funeral Bureau, Optometry Board, Board of Behavioral Sciences, and the Contractors State License Board require it. For example, contractors are subject to the provisions of **Business and Professions Code section 7030.5**, which provides as follows:

“Every person licensed pursuant to this chapter shall include his license number in: (a) all construction contracts; (b) subcontracts and calls for bid; and (c) all forms of advertising, as prescribed by the registrar of contractors, used by such a person.”

The Cemetery and Funeral Bureau has similar language. In California Code of Regulations (CCR) Section 1211 provides in part that a funeral Establishment shall include its name and license number, exactly as shown by the Bureau's records, and city or community where located in all television and print advertisements, including but not limited to telephone and other directory listings, television, newspaper, and magazine advertisements.

CCR Section 1204(d) further states; *“A funeral director who advertises his or her services shall hold a current, active license, and shall include his or her license number, the name and license number of the funeral establishment at which he or she is employed, and the name of the city or community where the funeral establishment is located on any television and print advertising including, but not limited to, telephone and other directory listings, and newspaper and magazine advertisements.”*