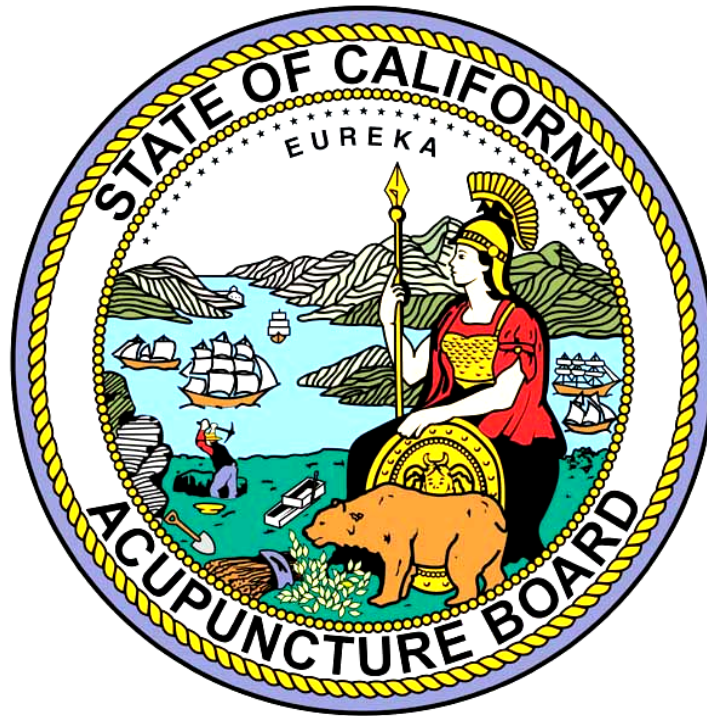


California Acupuncture Board Meeting
August 31, 2016
Teleconference
Los Angeles, Sacramento, San Diego, CA



Board Members

*Hildegarde Aguinaldo, J.D. - President
Public Member
Jamie Zamora – Vice President
Public Member
Kitman Chan – Public Member
Dr. Michael Corradino, DAOM, L.Ac
Francisco Hsieh – Public Member
Jeannie Kang, L.Ac*

Legal Counsel

Kelsey Pruden, Esq.

Staff

*Ben Bodea – Acting Executive Officer
Continuing Education Coordinator
Erica Bautista – Administration Coordinator
Cricket Borges – Enforcement Analyst
Kristine Brothers – Enforcement Coordinator
Krystle Englehart – Exam Analyst
Tammy Graver – Board Liaison
Jay Herdt – Education Coordinator
Marc Johnson – Policy Coordinator
Van Martini – Office Technician
Terry Sinkovich – Exam Coordinator
Tammy Stadley – Licensing Technician
Sandra Wilson – Licensing Technician*



ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

NOTICE OF ACUPUNCTURE BOARD MEETING

Wednesday, August 31, 2016 – 9:00am

LOCATION:

**Department of Consumer Affairs – HQ2
1747 North Market Blvd, 1st Floor Meeting Room
Sacramento, CA 95834**

TELECONFERENCE LOCATIONS:

**US Bank Tower
Conference Room 6L
663 West Fifth Street
Los Angeles, CA 90071
(Must check in at Security Station)**

**Pacific College of Oriental Medicine
7445 Mission Valley Road
Conference Room, Main Building 2
San Diego, CA 92108**

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 plan to attend at a physical location.

California Acupuncture Board Members

Hildegarde Aguinaldo, President, Public Member

Jamie Zamora, Vice President, Public Member

Kitman Chan, Public Member

Dr. Michael Corradino, DAOM, MTOM, L.Ac, Licensed Member

Francisco Hsieh, Public Member

Jeannie Kang, L.Ac, Licensed Member

Vacant, Licensed Member

AGENDA — FULL BOARD MEETING

1. Call to Order, Roll Call and Establishment of a Quorum (Aguinaldo)
2. Opening Remarks (Aguinaldo)
3. Approval of December 11, 2015 Board Meeting Minutes
4. Approval of June 10, 2016 Board Meeting Minutes

5. Consideration and possible action on proposed amendments to Title 16 of the California Code of Regulations (CCR) Sections 1399.434, 1399.434, 1399.437 and Repeal of CCR Section 1399.436 – Implementation of SB 1246 (Johnson)
6. Consideration and possible action related to proposed regulatory adoption of Title 16 of CCR Section 1399.457 – Standardized 801 Malpractice Reporting Form (Johnson)
7. Legislative Update – AB 2190 (Salas and Hill) (Johnson)

CLOSED SESSION

8. Pursuant to Government Code section 11126(c)(1), the Board will meet in closed session to discuss the possible appointment of Interim Executive Officer.

OPEN SESSION

9. Consideration and Possible Action to Approve the California Acupuncture Board Member Administrative Manual (Bodea)
10. Public Comment for items not on Agenda (Aguinaldo)
The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))
11. Future Agenda Items (Aguinaldo)
12. Adjournment (Aguinaldo)

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the President. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE ACUPUNCTURE BOARD'S WEBSITE AT www.acupuncture.ca.gov

Please Note: 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 need additional reasonable accommodations, please make your request no later than five (5) business days before this meeting. Please direct any questions regarding this meeting to the Board Liaison, Tammy Graver at (916) 515-5204; FAX (916) 928-2204.

ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



ACUPUNCTURE BOARD MEETING
Friday, December 11, 2015
Draft Minutes
Department of Consumer Affairs
1747 North Market Boulevard, First Floor Hearing Room
Sacramento, CA 95834

Board Members Present

Michael Shi, L.Ac, President, Licensed Member
Kitman Chan, Public Member
Jamie Zamora, Public Member
Hildegarde Aguinaldo, Vice President, Public Member
Dr. Michael Corradino, DAOM, Licensed Member

Board Member Absent

Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member

Legal Counsels

Tamara Colson

Staff Present

Terri Thorfinnson - Executive Officer
Van Martini – Office Technician

FULL BOARD MEETING – 09:10 a.m.

1. Call to Order and Quorum established

2. Opening Remarks

President Shi thanked everyone for accommodating his schedule for this meeting.

3. Public Comment for items not on Agenda

There was no public comment.

4. President's Report

President Shi stated that this meeting was a part of a delayed agenda due to several scheduling conflicts. The meeting commenced once the quorum was established.

5. Executive Officer's (EO) Report

- **Staff Update –**

EO Thorfinnson reported that the Educational Coordinator position is still vacant, and she is in the process of interviewing candidates for it. The Seasonal Clerk position is approved, and she planned to fill it soon, as it was a critical area for the daily office operations.

- **Regulatory Update –**

Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation (SB 1441) and Display of licensure by Acupuncture Board (BPC 138) were waiting for final OAL approval.

6. Closed Session

Meeting entered Closed Session to hear and discuss the contents of two investigation reports concerning complaints or charges filed against a board employee.

7. Adjournment – 11:00 AM



CALIFORNIA ACUPUNCTURE BOARD
1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

**California Acupuncture Board
Full Public Board Meeting
DRAFT Meeting Minutes
Friday, June 10, 2016**

Junipero Serra State Building
Carmel Room, First Floor
320 West Fourth Street
Los Angeles, Ca 90013

Board Members Present

Hildegarde Aguinaldo, President, Public Member
Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Dr. Michael Corradino, DAOM, Licensed Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member

Legal Counsel Present

Kelsey Pruden

Staff Present

Ben Bodea, Acting Executive Officer
Kristine Brothers, Enforcement Coordinator
Jay Herdt, Education Coordinator
Marc Johnson, Policy Coordinator

Acupuncture Board Members

*Hildegarde Aguinaldo, President, Public Member
Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Dr. Michael Corradino, DAOM, Licensed Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Vacant, Licensed Member*

FULL BOARD MEETING - 9:00 AM

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

Hildegarde Aguinaldo (Aguinaldo), Board President, called the meeting to order at 9:00am. Marc Johnson (Johnson) called the roll. Aguinaldo – present; Zamora – present; Chan – present; Corradino – present; Hsieh- present; Kang – present.
Quorum established.

Agenda Item #2 – Reports

a. Executive Officer's Report (Bodea)

Acting Executive Officer Ben Bodea (AEO Bodea) gave his report to the Board.

i) Sunset Review Hearing: Update

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



AEO Bodea summarized the Board's Sunset Review hearing, which was held at the State Capitol on March 14, 2016. He noted the presentation was well received by the Sunset Review Committee, and also noted Senator Bates had requested a progress report from the Board, due in March 2017.

ii) ACAOM update

AEO Bodea reported on the ongoing work with ACAOM. He noted Board staff and ACAOM staff has had regular communications since March and also participated in reciprocal site visits in May. He further noted the Board and ACAOM will continue to cooperate to ensure quality acupuncture training and education.

iii) BPPE update

AEO Bodea gave an update on the Board's work with the California Bureau of Private Postsecondary Education (BPPE). He noted that Board staff met with BPPE staff on April 7, 2016, and that communication between the two organizations continues.

iv) Budget Update

AEO Bodea reviewed the Board's Budget. He noted that the Board is projected to be within its budget for this fiscal year, and that Board staff has been regularly meeting with DCA's budget office to properly assess Board needs. Board Member Kitman Chan (Chan) commented that the Board should emphasize more ways to generate revenue. Vice President Jaime Zamora (Zamora) asked why the Board is in the red for the current year; AEO Bodea replied that the audit for the NCCAOM exam and ongoing costs of the CALE were driving costs higher.

President Aguinaldo assigned the Executive committee to make a further investigation as to the areas in which the expenditures and revenues could be improved upon, with the recommendations come back to the full Board.

v) March 16, 2016 Exam Statistics

AEO Bodea reviewed the statistics for the March 16, 2016 California Acupuncture Licensing Exam (CALE). He noted the first time test-taker pass rate was 71%, and the repeat test-taker pass rate was 56%, and that a complete breakdown of the results was available on the Board's website.

vi) Sale of Needles – Regulated by Board of Pharmacy

AEO Bodea noted there has been a number of letters and emails to the Board from schools regarding the sale of needles to students. He noted the sale of needles is regulated by the California Pharmacy Board, and the Pharmacy Boards considers schools that sell needles to their students as a wholesaler under the law. Board Member Jeannie Kang (Kang) asked why the Pharmacy Board regulates the sale of needles and the history of the regulation. Legal Counsel Kelsey Pruden (Pruden) replied she would research the issue and report back to the Board.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



vii) Future Stakeholder Meetings

AEO Bodea announced a new survey, designed for professional associations and Acupuncture schools, to complete and return to the Board. The survey, which is completely voluntary, will be available on the Board's website. He noted the survey will help the Board increase outreach and bring more voices to the table.

Public comment was taken on the EO report. One comment referred to the sale of needles and the difficulty of obtaining a wholesaler license from the Pharmacy Board. Another comment noted that an advertisement from a needle supplier was sent out to licensees referring to the issue; Board Member Kang asked for a copy of the advertisement to be sent to Board staff.

b. Enforcement: Performance Measures (Brothers)

Enforcement Coordinator Kristine Brothers (Brothers) gave the Board's enforcement statistics for quarter three January through March 2016.

President Aguinaldo asked about CE Audits. AEO Bodea answered the current CE Audits were still ongoing, although the process has slowed down due to staff vacancies. President Aguinaldo also asked that future Enforcement reports presented to the Board include CE audit statistics.

Board Member Chan asked about making improvements to the CE provider process, specifically making more stringent requirements for CE providers and requiring them to be more proactive in providing the Board more information. AEO Bodea agreed and noted we could have this as a future agenda item.

There were no public comments made on this item.

c. Legislative and Regulatory Update (Johnson)

Johnson provided the Legislative and Regulatory update to the Board.

i) Discussion and possible action on legislation (Board Action)

Johnson reviewed the bills with the Board and specifically noted the Board's Sunset Bill, AB 2190. The bill has not been set for hearing in a policy committee yet, and amendments, if any, to the bill would be introduced in the policy committee. Vice President Zamora discussed the process of the Sunset Bill and noted AEO Bodea's progress in developing a relationship with the Legislature.

*MOTION: Vice President Zamora made a motion to support the bill, in its current form, and direct staff to draft a letter supporting the bill to the Assembly B&P committee. Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***



Public comments made strongly supported the work of the current Board.

ii) Update on Regulations

Johnson gave an update on the Board's current regulatory packages, highlighting the SB 1246 regulatory package. He noted the importance of this package, since it is implementing the Board's Sunset Bill. Vice President Zamora asked about implementation deadlines for SB 1246, and noted the Board may need to have a special Board meeting for regulatory implementation of SB 1246.

No public comment was made on this item.

Agenda Item #3 – Approval of Board Meeting Minutes (Board Action)

- February 26, 2016 Board meeting minutes

Member Zamora requested a change on page two. "Resigned from his post as the president of the board and from the full board effective immediately."

President Aguinaldo asked AEO Bodea for a review of how Board minutes are produced. AEO Bodea described how other DCA Boards produce their minutes, and recommended the Board use a streamlined version, capturing all options and assignments to committees. President Aguinaldo agreed.

*MOTION: Vice President Zamora made a motion to approve the February 26, 2016 Board meeting minutes, with the necessary changes made here today. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

- March 10, 2016 Board meeting minutes

No revisions or changes were made.

*MOTION: Vice President Zamora made a motion to approve the March 10, 2016 Board meeting minutes. Board Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – ABSTAIN. **MOTION PASSES 5-0-1.***

There were no public comments made on this item.

Agenda Item #4 – Committee Assignments (Aguinaldo)

President Aguinaldo announced the following Board committee assignments:



Executive Committee –
Kitman Chan (Chair), Jaime Zamora, Francisco Hsieh, Hildegarde Aguinaldo.

Exam Committee –
Jeannie Kang (Chair), Kitman Chan, Francisco Hsieh, Dr. Michael Corradino.

Education Committee –
Jamie Zamora (Chair), Jeannie Kang, Kitman Chan, Dr. Michael Corradino.

Enforcement Committee –
Hildegarde Aguinaldo (Chair), Jamie Zamora, Francisco Hsieh, Jeannie Kang.

A new committee has been created was created entitled, Research Committee -
Dr. Michael Corradino (Chair), Jamie Zamora, Kitman Chan, Jeannie Kang.

Board Member Michael Corradino (Corradino) commented that the new research committee was formed for the purposes of looking at issues which may be outside of the Board's jurisdiction, but still may be of concern to Acupuncture. President Aguinaldo asked that the new committees meet before the next scheduled Board meeting to report. She also asked the Enforcement committee to follow up on the human trafficking presentation recently made to the Legislature by AEO Bodea.

Public comment was made in support of the new Research committee.

Agenda Item #5 – Review and Possible Action to adopt Executive Officer Duty Statement (Aguinaldo)

President Aguinaldo introduced Ricardo De La Cruz, DCA Human Resources chief. He noted DCA has updated the Executive Officer duty statement using current DCA human resources terminology. He then went over the process and timelines for interviewing and hiring the EO, and noted once the EO duty statement is adopted they will work with the selection committee to draft and post the job posting. Vice President Zamora requested a change on page 5 to “as needed, in consultation with the Board, Board President and Legal Counsel”.

MOTION: President Aguinaldo made a motion to approve the duty statement with the recommended revisions. Vice President Zamora seconded. **VOTE NOT TAKEN**

Public comment noted a change to be made on the last page from “Nursing organizations” to “Acupuncture organizations”. There was discussion and concern about the use of the words “Asian medicine” in the duty statement.

AMENDED MOTION: President Aguinaldo amended her motion to approve the duty statement with the recommended revisions, including the phrase “Acupuncture and



*other Asian medicine organizations". Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **AMENDED MOTION PASSES 6-0***

(MOVED UP) Agenda Item #8 -- Presentation on Ethical Decision Making and Communication relating to Board activities (Pruden)

This item was taken out of agenda order and moved up. Legal Counsel Pruden gave a short presentation to the Board on ethical decision making and communication relating to Board activities.

There was no public comment on this item.

(MOVED UP) Agenda Item #9 -- Presentation on North Carolina Dental Board Examiners v Federal Trade Commission (Pruden)

This item was taken out of agenda order and moved up. Legal Counsel Pruden gave an overview to the Board of the recent "*North Carolina Dental Board Examiners v Federal Trade Commission*" Supreme Court decision regarding the role of consumer boards and anti-trust actions. She also outlined the guidance received from the Federal Trade Commission, and the memo sent from DCA.

There was no public comment on this item.

Agenda Item #6 -- Consideration and Possible Action Related to Results of the Audit of the National Certification Commission for Acupuncture and Oriental Medicine Exam (Board Action)

President Aguinaldo introduced Dr. Kory-Ward Cook (Cook), from National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). Dr. Cook noted there were a number of questions generated from the previous Board meeting, which NCCAOM has worked to address with the handout presented at this Board meeting. She went through the handout for the Board.

Board Member Corradino asked if NCCAOM was willing to change the 1600 hours requirement to a higher number. Dr. Cook affirmed that NCCAOM could work with CAB on this. NCCAOM last completed a job analysis survey (JAS) in 2008. This is similar to the Board's Occupational Analysis. She noted NCCAOM will do another JAS in 2017 in preparation for CAB's use of the NCCAOM exam, and expressed a desire for California practitioners to participate. Board Member Kang commented that it was important the NCCAOM use California acupuncturists in its JAS; Dr. Cook agreed noting NCCAOM would definitely look to add California acupuncturists who were in active practice.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



Discussion about foreign exam applicants commenced. Dr. Cook also reported Chinese and Korean applicants for NCCAOM are very low; Vice President Zamora asked if there were any plans to drop the Korean or Chinese version of the NCCAOM. Dr. Cook said no. Vice President Zamora asked Dr. Cook about the cost benefits of taking the NCCAOM. Dr. Cook mentioned the convenience of taking the exam at Pearson VUE testing sites throughout the state and the overall convenience in general.

Board Member Kang asked about NCCAOM making a testing module specifically for California noting concern about the costs of doing so. Dr. Cook replied that the topic has come up internally, and it could be done very easily. Member Kang said there must be a real discussion about the cost of doing so. AEO Bodea inquired if NCCAOM shares the test-taker's name and test results with the school. Dr. Cook replied that examinees can sign off on the application for the exam to send their exam results to the schools. Dr. Cook noted since the Board was looking at the option of a supplemental exam that NCCAOM could assist California in offering administrative services for that exam.

Board Member Kang commented on the pass rates for NCCAOM and noted the California Acupuncture Licensing Exam (CALE) is harder. Dr. Cook replied that NCCAOM provided some confidential information and depth on the NCCAOM exam which cannot be released to the public, to be reviewed by the Board in closed session. Board Member Kang then asked how NCCAOM would accommodate California licensees who have not taken the NCCAOM exam. Dr. Cook replied NCCAOM had plans for this issue, but it would take cooperation from the Board, and that NCCAOM would not be "grandfathering" in existing licensees within California. She mentioned NCCAOM would be looking further into the issue.

Board Member Corradino asked about NCCAOM building an exam specifically for California, separately from the national exam itself. Dr. Cook replied that was a decision for the Board but NCCAOM could do it if needed. Dr. Tracy Montez interjected, reminding the Board of existing laws which required OPES to offer the California exam. Discussion commenced about how a supplemental California exam would be administered.

Dr. Tracy Montez, Division Chief of Programs and Policy Review of the California Department of Consumer Affairs, gave a short presentation reviewing the audit of the NCCAOM exam. She recommended a focus on options one and four, as described in the handout. She recommended a California supplemental exam be used in conjunction with the NCCAOM, to cover California laws and regulations, patient/practitioner interactions and integration between eastern and medicines. She noted DCA is very comfortable with the NCCAOM exam, saying the NCCAOM has provided a lot of data and stressed a collaborative approach. She further addressed the importance for the Board of writing correct regulations, making sure to build in criteria for the MOU with NCCAOM.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



Board Member Chan expressed concerns about the extra costs of the NCCAOM exam - totaling about \$1795.00. Dr. Montez replied she has not been hearing many concerns about the costs. Vice President Zamora then commented that any decision made on the NCCAOM issue today by the Board is purely a recommendation to the Legislature.

Public Comment was taken on the item. One commenter complimented the Board about the open and transparent process of the NCCAOM decision. Two commenters were supportive of the inclusion of the NCCAOM exam as part of the licensing qualifications for California. Another commenter did not take a position on the NCCAOM exam, noting there were knowledge and competency gaps in the audit not addressed. Another comment raised concerns about the total hours required for the NCCAOM, noting they were lower than California's.

Vice President Zamora made the following motion: "I motion that the Acupuncture Board direct our EO to draft a letter informing the Assembly Business and Professions Committee, that the Board recommends the introduction of legislation mandating for Acupuncture licensure in California, that applicants now be required to take the NCCAOM exam with a California supplemental exam, to be implemented not before January 1, 2019."

Discussion about the motion commenced. Board Member Chan asked what option number four would mean, and expressed concern about students from other states just passing the NCCAOM doesn't qualify them for California license – they would need to pass the California supplement too. President Aguinaldo agreed with Board Member Chan and noted the Board will have to be very specific in the language to the Legislature and work on how to address the transition period.

President Aguinaldo assured the public that the Board is making a well-informed decision, pledging to maintain California's high standards. She explained that only two of the four exam options presented are legally defensible, and the recommendation to the legislature is very narrow and the Board would only be choosing an option to recommend.

MOTION: Vice President Zamora repeated the following motion:

"I motion that the Acupuncture Board direct our EO to draft a letter informing the Assembly Business and Professions Committee, that the Board recommends the introduction of legislation mandating for Acupuncture licensure in California, that applicants now be required to take the NCCAOM exam with a California supplemental exam, to be implemented not before January 1, 2019."

Board Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0**



Agenda Item #7 - Pursuant to Government Code section 11126(c)(1), the Board will meet in closed session to discuss the responses the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) provided regarding the NCCAOM examination audit with staff of the Office of Professional Examination Services.

The Board did not meet in closed session on this agenda item.

Agenda Item #10 – Public Comment for items not on Agenda (Aguinaldo)

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

Public comments were taken on items not on the agenda.

A commenter expressed concerns over the use of dry needling by physical therapists, and asked it be placed on a future agenda. He also asked for a future definition of the acupuncture scope of practice, including manual therapy and cupping.

A commenter expressed concern about approval of acupuncture schools and the process to gain approval.

A commenter requested the issue of bleeding be placed on a future agenda.

A commenter requested the Board include additional detail of public comments made on Board minutes.

A commenter advocated the Board consider raising CEU provider fees.

Agenda Item #11 – Future Agenda Items

No future agenda items were added by the Board.

ADJOURNMENT AT 4:10 PM



DATE	TBD
TO	Board Members
FROM	Marc Johnson, Policy Coordinator
SUBJECT	Implementation of SB 1246 – Regulatory Rulemaking Package

Introduction and Background

Senate Bill 1246 (Lieu, Chapter 397, Statutes of 2014) is the Board's Sunset Bill from 2014. The provisions of SB 1246 take effect on January 1, 2017. At the November 11, 2015 Board meeting, the Board approved proposed regulatory language based off SB 1246 which:

1. Creates standards for the approval of educational training and clinical experience received outside the United States (proposed CCR Section 1399.433)
2. Sets forth curriculum standards for Board approval of curriculum (proposed CCR section 1399.434)
3. Repeals obsolete requirements for Board approval of curriculum. (repeal of CCR section 1399.436)
4. Creates a process for approving curriculum (proposed CCR Section 1399.437)

Staff began work on the proposed SB 1246 rulemaking in early 2016, and received approval from Legal Counsel to file the package with OAL. In April 2016, the Board filed the rulemaking package with OAL, and the public comment period on the proposed regulation began on April 22, 2016. The comment period ended on June 6, 2016, with a public hearing held on June 6, 2016.

The Board received three letters regarding the proposed regulatory language during the public comment period. Additionally, one witness gave testimony at the June 6, 2016 public hearing. The comments set out below are consolidated for brevity from the original letters and testimony received at the public hearing has been summarized.

The full text of letters can be found in appendix B.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



Action items for Board:

1. Review of all written comments and minutes from the 6-6-16 public hearing.
2. Discussion and direction of Board response to comments received during 45-day public comment period and the public hearing. The Board itself must respond to each comment; however staff has prepared suggested responses.
3. Discussion and possible approval of revised regulatory language based upon staff review and comments received during the initial 45-day public comment period. If approved, the proposed language would be subject to a 15-day public comment period.
4. Delegation to Executive Officer to continue the regulatory process and grant authority to make non-substantive changes to the regulation.

Suggested motion:

"I move to amend the proposed language as staff has recommended, to approve the modified text for a 15-day comment period and delegate to the Executive Officer, if there are no comments received during the public comment period, the authority to make technical, non-substantive changes as necessary in completing the rulemaking file".

Written Comments Received

Letter received via mail dated April 27, 2106 from Dr. Bob Damone, Doctor of Acupuncture and Oriental Medicine (DAOM), Dean of Southern California University of Health Sciences, College of Eastern Medicine.

Dr. Damone commended the Board for its transparent preparations for SB 1246 implementation. He expressed concern that the proposed verbiage, as set out in page 2 of the Board's Initial Statement of Reasons (ISOR), was not fully loyal to the nuances of ACAOM accreditation as expressed in SB 1246:

*"However, beginning January 1, 2017, per BPC Section 4927.5 an approved educational and training program will be one that, among other things, **is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)**, approved by the Bureau of Private Postsecondary Education (BPPE), and offers curriculum that includes at least 3,000 hours of which at least 2,050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction. Has submitted that curriculum to the board, and has received approval of the curriculum. (BPC 4927.5(a)(1))."* (emphasis Dr. Damone)

Dr. Damone pointed out:

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



*“that... the language of SB 1246 states that an approved training program **may either be accredited by ACAOM, be in candidacy status with ACAOM, or have submitted a letter of intent to pursue ACAOM accreditation within one-month of receiving Board curriculum approval, and become accredited within three years.**”* (emphasis Dr. Damone).

Proposed Board Response:

The Board agrees and accepts this comment. The Final Statement of Reasons will reflect the correct language as set out in California BPC Section 4927.5:

“(3) Meets any of the following:

(A) Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.

(B) Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.

(C) Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2), and is granted candidacy status within three years of the date that letter was submitted.”

Letter received via mail dated April 28, 2106 from Dr. Bob Damone, Doctor of Acupuncture and Oriental Medicine (DAOM), Dean of Southern California University of Health Sciences (SCUHS), College of Eastern Medicine.

Dr. Damone expressed further concern regarding the verbiage in the proposed CCR Section 1399.437(e), which reads as follows:

(e) Any changes to curriculum after Board approval constitutes a new curriculum and requires Board approval pursuant to Business and Professions Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

Dr. Damone commented *“that...as long as ‘curriculum’ pertains only to the courses listed among Title 16, California Code of Regulations Article 3.5 Acupuncture training programs, Section 1399.433, CEM at SCU is full agreement. However, we feel that ‘curriculum’ should be further defined in its narrow sense as ‘coursework listed in 1399.433’. Otherwise, CAB approved schools may appear to be expected to acquire CAB approval at least 30 days in advance of even minor curriculum changes, even to those courses which do not affect CAB-required coursework. This could potentially interfere with a given program’s ability to meet with agility the evolving needs of its student, accreditors, and regulatory bodies. Many acupuncture training programs have courses within their curricula in excess of CAB requirements. While board members and then EO, Ms. Thorfinson reassured those present at the Education Committee meeting that the spirit of section (e) was not intended to be aimed at ‘elective’ courses, further*

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



clarification would not dilute the Board's oversight yet would communicate with greater clarity the intended purpose."

The reference to CCR Section 1399.433 (Criteria for International Training and Clinical Experience) is assumed to refer to the proposed CCR Section 1399.434 (Criteria for Approval of Acupuncture and Oriental Medicine). SCUHS would not be subject to 1399.433 since it is an Acupuncture school located in the United States.

Proposed Board Response:

The Board agrees and accepts this comment. The language originally approved was vague and requires clarification. Therefore, staff proposes the following change to CCR Section 1399.437(e):

(e) Any changes to curriculum coursework as listed in California Code of Regulations Title 16, Chapter 13.7, Article 3.5, Section 1399.434 after Board approval constitutes a new curriculum and requires Board approval pursuant to Business and Professions Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

This proposed language clarifies what constitutes a new curriculum and that any new curriculum requires Board approval.

Letter received via mail dated May 25, 2016 from Dr. Steven Given, DAOM, L.Ac, Associate Academic Dean of the California Institute of Integral Studies.

Dr. Given's letter had three distinct comments.

1. Similar to Dr. Damone's letter as outlined above, Dr. Given expressed concern regarding the status of an institution with ACAOM as set out on page two of the ISOR:

"It is not likely that an institution in California that began the accreditation process after SB 1246 was signed into law will be fully accredited by January 1, 2017. The language of SB 1246, "(C) is accredited of granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine, or has submitted a letter of intent to pursue accreditation to that commission, as specified." Institutions that have achieved candidacy with ACAOM by January 1, 2017 should be considered in compliance with CAB regulations on that date."

Proposed Board Response to #1:

The Board agrees and accepts this comment. The Final Statement of Reasons will reflect the correct language as set out in California BPC Section 4927.5:

"(3) Meets any of the following:

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



(A) *Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.*

(B) *Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.*

(C) *Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2), and is granted candidacy status within three years of the date that letter was submitted."*

2. Dr. Given's second concern is regarding review of curriculum:

"Beyond the initial approval of the curriculum of an institution, it is unclear when or how an institution would be required to resubmit curriculum to CAB. Under the accreditation process institutions are constantly reflecting on and making changes to improve curriculum."

Proposed Board Partial Response to #2:

The Board partially agrees and accepts this comment. The language originally approved was vague and requires clarification. Therefore, staff proposes the following change to CCR Section 1399.437(e):

(e) Any changes to curriculum coursework as listed in California Code of Regulations Title 16, Chapter 13.7, Article 3.5, Section 1399.434 after Board approval constitutes a new curriculum and requires Board approval pursuant to Business and Professions Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

This proposed language clarifies what constitutes a new curriculum and that any new curriculum requires Board approval.

Further, Dr. Given comments:

"We believe that so long as any improvements to an institution's curriculum leaves the institution fully in compliance with CA regulations, no further review by CAB is necessary. Conversation with prior CAB staff suggested that CAB is considering reviewing virtually all changes to curriculum. This would be burdensome and result in making it harder for institutions to make positive changes to their program of study."

Proposed Board Partial Response to #2:

The Board rejects this comment. In order to protect the public and ensure that California standards apply to all acupuncture training programs, it is necessary to require approved training programs submit changes to their coursework as defined as above to the Board.

3. Finally, Dr. Given comments:

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



“Cautions CAB regarding attempting to ensure that licensed acupuncturists continue to meet the same educational training and clinical experience standards (sb1246_isr.pdf). It is hoped that CAB staff and commissioners will create an environment where an institution may meet or exceed the standards set out in regulation.”

Proposed Board Response:

The Board rejects this comment. The Board is setting minimum standards for Approved Training Program curriculum, not making the program exceed the standards as proposed. Exceeding these standards remains the program’s decision.

Comments Received at June 6, 2016 Public Hearing:

One person provided feedback at the June 6, 2016 public hearing in Sacramento. Dr. Steven Given, DAOM, L.Ac, Associate Academic Dean of the California Institute of Integral Studies spoke. He had six distinct comments listed below.

1. Dr. Given suggested a correction on proposed CCR Section 1399.433(b) (1) (G) – ‘Jin Gui’ is listed. Dr. Given feels ‘Yaolae’ should be added to further define the term.

Proposed Board Response to #1:

The Board rejects this comment. Jin Guo is a significant enough identifier and is consistent with other classical acupuncture references within the section. The full textual name of each technique and modality listed in the proposed language would add additional length to the proposed language.

2. Dr. Given noted the ‘Clean Needle Technique’ manual as referred in the proposed CCR Section 1399.433b (2)(K) is no longer published by the National Acupuncture Foundation. It is now published by the Council of Colleges of Acupuncture and Oriental medicine – and is distributed free at the website: ccaom.org.

Proposed Board Response to #2:

The Board agrees and accepts this comment. Staff recommends updating CCR Section 1399.433 b(2)(K) and CCR Section 1399.434b (2)(K) as follows:

(K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, current edition of the "Clean Needle Technique Manual 7th edition, (2015)", published by the Council of Colleges of Acupuncture and Oriental Medicine, which is hereby incorporated by

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



reference, or an equivalent standard which has been approved by the Board.
Students shall successfully complete the clean needle technique portion of
the hygienic standards subject prior to performing any needling techniques on
human beings;

The CCAOM's Clean Needle Technique manual, 7th edition, (incorporated by reference above), is available on their website: <http://www.ccaom.org/cntmanual.asp>

3. There is language Dr. Given believes is outdated: "*In subsection H - clinical practice hours – nine hundred fifty hours*" and the "*statement in subsection 4 – thereafter two hundred seventy five hours the clinical supervisor shall be physically present at the needling of the patient*". Dr Given believes "*that is outdated and should be deleted... California is the only state which requires this. Virtually no evidence that is necessary or enhances the training of the intern.*" He then notes "*here is the following sentence...that the clinic supervisor shall be in close proximity, and is true for all stages of clinical stages and continues to be true.*"

Proposed Board Response to #3:

The Board rejects this comment. The intention of this section is for direct 'line-of-sight' observation and clinical supervision of the student. Needling and the instruction thereof is a precise and sensitive procedure. A supervisor's physical presence assures public protection through the thorough training of the intern. In order to better define the presence of a supervisor, staff is proposing the following changes to CCR Section 1399.433 h (4) and CCR Section 1399.434h (4):

The curriculum in clinical practice shall consist of at least 950 hours in clinical instruction, 75% of which shall be in a clinic owned and operated by the school, which includes direct patient contact ~~where appropriate~~ in the following:

- (1) Practice Observation (minimum 150 hours)--supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;
- (2) Diagnosis and evaluation (minimum 275 hours)--the application of Eastern and Western diagnostic procedures in evaluating patients;
- (3) Supervised practice (minimum 275 hours)--the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code Section 4927(d) and 4937(b).
- (4) During the initial 275 hours of diagnosis, evaluation and clinical practice, the clinic supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 275 hours the clinic supervisor shall be physically present at the needling of the

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



patient. During the initial 700 hours of clinical instruction, the student shall remain in the direct line of sight of the clinic supervisor at all times when the patient is being diagnosed and/or treated. After 700 hours of clinical instruction, the clinic supervisor shall otherwise be in close proximity to the location at which the patient is being treated during the clinical instruction. The student shall also consult with the clinic supervisor before and after each treatment.

4. Similar to comment #1 in his letter (as referenced above), Dr. Given notes a statement in the SB 1246 ISR referring to approved training programs seeking ACAOM status does not refer to the full text of the statute.

Proposed Board Response to #4:

The Board agrees and accepts this comment. The Final Statement of Reasons will reflect the correct language as set out in California BPC Section 4927.5:

“(3) Meets any of the following:

(A) Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.

(B) Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.

(C) Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2), and is granted candidacy status within three years of the date that letter was submitted.”

5. Dr. Given feels *“the Board should have complete authority first 30 days as per SB 1246, but thereafter the review of curriculum needs to be ended as far as CAB is concerned.”* He states *“that under the accreditation process, schools are constantly improving and changing curriculum – and if an institution were required to go back to CAB for every time they made improvement to their curriculum, institutions would have a disincentive to continue to improve their curriculum as is required by accreditation, and believes that CAB would be inundated with minor changes, when in fact it is not necessary for CAB to approve that.”*

Dr. Given then said *“that a past CAB president made the statement at a past CAB meeting that this may include an ongoing review of all curriculum. It is very important for CAB to know that that review needs to be ended after that 30 day period. CAB will continue to have the opportunity to review transcripts to make sure they comply with California law and that should be considered follow up review as needed.”*

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



Proposed Board Response to #5:

The Board rejects this comment. In order to protect the public and ensure that California standards apply to all acupuncture training programs, it is necessary to require approved training programs submit changes to their coursework as defined as above to the Board.

6. Dr Given notes *“a statement made in documents forwarded to me that licensed acupuncturists continue to meet the same training and clinical experience standards. More in the spirit of education under accreditation should meet or exceed those standards.” He feels “it is in fact not appropriate for a Board to say that everybody must meet the same standards...we should be able to meet or exceed those standards according to the review of faculty and the academic leadership of the individual institution...that is in fact what is happening now, institutions do have an opportunity to exceed those standards as they see fit.”*

Proposed Board Response to #6:

The Board rejects this comment. The Board is setting minimum standards for Approved Training Program curriculum, not making the program exceed the standards as proposed. Exceeding these standards remains the program's decision.

CALIFORNIA ACUPUNCTURE BOARD IMPLIMENTATION OF SB 1246

[Note: The originally proposed regulatory text is indicated by single underline and single strikethrough.. The modifications to the originally proposed text are indicated by ~~double~~ ~~strikethrough~~ for deleted text and double underline for added text.]

Add Title 16, California Code of Regulations Article 3.5 Acupuncture Training Programs, Section 1399.433 as follows:

1399.433 Criteria for International Education Training and Clinical Experience (effective 1/1/17)

An applicant that has received educational training and clinical experience outside of the United States shall meet all of the following criteria contained herein. ~~The total number of hours of all didactic and laboratory training shall consist of a minimum of 2,050 hours and a total of number of hours of supervised clinical instruction shall consist of a minimum of 950 hours, with the curriculum including the following components:~~ To be approved by the Board an acupuncture and Oriental medicine educational and training curriculum shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction. The curriculum shall include the following criteria:

(a) Basic Sciences 350 hours

The curriculum in basic sciences shall prepare students to enter postsecondary upper division biomedical and clinical science courses and shall consist of at least 350 hours of didactic and laboratory instruction in the following basic science courses:

- (1) General biology;
- (2) Chemistry, including organic and biochemistry;
- (3) General physics, including a general survey of biophysics;
- (4) General psychology, including counseling skills;
- (5) Anatomy-- a survey of microscopic, gross anatomy and neuroanatomy;
- (6) Physiology-- a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry;
- (7) Pathology and Pathophysiology-- a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology;
- (8) Nutrition and vitamins;

(b) Acupuncture and Oriental Medicine Principles, Theories and Treatment 1,255 hours

The curriculum in acupuncture and Oriental medicine principles, theories and treatment shall consist of at least 1,255 hours of didactic instruction in the following principles, theories, prescription, and treatment procedures of acupuncture and Oriental medicine:

(1) Acupuncture and Oriental Medicine Principles and Theories

- (A) Oriental Medicine Principles and Theory;
- (B) Acupuncture Principles and Theory;
- (C) Oriental Massage (e.g., Tui Na or Shiatsu) Principles and Theory;
- (D) Chinese Herbal Medicine Principles and Theory, including relevant botany concepts (This subject area shall consist of at least 450 hours of instruction);
- (E) Acupuncture and Oriental Medicine Diagnosis;
- (F) Acupuncture and Oriental Medicine Specialties, including dermatology, gynecology, pediatrics, ophthalmology, orthopedics, internal medicine, geriatrics, family medicine, traumatology, and emergency care;
- (G) Classical acupuncture and Oriental medicine literature, including Jin Gui, Wen Bing/Shang Han, Nei Jing;
- (H) Modern acupuncture and Oriental medicine literature.

(2) Acupuncture and Oriental Medicine Treatment

- (A) Integrated acupuncture and Oriental medicine diagnostic and treatment procedures;
- (B) Acupuncture techniques and treatment procedures, including electroacupuncture;
- (C) Oriental massage (e.g., Tui Na or Shiatsu), acupressure, and other techniques utilizing manual therapy and mechanical devices;
- (D) Exercise therapy, including breathing, qi gong and taiji quan;
- (E) Herbal prescription, counseling and preparation;
- (F) Oriental and Western clinical and medical nutrition, dietary and supplement prescription and counseling;
- (G) Cold and heat therapy, including moxibustion and ultrasound;
- (H) Lifestyle counseling, and self-care recommendations;
- (I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;
- (J) Acupuncture micro therapies, including auricular and scalp therapy;
- (K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, current edition of the "Clean Needle Technique Manual 7th edition", (2015) published by the Council of Colleges of Acupuncture and Oriental Medicine, which is hereby incorporated by reference, or an equivalent standard which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;
- (L) Equipment maintenance and safety;
- (M) Adjunctive acupoint stimulation devices, including magnets and beads.

(c) Clinical Medicine, Patient Assessment and Diagnosis 240 hours

The curriculum in clinical medicine, patient assessment and diagnosis shall consist of at least 240 hours of didactic instruction and shall prepare the student to possess the knowledge, skills and abilities necessary to utilize standard physical examinations, laboratory and imaging studies, and international classification of diseases (ICD) diagnostic principles to improve treatment efficacy, patient safety, referral, and continuity of care; to improve communication and collaboration of care with all other medical providers; to assist in the evaluation and documentation of patient progress; and to improve the acupuncturists understanding of biochemical etiology and pathology. Clinical medicine, patient assessment, and diagnostic skills curriculum shall include the following:

- (1) Comprehensive history taking;
- (2) Standard physical examination and assessment, including neuromusculoskeletal, orthopedic, neurological, abdominal, and ear, nose and throat examinations, and functional assessment;
- (3) Pharmacological assessment, emphasizing side-effects and herb-drug interactions;
- (4) Patient/practitioner rapport, communication skills, including multicultural sensitivity;
- (5) Procedures for ordering diagnostic imaging, radiological, and laboratory tests and incorporating the resulting data and reports;
- (6) Clinical reasoning and problem solving;
- (7) Clinical impressions and the formation of a working diagnosis, including acupuncture and Oriental medicine diagnoses, and the World Health Organization's international classification of diseases (ICD-10);
- (8) Awareness of at-risk populations, including gender, age, indigent, and disease specific patients;
- (9) Standard medical terminology;
- (10) Clinical sciences--a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health;
- (11) Clinical medicine--a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, naturopathy, and homeopathy to familiarize practitioners with the practices of other health care practitioners.

(d) Case Management 90 hours

The curriculum in case management shall consist of at least 90 hours of didactic instruction and shall prepare the student to manage patient care as a primary health care professional, and shall include instruction in the following subject:

- (1) Primary care responsibilities;
- (2) Secondary and specialty care responsibilities;
- (3) Psychosocial assessment;
- (4) Treatment contraindications and complications, including drug and herb interactions;
- (5) Treatment planning, continuity of care, referral, and collaboration;

- (6) Follow-up care, final review, and functional outcome measurements;
- (7) Prognosis and future medical care;
- (8) Case management for injured workers and socialized medicine patients, including a knowledge of workers compensation/labor codes and procedures and qualified medical evaluations;
- (9) Coding procedures for current procedural and diagnostic codes, including Current Procedural Terminology (CPT) and International Classification of Diseases ICD-10 diagnostic codes;
- (10) Medical-legal report writing, expert medical testimony, and independent medical review;
- (11) Special care/seriously ill patients;
- (12) Emergency procedures.

(e) Practice Management 45 hours

The curriculum in practice management shall consist of at least 45 hours of didactic instruction and shall include the following subjects:

- (1) Record keeping, insurance billing and collection;
- (2) Business written communication;
- (3) Knowledge of regulatory compliance and jurisprudence (municipal, California, and federal laws, including OSHA, Labor Code, Health Insurance Portability and Accountability Act of 1996 (HIPAA));
- (4) Front office procedures;
- (5) Planning and establishing a professional office;
- (6) Practice growth and development;
- (7) Ability to practice in interdisciplinary medical settings including hospitals;
- (8) Risk management and insurance issues;
- (9) Ethics and peer review.

(f) Public Health 40 hours

The curriculum in public health shall consist of at least 40 hours of didactic instruction and shall include training in the principles of public health, including the following subjects:

- (1) Public and community health and disease prevention;
- (2) Public health education;
- (3) A minimum of eight (8) hours in first-aid and adult/child cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association or other organization with an equivalent course approved by the board;
- (4) Treatment of chemical dependency;
- (5) Communicable disease, public health alerts, and epidemiology.

(g) Professional Development 30 hours

The curriculum in professional development shall consist of at least 30 hours of didactic instruction and shall prepare the student with the skills to continue to expand their knowledge, including instruction in the following subjects:

- (1) Research and evidence based medicine;

- (2) Knowledge of academic peer review process;
- (3) Knowledge and critique of research methods;
- (4) History of medicine.

(h) Clinical Practice 950 hours

The curriculum in clinical practice shall consist of at least 950 hours in clinical instruction, 75% of which shall be in a clinic owned and operated by the school, which includes direct patient contact ~~where appropriate~~ in the following:

- (1) Practice Observation (minimum 150 hours)--supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;
- (2) Diagnosis and evaluation (minimum 275 hours)--the application of Eastern and Western diagnostic procedures in evaluating patients;
- (3) Supervised practice (minimum 275 hours)--the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code Section 4927(d) and 4937(b).
- (4) During the initial 275 hours of diagnosis, evaluation and clinical practice, the clinic supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 275 hours the clinic supervisor shall be physically present at the needling of the patient. During the initial 700 hours of clinical instruction, **the student shall remain in the direct line of sight of the clinic supervisor at all times when** the patient is being diagnosed and/or treated. After 700 hours of clinical instruction, ~~The~~ the clinic supervisor shall ~~otherwise~~ be in close proximity to the location at which the patient is being treated ~~during the clinical instruction~~. The student shall also consult with the clinic supervisor before and after each treatment.

NOTE: Authority Cited: Sections 4933, 4939, Business and Professions Code.

Reference: Sections 4927.5, 4939, Business and Professions Code

Amend Title 16, California Code of Regulations Article 3.5 Acupuncture Training Programs, Section 1399.434 as follows:

1399.434 Criteria for Approval of Acupuncture and Oriental Medicine Training Program Curriculum (effective 1/1/17)

A school approved by the board shall use a training program, which related to the study and practice of acupuncture and oriental medicine, for all students entering its acupuncture and oriental medicine training program on or after January 1, 2005 that meets the following criteria: To be approved by the Board an acupuncture and Oriental medicine educational and training curriculum shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction. The curriculum shall include the following criteria:

(a) Basic Sciences 350 hours

The curriculum in basic sciences shall prepare students to enter postsecondary upper division biomedical and clinical science courses and shall consist of at least 350 hours of didactic and laboratory instruction in the following basic science courses:

- (1) General biology;
- (2) Chemistry, including organic and biochemistry;
- (3) General physics, including a general survey of biophysics;
- (4) General psychology, including counseling skills;
- (5) Anatomy-- a survey of microscopic, gross anatomy and neuroanatomy;
- (6) Physiology-- a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry;
- (7) Pathology and Pathophysiology-- a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology;
- (8) Nutrition and vitamins;

(b) Acupuncture and Oriental Medicine Principles, Theories and Treatment 1,255 hours

The curriculum in acupuncture and Oriental medicine principles, theories and treatment shall consist of at least 1,255 hours of didactic instruction in the following principles, theories, prescription, and treatment procedures of acupuncture and Oriental medicine:

(1) Acupuncture and Oriental Medicine Principles and Theories

- (A) Oriental Medicine Principles and Theory;
- (B) Acupuncture Principles and Theory;
- (C) Oriental Massage (e.g., Tui Na or Shiatsu) Principles and Theory;
- (D) Chinese Herbal Medicine Principles and Theory, including relevant botany concepts (This subject area shall consist of at least 450 hours of instruction);
- (E) Acupuncture and Oriental Medicine Diagnosis;
- (F) Acupuncture and Oriental Medicine Specialties, including dermatology, gynecology, pediatrics, ophthalmology, orthopedics, internal medicine, geriatrics, family medicine, traumatology, and emergency care;
- (G) Classical acupuncture and Oriental medicine literature, including Jin Gui, Wen Bing/Shang Han, Nei Jing;
- (H) Modern acupuncture and Oriental medicine literature.

(2) Acupuncture and Oriental Medicine Treatment

- (A) Integrated acupuncture and Oriental medicine diagnostic and treatment procedures;
- (B) Acupuncture techniques and treatment procedures, including electroacupuncture;
- (C) Oriental massage (e.g., Tui Na or Shiatsu), acupressure, and other techniques utilizing manual therapy and mechanical devices;
- (D) Exercise therapy, including breathing, qi gong and taiji quan;
- (E) Herbal prescription, counseling and preparation;

- (F) Oriental and Western clinical and medical nutrition, dietary and supplement prescription and counseling;
- (G) Cold and heat therapy, including moxibustion and ultrasound;
- (H) Lifestyle counseling, and self-care recommendations;
- (I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;
- (J) Acupuncture micro therapies, including auricular and scalp therapy;
- (K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation; current edition of the "Clean Needle Technique Manual 7th edition" (2015), published by the Council of Colleges of Acupuncture and Oriental Medicine, which is hereby incorporated by reference, or an equivalent standard which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;
- (L) Equipment maintenance and safety;
- (M) Adjunctive acupoint stimulation devices, including magnets and beads.

(c) Clinical Medicine, Patient Assessment and Diagnosis 240 hours

The curriculum in clinical medicine, patient assessment and diagnosis shall consist of at least 240 hours of didactic instruction and shall prepare the student to possess the knowledge, skills and abilities necessary to utilize standard physical examinations, laboratory and imaging studies, and International Classification of Diseases (ICD) diagnostic principles to improve treatment efficacy, patient safety, referral, and continuity of care; to improve communication and collaboration of care with all other medical providers; to assist in the evaluation and documentation of patient progress; and to improve the acupuncturists understanding of biochemical etiology and pathology. Clinical medicine, patient assessment, and diagnostic skills curriculum shall include the following:

- (1) Comprehensive history taking;
- (2) Standard physical examination and assessment, including neuromusculoskeletal, orthopedic, neurological, abdominal, and ear, nose and throat examinations, and functional assessment;
- (3) Pharmacological assessment, emphasizing side-effects and herb-drug interactions;
- (4) Patient/practitioner rapport, communication skills, including multicultural sensitivity;
- (5) Procedures for ordering diagnostic imaging, radiological, and laboratory tests and incorporating the resulting data and reports;
- (6) Clinical reasoning and problem solving;
- (7) Clinical impressions and the formation of a working diagnosis, including acupuncture and Oriental medicine diagnoses, and the World Health Organization's International Classification of Diseases (ICD-10);

- (8) Awareness of at-risk populations, including gender, age, indigent, and disease specific patients;
- (9) Standard medical terminology;
- (10) Clinical sciences--a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health;
- (11) Clinical medicine--a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, naturopathy, and homeopathy to familiarize practitioners with the practices of other health care practitioners.

(d) Case Management 90 hours

The curriculum in case management shall consist of at least 90 hours of didactic instruction and shall prepare the student to manage patient care as a primary health care professional, and shall include instruction in the following subjects:

- (1) Primary care responsibilities;
- (2) Secondary and specialty care responsibilities;
- (3) Psychosocial assessment;
- (4) Treatment contraindications and complications, including drug and herb interactions;
- (5) Treatment planning, continuity of care, referral, and collaboration;
- (6) Follow-up care, final review, and functional outcome measurements;
- (7) Prognosis and future medical care;
- (8) Case management for injured workers and socialized medicine patients, including a knowledge of workers compensation/labor codes and procedures and qualified medical evaluations;
- (9) Coding procedures for current procedural and diagnostic codes, including Current Procedural Terminology (CPT) and International Classification of Disease ICD-10 diagnostic codes;
- (10) Medical-legal report writing, expert medical testimony, and independent medical review;
- (11) Special care/seriously ill patients;
- (12) Emergency procedures.

(e) Practice Management 45 hours

The curriculum in practice management shall consist of at least 45 hours of didactic instruction and shall include the following subjects:

- (1) Record keeping, insurance billing and collection;
- (2) Business written communication;
- (3) Knowledge of regulatory compliance and jurisprudence (municipal, California, and federal laws, including OSHA, Labor Code, Health Insurance Portability and Accountability Act of 1996 (HIPAA));
- (4) Front office procedures;
- (5) Planning and establishing a professional office;
- (6) Practice growth and development;
- (7) Ability to practice in interdisciplinary medical settings including hospitals;

- (8) Risk management and insurance issues;
- (9) Ethics and peer review.

(f) Public Health 40 hours

The curriculum in public health shall consist of at least 40 hours of didactic instruction and shall include training in the principles of public health, including the following subjects:

- (1) Public and community health and disease prevention;
- (2) Public health education;
- (3) A minimum of eight (8) hours in first-aid and adult/child cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association or other organization with an equivalent course approved by the board;
- (4) Treatment of chemical dependency;
- (5) Communicable disease, public health alerts, and epidemiology.

(g) Professional Development 30 hours

The curriculum in professional development shall consist of at least 30 hours of didactic instruction and shall prepare the student with the skills to continue to expand their knowledge, including instruction in the following subjects:

- (1) Research and evidence based medicine;
- (2) Knowledge of academic peer review process;
- (3) Knowledge and critique of research methods;
- (4) History of medicine.

(h) Clinical Practice 950 hours

The curriculum in clinical practice shall consist of at least 950 hours in clinical instruction, 75% of which shall be in a clinic owned and operated by the school, which includes direct patient contact where appropriate in the following:

- (1) Practice Observation (minimum 150 hours)--supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;
- (2) Diagnosis and evaluation (minimum 275 hours)--the application of Eastern and Western diagnostic procedures in evaluating patients;
- (3) Supervised practice (minimum 275 hours)--the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code Section 4927(d) and 4937(b).
- (4) During the initial 275 hours of diagnosis, evaluation and clinical practice, the clinic supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 275 hours the clinic supervisor shall be physically present at the needling of the patient. The clinic supervisor shall otherwise be in close proximity to the location at which the patient is being treated during the clinical instruction. The student shall also consult with the clinic supervisor before and after each treatment.

~~(i) A board approved training program shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction. The course work shall extend over a minimum period of four (4) academic years, eight (8) semesters, twelve (12) quarters, nine (9) trimesters, or thirty six (36) months.~~

NOTE: Authority Cited: Sections 4927.5, 4933, Business and Professions Code.
Reference: Sections 4927.5, 4938, Business and Professions Code

Repeal Title 16, California Code of Regulations Article 3.5 Acupuncture Training Programs, Section 1399.436:

~~1399.436. Criteria for Approval of Acupuncture Training Program.~~

~~A school approved by the board shall use a training program for all students enrolled in its acupuncture and Oriental medicine training program before January 1, 2005 that meets the following criteria:~~

~~(a) The curriculum shall include adequate theoretical training in the following:~~

~~Subject~~

~~Minimum Class Hours~~

~~(1) General biology.~~

~~(2) Chemistry--including organic and biochemistry.~~

~~(3) General physics--including a general survey of biophysics.~~

~~(4) General psychology--including counseling skills.~~

~~(5) Anatomy--a survey of microscopic, gross anatomy and neuroanatomy.~~

~~(6) Physiology--a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry.~~

~~(7) Pathology--a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology.~~

~~(8) Nutrition and vitamins.~~

~~400~~

~~(9) History of medicine--a survey of medical history, including transcultural healing practices.~~

~~(10) Medical terminology--fundamentals of English language medical terminology.~~

~~30~~

~~(11) Clinical sciences--a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health.~~

~~(12) Clinical medicine--a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, and homeopathy to familiarize practitioners with the practices of other health care practitioners.~~

~~(13) Western pharmacology.~~

~~(14) A minimum of eight (8) hours in a certified course offering first-aid and adult/child cardiopulmonary resuscitation (CPR). Such course shall be taken from the American~~

~~Red Cross, American Heart Association or other organization with an equivalent course work approved by the board.....128 class hours~~

~~(15) Traditional Oriental medicine--a survey of the theory and practice of traditional diagnostic and therapeutic procedures.~~

~~(16) Acupuncture anatomy and physiology--fundamentals of acupuncture, including the meridian system, special and extra loci, and auriculotherapy.~~

~~(17) Acupuncture techniques--instruction in the use of needling techniques, moxibustion, and electroacupuncture, including contraindication and complications.~~

~~Students shall either (1) successfully complete a course which requires a student to pass an examination in clean needle technique, taught at a board approved school that uses as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, or (2) successfully complete a Clean Needle Technique course administered by the Council of Colleges of Acupuncture and Oriental Medicine.~~

~~(18) Acupressure.~~

~~(19) Breathing techniques--introductory course in QiGong.~~

~~(20) Traditional Oriental exercise--introductory course in Tai Chi Chuan....660 minimum class hours~~

~~660~~

~~(21) Traditional Oriental herbology including botany--a portion of the hours shall be given in a clinical setting.....300 minimum class hours~~

~~(22) Practice management--instruction in the legal and ethical aspects of maintaining a professional practice, including record keeping, professional liability, patient accounts, and referral procedures.~~

~~(23) Ethics relating to the practice of acupuncture.....30 minimum class hours~~

~~(b) The curriculum shall include adequate clinical instruction, 75% of which shall be in a clinic which is owned and operated by the training program, which includes direct patient contact where appropriate in the following:~~

~~(1) Practice observation--supervised observation of the clinical practice of acupuncture with case presentations and discussions.~~

~~(2) Diagnosis and evaluation--the application of Eastern and Western diagnostic procedures in evaluating patients.~~

~~(3) Supervised practice--the clinical treatment of a patient with acupuncture
.....~~

~~.....800 minimum class hours~~

~~During the initial 235 hours of diagnosis, evaluation and clinical practice the supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 235 hours the supervisor shall be physically present at the needling of the patient. The supervisor shall otherwise be in close proximity to the location at which the~~

patient is being treated during the clinical instruction. The student shall also consult with the supervisor before and after each treatment.

~~(c) The total number of hours of all theoretical training shall consist of a minimum of 1,548 hours and the total number of hours of clinical instruction shall consist of a minimum of 800 hours., and the course work shall extend over minimum period of four (4) academic years, eight (8) semesters, twelve (12) quarters, nine (9) trimesters, or thirty-six (36) months.~~

~~(d) Candidates for admission shall have successfully completed an approved high school course of study or have passed a standard equivalency test.~~

~~(e) The training program should be located in a state university or college, an institution approved under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code, or in the case of training programs located outside California, in an institution which is approved by the appropriate governmental accrediting authority or an accrediting agency recognized by the U.S. Department of Education.~~

~~(f) The training program shall develop an evaluation mechanism to determine the effectiveness of its theoretical and clinical program.~~

~~(g) Coursework shall carry academic credit.~~

~~(h) The director and/or supervisor(s) of the clinical portion of the training program shall be a licensed acupuncturist or other licensed practitioner authorized to practice acupuncture.~~

~~(i) All instructors shall be competent to teach their designated courses by virtue of their education, training and experience.~~

~~(j) Each approved program shall receive accreditation or approval under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code, or the approval of the program by the board shall automatically lapse.~~

~~(k) Each training program shall develop a mechanism to evaluate and award transfer credit to students for prior coursework and experience which is equivalent to that coursework and clinical instruction required in subsections (b) and (d). The training program's policies and procedures for evaluating and awarding transfer credit shall be set forth in writing and submitted to the board. Such policies and procedures shall include all of the following:~~

~~(1) Credit shall only be awarded for actual coursework or directly relevant experience received by the student. As used in this regulation, "experience" means academically relevant learning which involved the student directly in the area of the curriculum required in this section and includes integrated field~~

and clinical internships, apprenticeships, tutorial programs and cooperative educational programs.

~~(2) Where the coursework and clinical instruction were completed at an acupuncture school not approved by the board, the evaluation shall include an examination administered by the school in the subject area(s) in which transfer credit may be awarded.~~

~~(3) The outcome of the prior education and experience shall be equivalent to that of an average student who has completed the same subject(s) in the training program and shall meet the curriculum standards and graduation requirements of the training program.~~

~~(4) Up to 100% transfer credit may be awarded for coursework and clinical instruction completed successfully at another acupuncture school or college which is approved by the board.~~

~~(5) Up to 100% transfer credit may be awarded for courses completed successfully in biology, chemistry, physics, psychology, anatomy, physiology, pathology, nutrition and vitamins, history of medicine, medical terminology, clinical science, clinical medicine, Western pharmacology, cardiopulmonary resuscitation, practice management, and ethics at a school which is approved under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code or by an accrediting agency recognized by the U.S. Department of Education.~~

~~(6) Credit for clinical coursework and instruction in traditional Oriental medicine, acupuncture anatomy and physiology, acupuncture techniques, acupressure, breathing techniques, traditional Oriental exercise, or traditional Oriental herbology completed successfully at a school which is not approved by the board may be awarded by a school approved by the board, provided that at least 50% of the course hours in these subject areas are completed successfully at a school approved by the board.~~

~~(7) The entire record of the training program's evaluation and award of the student's transfer credit shall be included in the student's academic file and shall be made an official part of the student's transcript which shall be filed with the board upon request of the student.~~

~~(8) All students shall receive upon matriculation a copy of the training program's policies and procedures for evaluating and awarding transfer credit.~~

Amend Title 16, California Code of Regulations Article 3.5 Acupuncture Training Programs, Section 1399.437 as follows:

1399.437 Documentation Required for Approval Requirements for Board Approval of Curriculum

~~Educational institutions or programs seeking approval of an acupuncture training program shall provide the board with such documents and other evidence as may be necessary for the board to determine the actual nature and extent of the training offered, including but not limited to, catalogues, course description, curricula plans, and study bulletins.~~

(a) Educational and training programs seeking board approval of its curriculum shall submit an "Application for Board Approval of Curriculum" (rev 1/1/17), (rev 4/15), incorporated herein by reference. The application shall be accompanied by the following information and documentation:

- (1) Educational and training program legal name, current address, phone number, website, contact person, and program(s) requested for board curriculum approval.
- (2) A completed course-by-course list for each course that meets the board required coursework with course number, clock hour, and course unit to document that the curriculum meets the requirements for Section 1399.434.
- (3) A list of all courses in the program requested for board approval of curriculum with course hours, course units, course number and course title.
- (4) A copy of all course syllabi for program(s) requested for board curriculum approval; and
- (5) A copy of the current course catalog.

All information and documentation submitted under this section shall be in English.

(b) Application for Board Approval of Curriculum shall be deemed received **and complete** pursuant to Business and Professions Code Section 4927.5(b) when the board has received a complete application, **including the form and all information and documentation**, as defined in subdivision (a) of this regulation.

(c) An educational and training program whose application for board approval of curriculum is incomplete shall be notified in writing that the application is incomplete, **the reasons the application is incomplete** including instructions for how to address the incomplete application. An educational and training program's incomplete application shall be deemed abandoned if the educational and training program does not submit ~~all required documents~~ **a complete application** to the board within 30 days of the mailing of the written notification that the application is incomplete.

(d) An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

(e) Any changes to curriculum **coursework as listed in California Code of Regulations Title 16, Chapter 13.7, Article 3.5, Section 1399.434** after Board approval constitutes a new curriculum and requires Board approval pursuant to Business and Professions

Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

NOTE: Authority Cited: Sections 4927.5, 4933, Business and Professions Code.
Reference: Sections 4927, 4937, 4938, Business and Professions Code

CALIFORNIA ACUPUNCTURE BOARD IMPLIMENTATION OF SB 1246

As incorporated by reference in proposed Title 16, California Code of Regulations Sections 1399.433 b (2)(K) and 1399.434 b (2)(K)

(K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, current edition of the "Clean Needle Technique Manual 7th edition, (2015)", published by the Council of Colleges of Acupuncture and Oriental Medicine, which is hereby incorporated by reference, or an equivalent standard which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;

This is available online at:

<http://www.ccaom.org/cntmanual.asp>

**Department of Consumer Affairs
California Acupuncture Board**

**APPLICATION FOR
BOARD APPROVAL OF CURRICULUM**



**1747 North Market Blvd, Suite 180
Sacramento, CA 95834
Phone: (916) 515-5200
Fax: (916) 928-2204
www.acupuncture.ca.gov**

SECTION A – GENERAL INFORMATION

APPLICATION DATE _____

NAME OF SCHOOL _____

ADDRESS OF PHYSICAL LOCATION OF THE SCHOOL CAMPUS:

STREET ADDRESS _____

CITY, STATE, ZIP _____

SCHOOL PHONE NUMBER(S) _____

SCHOOL FAX NUMBER _____

SCHOOL EMAIL _____

MAILING ADDRESS (IF DIFFERENT FROM ABOVE)

STREET ADDRESS _____

CITY, STATE, ZIP _____

NAME AND TITLE OF CONTACT PERSON

CONTACT PERSON NAME _____

TITLE _____

DIRECT PHONE NUMBER _____

EMAIL _____

PROGRAM REQUESTED FOR BOARD APPROVAL OF CURRICULUM

SECTION B: COURSE-BY-COURSE LIST OF REQUIRED CURRICULUM

CURRICULUM for _____ ACADEMIC YEAR _____
The Acupuncture Board Curriculum Requirements, per California Code of Regulations Section, 1399.434.
(effective January 5, 2005)

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(a) Basic Sciences350 hours			
(1) General Biology;			
(2) Chemistry, including organic and biochemistry;			
(3) General Physics, including a general survey of biophysics;			
(4) General psychology, including counseling skills;			
(5) Anatomy—a survey of microscopic, gross anatomy and neuroanatomy;			
(6) Physiology---a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry;			
(7) Pathology and Pathophysiology—a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology;			
(8) Nutrition and vitamins.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(b) Acupuncture and Oriental Medicine Principles, Theories and Treatment....1,255 Hours			
(1) Acupuncture and Oriental Medicine Principles and Theories			
(A) Oriental Medicine Principles and Theory;			
(B) Acupuncture Principles and Theory;			
(C) Oriental Massage (Tui Na or Shiatsu) Principles and Theory;			
(D) Chinese Herbal Medicine Principles and Theory, including relevant botany concepts (This subject area shall consist of at least 450 hours of instruction);			
(E) Acupuncture and Oriental Medicine Diagnosis;			
(F) Acupuncture and Oriental Medicine Specialties, including dermatology, gynecology, pediatrics, ophthalmology, orthopedics, internal medicine, geriatrics, family medicine, traumatology, and emergency care;			

(G) Classical acupuncture and Oriental medicine literature, including Jin Gui, Wen Bing/Shang Han, Nei Jing;			
(H) Modern acupuncture and Oriental medicine literature.			
(2) Acupuncture and Oriental Medicine Treatment			
(A) Integrated acupuncture and Oriental medicine diagnostic and treatment procedures;			
(B) Acupuncture techniques and treatment procedures, including electroacupuncture;			
(C) Oriental massage (e.g., Tui Na or Shiatsu), acupressure and other techniques utilizing manual therapy and mechanical devices;			
(D) Exercise therapy, including breathing, qi gong and taiji quan;			
(E) Herbal prescription, counseling and preparation;			
(F) Oriental and Western clinical and medical nutrition, dietary and supplement prescription and counseling;			
(G) Cold and heat therapy, including moxibustion and ultrasound;			
(H) Lifestyle counseling, and self-care recommendations			
(I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;			
(J) Acupuncture micro therapies, including auricular and scalp therapy;			
(K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, or an equivalent standard, which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;			
(L) Equipment maintenance and safety;			
(M) Adjunctive acupoint stimulation devices, including magnets and beads.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(c) Clinical Medicine, Patient Assessment and Diagnosis.....240 hours			
(1) Comprehensive history taking;			
(2) Standard physical examination and assessment, including neuromusculoskeletal, orthopedic, neurological, abdominal, and ear, nose and throat examinations, and functional assessment;			
(3) Pharmacological assessment, emphasizing side-effects and herb-drug interactions;			
(4) Patient/practitioner rapport, communication skills, including multicultural sensitivity;			
(5) Procedures for ordering diagnostic imaging, radiological, and laboratory tests and incorporation the resulting data and reports;			
(6) Clinical reasoning and problem solving;			
(7) Clinical impressions and the formation of a working diagnosis, including acupuncture and Oriental medicine diagnoses, and the World Health Organization's international classification of diseases (ICD-9);			
(8) Awareness of at-risk populations, including gender, age, indigent, and disease specific patients;			
(9) Standard medical terminology;			
(10) Clinical sciences—a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health;			
(11) Clinical medicine—a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, naturopathy, and homeopathy to familiarize practitioners with the practices of other health care practitioners with the practices of other health care practitioners.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(d) Case Management.....90 hours			
(1) Primary care responsibilities;			
(2) Secondary and specialty care responsibilities;			
(3) Psychosocial assessment;			
(4) Treatment contraindications and complications, including drug and herb interactions;			
(5) Treatment planning, continuity of care, referral, and collaboration;			
(6) Follow-up care, final review, and functional outcome measurements;			
(7) Prognosis and future medical care;			
(8) Case management for injured workers and socialized medicine patients, including a knowledge of workers compensation/labor codes and procedures and qualified medical evaluations;			
(9) Coding procedures for current procedural codes, including CPT and ICD-9 diagnoses;			
(10) Medical-legal report writing, expert medical testimony, and independent medical review;			
(11) Special care/seriously ill patients;			
(12) Emergency procedures.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(e) Practice Management.....45 hours			
(1) Record keeping, insurance billing and collection;			
(2) Business written communication;			
(3) Knowledge of regulatory compliance and jurisprudence (municipal, California, and federal laws, including OSHA, Labor Code, Health Insurance Portability and Accountability Act of 1996 (HIPAA));			
(4) Front office procedures;			
(5) Planning and establishing a professional office;			
(6) Practice growth and development;			
(7) Ability to practice in interdisciplinary medical settings including hospitals;			
(8) Risk management and insurance issues;			
(9) Ethics and peer review.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(f) Public Health.....40 hours			
(1) Public and community health and disease prevention;			
(2) Public health education;			
(3) A minimum of eight (8) hours in first-aid and adult/child cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association or other organization with an equivalent course approved by the board;			
(4) Treatment of chemical dependency;			
(5) Communicable disease, public health alerts, and epidemiology.			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(g) Professional Development.....30 hours			
(1) Research and evidence based medicine;			
(2) Knowledge of academic peer review process;			
(3) Knowledge and critique of research methods;			
(4) History of medicine			

TOTAL CLOCK HOURS _____

Acupuncture Board Requirement	COURSE NUMBER (per school catalog)	CLOCK HOUR	COURSE UNIT
(h) Clinical Practice.....950 hours			
(1) Practice Observation (minimum 150 hours)—supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;			
(2) Diagnosis and evaluation (minimum 275 hours)—the application of Eastern and Western diagnostic procedures in evaluating patients;			
(3) Supervised practice (minimum 275 hours)—the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code section 4927(d) and 4937(b).			

TOTAL CLOCK HOURS _____

TOTAL PROGRAM CLOCK HOURS _____

To be approved by the board, an acupuncture and oriental medicine shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction.

SECTION D – COPY OF ALL COURSE SYLLABI

PLEASE SUBMIT A COPY OF ALL COURSE SYLLABI FOR COURSE WORKS LISTED IN SECTION B AND C OF THE APPLICATION.

SECTION E - A CURRENT COURSE CATALOG

HYPERLINK TO CURRENT COURSE CATALOG*:

*If your school current course catalog is not on your webpage, please attach a hard-copy with your submission.

April 27, 2016

Mr. Ben Bodea
Acting Executive Officer
State of California
Acupuncture Board
1747 North Market Blvd, Suite 180
Sacramento, CA 95834

Dear Mr. Bodea,

I am submitting public comment on behalf of the faculty, students, and administration of the College of Eastern Medicine (CEM) at SCU, relating to the proposed process for implementation of SB 1246. I enjoyed representing CEM at the committee meetings in which almost all of these changes have been discussed, and I commend the Board for its transparent preparations for SB1246 implementation.

However, I am concerned that the proposed verbiage is not fully loyal to the nuances of ACAOM accreditation as expressed in SB1246. ACAOM accreditation has three technical stages with specific definitions: approval, candidacy, and accreditation. The distinctions in these stages have specific ramifications for colleges of acupuncture and Oriental medicine, their students, and by extension the general public.

Page 2 of the Initial Statement of Reasons (emphasis added; on which public comment has been sought by the Board) states:

“Specifically, SB 1246 redefines what constitutes an “approved educational and training program” for purposes of the Act. Presently, BPC Section 4927.5 defines an approved educational and training program as one approved by the Board pursuant to BPC Section 4939. However, beginning January 1, 2017, per BPC Section 4927.51 an approved educational and training program will be one that, among other things, is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), approved by the Bureau of Private Postsecondary Education (BPPE), and:”

In point of fact, the language of SB1246 states that an approved training program may either be accredited by ACAOM, be in candidacy status with ACAOM, or have submitted a letter of intent to pursue ACAOM accreditation within one-month of receiving Board curriculum approval, and become accredited within three years.

The language of SB1246 is included below for reference (emphasis added):

- (3) Meets any of the following:*
- (A) Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.*
 - (B) Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.*

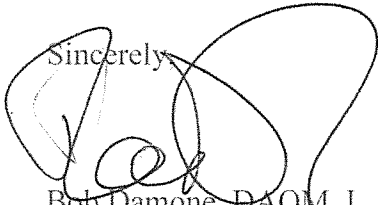
(C) Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2), and is granted candidacy status within three years of the date that letter was submitted.

(b) Within 30 days after receiving curriculum pursuant to paragraph (1), the board shall review the curriculum, determine whether the curriculum satisfies the requirements established by the board, and notify the school or college, the Accreditation Commission for Acupuncture and Oriental Medicine, and Bureau of Private and Postsecondary Education of whether the board has approved the curriculum.

(c) This section shall become operative on January 1, 2017.

As the implementation of SB1246 proceeds, it is in the interest of the people of California that official CAB communications employ accurate technical terminology when referring to ACAOM accreditation processes and definitions.

Sincerely,



Bob Damone, DAOM, L.Ac
Dean, College of Eastern Medicine

BD/ljw



April 28, 2016

Mr. Ben Bodea
Acting Executive Officer
State of California
Acupuncture Board
1747 North Market Blvd, Suite 180
Sacramento, CA 95834

Reference: Public Comment Pertaining to Implementation of SB1246

Dear Mr. Bodea,

I am submitting public comment on behalf of the faculty, students, and administration of the College of Eastern Medicine (CEM) at SCU, relating to the proposed process for implementation of SB 1246. I enjoyed representing CEM at the committee meetings in which almost all of these changes were discussed and commend the Board for its transparent preparations for SB 1246 implementation.

An additional concern that I neglected to mention in my previous comment lies with the verbiage from section "e" of the "Proposed Verbiage" (emphasis added) which states:

(e) Any changes to curriculum after Board approval constitutes a new curriculum and requires Board approval pursuant to Business and Professions Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

I raised the concern I explain below as a public member present at the Education Committee, and I feel it necessary to raise it once again in hopes of clarification.

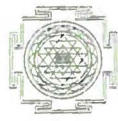
As long as "curriculum" pertains only to the courses listed among Title 16, California Code of Regulations Article 3.5 Acupuncture Training Programs, Section 1399.433, CEM at SCU is full agreement. However, we feel that "curriculum" should be further defined in its narrow sense as "coursework listed in 1399.433." Otherwise, CAB approved schools may appear to be expected to acquire CAB approval at least 30 days in advance of even minor curriculum changes, even to those courses that do not affect CAB-required coursework. This could potentially interfere with a given program's ability to meet with agility the evolving needs of its students, accreditors, and regulatory bodies.

Many acupuncture training programs have courses within their curricula in excess of CAB requirements. While Board members and then EO, Ms. Thorfinson reassured those present at the Education Committee meeting that the spirit of section (e) was not intended to be aimed at "elective" courses, further clarification would not dilute the Board's oversight yet would communicate with greater clarity the intended purpose. Therefore, greater specificity would be in the best interest of all stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Damone", is written over a horizontal line. The signature is fluid and cursive, extending to the right across the page.

Bob Damone, DAOM, L.Ac
Dean, College of Eastern Medicine



California Institute of Integral Studies

May 25, 2016

Ben Bodea
Acting Executive Officer
State of California
Acupuncture Board
1747 North Market Blvd, Suite 180
Sacramento, CA 95834

Dear Mr. Bodea,

Thank you for the opportunity to provide input regarding the changes in CAB regulations due to the enactment of SB1246. The purpose of this email is to point out several areas that need to be clarified. We appreciate that CAB is putting significant changes in place and are offering the below in the spirit of helping these changes be as effective as possible. The inclusion of the accreditation process will strengthen the community of schools that train California's future acupuncturists, better protecting the citizens of California.

1. Our first concern is regarding language on the status of an institution with ACAOM. On page 2 of the document articulating proposed changes to regulations (sb1246_isr.pdf) is the statement, "However, beginning January 1, 2017, per BPC Section 2927.51 an approved educational and training program will be one that, among other things, is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), approve by the Bureau of private Postsecondary Education (BPPE), and" It is not likely that an institution in California that began the accreditation process after SB1246 was signed into law will be fully accredited by January 1, 2017. The language of SB 1246, "(C) is accredited or granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine, or has submitted a letter of intent to pursue accreditation to that commission, as specified." (SB1246, accessed on May 25, 2016, page 397, top of the page). Institutions that have achieved candidacy with ACAOM by January 1, 2017 should be considered in compliance with CAB regulations on that date.
2. The second concern is regarding review of curriculum. Beyond the initial approval of the curriculum of an institution, it is unclear when or how an institution would be required to resubmit curriculum to CAB. Under the accreditation process institutions are constantly reflecting on and making



California Institute of Integral Studies

changes to improve curriculum. We believe that so long as any improvements to an institution's curriculum leaves the institution fully in compliance with CA regulations, no further review by CAB is necessary. Conversation with the prior CAB chair suggested that CAB is considering reviewing virtually all changes to curriculum. This would be burdensome and result in making it harder for institutions to make positive changes to their program of study.

3. Lastly, we caution CAB regarding attempting to ensure "that licensed acupuncturists continue to meet the same educational training and clinical experience standards." (sb1246_isr.pdf). It is hoped that CAB staff and commissioners will create an environment where an institution may meet or exceed the standards set out in regulation.

We continue to support the role of the California Acupuncture Board in protecting the public, and feel these changes will help CAB with this mission. Thank you for your consideration of the above. Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Given".

Steve Given, DAOM, L.Ac.
Associate Academic Dean

Copy: Lixin Huang, MS
Judie Wexler, Ph.D.
Bingzeng Zou, Ph.D., DC, L.Ac.

**CALIFORNIA ACUPUNCTURE BOARD
1747 NORTH MARKET BLVD, SUITE 180
SACRAMENTO, CA 95834**

Minutes from June 6, 2016 public hearing regarding proposed SB 1246 regulatory rulemaking package

**Location: Peridot Meeting Room
1747 North Market Blvd
Sacramento, CA 95834**

Staff present: Marc Johnson, Policy Coordinator
Department of Consumer Affairs – California Acupuncture Board

Terry Sinkovich, Exam Coordinator
Department of Consumer Affairs – California Acupuncture Board

The public hearing was called to order at 9:07am on June 6, 2016 for the purpose of hearing comments from interested parties on the proposed SB 1246 regulatory rulemaking package. The proposed regulatory action has been properly notified and filed with the Office of Administrative Law. Marc Johnson, Policy Coordinator, presided at the hearing.

Text of the proposed rulemaking was read aloud. The purpose of the hearing and procedures to be followed was then read aloud.

One witness attended the hearing. Dr. Steve Given, a licensed acupuncturist and Vice associate dean at ACTCM, Treasurer of Council of Colleges of Acupuncture and Oriental Medicine.

Dr. Given first commented he was supportive of the proposed regulations and role of Board in protecting the public. He then offered the following six comments / corrections to the proposed regulatory rulemaking package:

1. Suggested a correction on proposed CCR Section 1399.433(b) (1) (G) – ‘Jin Gui’ is listed. Dr. Given feels ‘Yaolae’ should be added.

2. Dr. Given noted the ‘Clean Needle Technique’ manual is no longer published by the National Acupuncture Foundation. It is now published by the Council of Colleges of Acupuncture and Oriental medicine – and is distributed free at the website: ccaom.org.

3. There is language Dr. Given believes is outdated: *“In subsection H - clinical practice hours – nine hundred fifty hours” and the “statement in subsection 4 – thereafter two hundred seventy five clinical supervisor shall be physically present at the needling of the patient”*. Dr Given believes *“that is outdated and should be deleted ...California is the*

only state which requires this. Virtually no evidence that is necessary or enhances the training of the intern.” He then notes “here is the following sentence...that the clinic supervisor shall be in close proximity, and is true for all stages of clinical stages and continues to be true.”

4. Dr. Given notes a statement in the SB 1246 ISR referring to approved training programs seeking ACAOM status does not refer to the full text of the statute.

5. Dr. Given feels *“the Board should have complete authority first 30 days as per SB 1246, but thereafter the review of curriculum needs to be ended as far as CAB is concerned.”* He states *“that under the accreditation process, schools are constantly improving and changing curriculum – and if an institution were required to go back to CAB for every time they made improvement to their curriculum, institutions would have a disincentive to continue to improve their curriculum as is required by accreditation, and believes that CAB would be inundated with minor changes, when in fact it is not necessary for CAB to approve that.”*

Dr. Given then said *“that a past CAB president made the statement at a past CAB meeting that this may include an ongoing review of all curriculum. It is very important for CAB to know that that review needs to be ended after that 30 day period. CAB will continue to have the opportunity to review transcripts to make sure they comply with California law and that should be considered follow up review as needed.”*

6. Dr Given notes *“a statement made in documents forwarded to me that licensed acupuncturists continue to meet the same training and clinical experience standards. More in the spirit of education under accreditation should meet or exceed those standards.”* He feels *“it is in fact not appropriate for a Board to say that everybody must meet the same standards...we should be able to meet or exceed those standards according to the review of faculty and the academic leadership of the individual institution...that is in fact what is happening now, institutions do have an opportunity to exceed those standards as they see fit.”*

There were no further comments. Marc Johnson closed the hearing as of 9:35a.

AMENDED IN SENATE AUGUST 16, 2016

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2190

Introduced by Assembly Member Salas
(Coauthor: Assembly Member Brough)
(Principal coauthor: Senator Hill)

February 18, 2016

An act to amend Sections 4927.5, 4928, ~~and 4934~~ 4934, 4938, and 4974 of, ~~to add Section 4942 to,~~ and to repeal *and add* Section 4939 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2190, as amended, Salas. Acupuncture Board: executive officer: education.

Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board, within the Department of Consumer Affairs. Existing law authorizes the board, with the approval of the Director of Consumer Affairs, to appoint an executive officer who is exempt from civil service. Existing law repeals the provisions establishing the board and authority for it to appoint an executive officer on January 1, 2017.

The bill would extend the operation of the board and the board's authority to appoint an executive officer until January 1, 2019.

Existing law requires, among other things, the completion of an approved educational and training program in order to be issued a license to practice acupuncture. For purposes of the act, beginning January 1,

2017, existing law defines “approved educational and training program” as a school or college offering education and training in the practice of an acupuncturist who meets various requirements, including offering curriculum that includes specified hours of didactic and laboratory training and supervised clinical instruction. Existing law requires these programs to submit that curriculum to the board and to receive board approval of the curriculum.

This bill would provide that any school or college offering education and training in the practice of acupuncture that was approved by the board prior to January 1, 2017, is deemed to have had its curriculum approved by the board if its approval has not been revoked and it has not changed its curriculum since receiving board approval.

Beginning January 1, 2017, existing law requires the board to establish standards for the approval of educational training and clinical experience received outside the United States.

This bill would repeal that board requirement. The bill would instead ~~authorize the board to require an applicant completing education outside of the United States to submit documentation of his or her education to a board approved credential evaluation service that is approved by the board for evaluation and to have the results of the evaluation sent directly from the credential evaluation service to the board.~~ *The bill would require the board to examine the received results to determine if an applicant meets requirements for licensure and, if the evaluated education is not sufficient, would authorize the board to offer the applicant additional education, training, or testing, as specified.* The bill would require the board to establish, by regulation, an application process, criteria, and procedures for approval of a credential evaluation service ~~to assess the equivalency of an applicant’s education.~~ *service.* The bill would require the regulations to, at a minimum, require the credential evaluation service to meet specified requirements. *The bill would define, for these purposes, an “approved credential evaluation service” as an agency or organization that is approved by the board to evaluate education completed outside the United States and identify the equivalency of that education to education completed within the United States. The bill would also make nonsubstantive changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4927.5 of the Business and Professions
2 Code, as added by Section 2 of Chapter 397 of the Statutes of
3 2014, is amended to read:

4 4927.5. (a) For purposes of this chapter, “approved educational
5 and training program” means a school or college offering education
6 and training in the practice of an acupuncturist that meets all of
7 the following requirements:

8 (1) Offers curriculum that includes at least 3,000 hours of which
9 at least 2,050 hours are didactic and laboratory training, and at
10 least 950 hours are supervised clinical instruction. Has submitted
11 that curriculum to the board, and has received board approval of
12 the curriculum. Any school or college offering education and
13 training in the practice of acupuncture that was approved by the
14 board prior to January 1, 2017, has not had its approval revoked,
15 and has not changed its curriculum since receiving board approval,
16 is deemed to have had its curriculum approved by the board for
17 the purposes of this section.

18 (2) Has received full institutional approval under Article 6
19 (commencing with Section 94885) of Chapter 8 of Part 59 of
20 Division 10 of Title 3 of the Education Code in the field of
21 traditional Asian medicine, or in the case of institutions located
22 outside of this state, approval by the appropriate governmental
23 educational authority using standards equivalent to those of Article
24 6 (commencing with Section 94885) of Chapter 8 of Part 59 of
25 Division 10 of Title 3 of the Education Code.

26 (3) Meets any of the following:

27 (A) Is accredited by the Accreditation Commission for
28 Acupuncture and Oriental Medicine.

29 (B) Has been granted candidacy status by the Accreditation
30 Commission for Acupuncture and Oriental Medicine.

31 (C) Has submitted a letter of intent to pursue accreditation to
32 the Accreditation Commission for Acupuncture and Oriental
33 Medicine within 30 days of receiving full institutional approval
34 pursuant to paragraph (2), and is granted candidacy status within
35 three years of the date that letter was submitted.

36 (b) Within 30 days after receiving curriculum pursuant to
37 paragraph (1), the board shall review the curriculum, determine
38 whether the curriculum satisfies the requirements established by

1 the board, and notify the school or college, the Accreditation
2 Commission for Acupuncture and Oriental Medicine, and Bureau
3 of Private and Postsecondary Education of whether the board has
4 approved the curriculum.

5 (c) This section shall become operative on January 1, 2017.

6 SEC. 2. Section 4928 of the Business and Professions Code is
7 amended to read:

8 4928. (a) The Acupuncture Board, which consists of seven
9 members, shall enforce and administer this chapter.

10 (b) This section shall remain in effect only until January 1, 2019,
11 and as of that date is repealed.

12 (c) Notwithstanding any other law, the repeal of this section
13 renders the board subject to review by the appropriate policy
14 committees of the Legislature.

15 SEC. 3. Section 4934 of the Business and Professions Code is
16 amended to read:

17 4934. (a) The board, by and with the approval of the director,
18 may appoint an executive officer who is exempt from the State
19 Civil Service Act (Part 2 (commencing with Section 18500) of
20 Division 5 of Title 2 of the Government Code).

21 (b) This section shall remain in effect only until January 1, 2019,
22 and as of that date is repealed.

23 SEC. 4. Section 4938 of the Business and Professions Code is
24 amended to read:

25 4938. (a) The board shall issue a license to practice
26 acupuncture to any person who makes an application and meets
27 the following requirements:

28 ~~(a)~~

29 (1) Is at least 18 years of age.

30 ~~(b)~~

31 (2) Furnishes satisfactory evidence of completion of one of the
32 following:

33 ~~(1) (A)~~

34 (A) (i) An approved educational and training program.

35 ~~(B)~~

36 (ii) If an applicant began his or her educational and training
37 program at a school or college that submitted a letter of intent to
38 pursue accreditation to, or attained candidacy status from, the
39 Accreditation Commission for Acupuncture and Oriental Medicine,
40 but the commission subsequently denied the school or college

1 candidacy status or accreditation, respectively, the board may
2 review and evaluate the educational training and clinical experience
3 to determine whether to waive the requirements set forth in this
4 subdivision with respect to that applicant.

5 ~~(2)~~

6 (B) Satisfactory completion of a tutorial program in the practice
7 of an acupuncturist that is approved by the board.

8 ~~(3)~~

9 (C) In the case of an applicant who has completed education
10 and training outside the United States, documented educational
11 training and clinical experience that meets the standards established
12 pursuant to Sections 4939 and 4941.

13 ~~(e)~~

14 (3) Passes a written examination administered by the board that
15 tests the applicant's ability, competency, and knowledge in the
16 practice of an acupuncturist. The written examination shall be
17 developed by the Office of Professional Examination Services of
18 the Department of Consumer Affairs.

19 ~~(d)~~

20 (4) Is not subject to denial pursuant to Division 1.5 (commencing
21 with Section 475).

22 ~~(e)~~

23 (5) Completes a clinical internship training program approved
24 by the board. The clinical internship training program shall not
25 exceed nine months in duration and shall be located in a clinic in
26 this state that is an approved educational and training program.
27 The length of the clinical internship shall depend upon the grades
28 received in the examination and the clinical training already
29 satisfactorily completed by the individual prior to taking the
30 examination. On and after January 1, 1987, individuals with 800
31 or more hours of documented clinical training shall be deemed to
32 have met this requirement. The purpose of the clinical internship
33 training program shall be to ensure a minimum level of clinical
34 competence.

35 ~~Each~~

36 (b) *Each* applicant who qualifies for a license shall pay, as a
37 condition precedent to its issuance and in addition to other fees
38 required, the initial licensure fee.

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 4939 of the Business and Professions Code,
3 as amended by Section 37 of Chapter 426 of the Statutes of 2015,
4 is repealed.

5 ~~SEC. 5.~~

6 *SEC. 6.* Section ~~4942~~ 4939 is added to the Business and
7 Professions Code, to read:

8 ~~4942. (a)~~

9 4939. (a) *For purposes of this chapter, “approved credential*
10 *evaluation service” means an agency or organization that is*
11 *approved by the board to evaluate education completed outside*
12 *the United States and identify the equivalency of that education to*
13 *education completed within the United States.*

14 (b) If an applicant completes education outside of the United
15 States, ~~the board may require the applicant to submit~~ *applicant*
16 *shall do both of the following:*

17 (1) *Submit* documentation of his or her education to a
18 *board-approved* credential evaluation service ~~that is approved by~~
19 ~~the board for evaluation and to have for evaluation.~~

20 (2) *Have* the results of the evaluation sent directly from the
21 credential evaluation service to ~~the board in order to assess~~
22 ~~educational equivalency.~~ *board.*

23 (c) *If the board receives the results of an applicant’s evaluation*
24 *pursuant to subdivision (b), the board shall examine the results*
25 *and determine whether the applicant meets requirements for*
26 *licensure. If the evaluated education is not sufficient to meet the*
27 *requirements for licensure, the board may offer the applicant*
28 *additional education, training, or standardized testing to satisfy*
29 *the educational requirements. The board shall not require the*
30 *applicant to complete education, training, or testing that is not*
31 *otherwise required of applicants who complete education or*
32 *training within the United States.*

33 ~~(b)~~

34 (d) The board shall establish, by regulation, an application
35 process, criteria, and procedures for approval of credential
36 evaluation ~~services to assess the equivalency of an applicant’s~~
37 ~~education.~~ *services.* The regulations shall, at a minimum, require
38 the credential evaluation service to meet all of the following
39 requirements:

40 (1) Furnish evaluations written in English directly to the board.

1 (2) Be a member of a nationally recognized foreign credential
2 evaluation association, such as, but not limited to, the American
3 Association of Collegiate Registrars and Admissions Officers or
4 the National Association of Credential Evaluation Services.

5 (3) Undergo reevaluation by the board every five years.

6 (4) Certify to the board that the credential evaluation service
7 maintains a complete set of reference materials as determined by
8 the board.

9 (5) Base evaluations only upon verified authentic, official
10 transcripts, and degrees.

11 (6) Have a written procedure for identifying fraudulent
12 transcripts.

13 (7) Include in an evaluation report submitted to the board the
14 specific method or methods of authentication for the transcripts,
15 certification, degrees, and other education evaluated for the
16 purposes of the report.

17 (8) Include in the evaluation report, for each degree held by the
18 applicant, the equivalent degree offered in the United States, the
19 date the degree was granted, the institution granting the degree,
20 an English translation of the course titles, and the semester unit
21 equivalence for each course.

22 (9) Have an appeal procedure for applicants.

23 (10) Provide information concerning the credential evaluation
24 service to the board that includes, but is not limited to, resumes or
25 curriculum vitae for each evaluator and translator, which includes
26 biographical information, three letters of references from public
27 or private agencies, statistical information on the number of
28 applications processed annually for the past five years, and any
29 other information the board may require to determine whether the
30 credential evaluation service meets the standards under this
31 subdivision and the board's regulations.

32 (11) Provide to the board all information required by the board,
33 including, but not limited to, the following:

34 (A) Its credential evaluation policy.

35 (B) A complete list of terminology and evaluation terms used
36 in producing its credential evaluations.

37 (C) A detailed description of the specific methods utilized for
38 credential authentication.

39 *SEC. 7. Section 4974 of the Business and Professions Code is*
40 *amended to read:*

1 4974. The board shall report to the Controller at the beginning
2 of each month for the month preceding the amount and source of
3 all revenue received by it pursuant to this chapter, and shall pay
4 the entire amount thereof to the Treasurer for deposit in the
5 Acupuncture Fund, which fund is created to carry out the
6 provisions of this ~~chapter.~~ *chapter, upon appropriation by the*
7 *Legislature.*

O

AB 2190 (SALAS ET AL) BILL ANALYSIS -- THIRD READING

Amended: 8/16/16 in Senate

Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/27/16

AYES: Hill, Bates, Block, Gaines, Galgiani, Hernandez,

Jackson, Mendoza, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/16

AYES: Lara, Bates, Beall, Hill, McGuire, Mendoza, Nielsen

ASSEMBLY FLOOR: 80-0, 5/31/16 - See last page for vote

SUBJECT: Acupuncture Board: executive officer: education

SOURCE: Author

DIGEST: This bill extends the operation of the California Acupuncture Board (CAB) and the CAB's authority to appoint an executive officer until January 1, 2019, and authorizes the CAB to require an applicant who completed education outside of the United States to submit documentation of his or her education to a credential service approved by the CAB to assess the educational equivalency of the applicant, and requires the CAB to establish by regulation an application process, criteria and procedures for the approval of a credential evaluation services.

ANALYSIS:

Existing law:

- 1) Provides under the Acupuncture Licensure Act (Act) for the licensure and regulation of the practice of acupuncture by the CAB within the Department of Consumer Affairs (DCA). (Business and Professions Code (BPC) § 4925 et seq.)
- 2) Defines "acupuncture" as the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electro-acupuncture, cupping and moxibustion. (BPC § 4927)
- 3) Establishes the CAB until January 1, 2017, and renders the CAB subject to review by the appropriate policy committees of the Legislature. (BPC § 4928)
- 4) Permits the CAB, with the approval of the director of the DCA, to employ personnel and appoint an executive officer until January 1, 2017.
(BPC § 4934)
- 5) Provides that "approved educational and training program, means a program approved by the CAB pursuant to standards

adopted by the CAB. This authority is repealed as of January 1, 2017. (BPC § 4927.5 and § 4939)

6) Provides, operative January 1, 2017, that an "approved educational and training program" means a school or college offering education and training in the practice of an acupuncturist that meets requirements, as specified, including that it has received approval of its curriculum by the CAB, full institutional approval by the Bureau for Private Postsecondary Education, a governmental educational authority, or has been accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), granted candidacy by ACAOM, or submitted a letter of intent to become accredited by the ACAOM. (BPC § 4927.5)

7) Provides, operative January 1, 2017, that that CAB shall establish standards for the approval of educational training and clinical experience received outside the United States. (BPC § 4939)

8) Provides that the CAB shall establish standards for the approval of tutorial programs for education and training in the practice of acupuncture that satisfies requirements, as specified. (BPC § 4940)

9) Provides that the CAB in reviewing applications for licensure based upon the completion of a tutorial program in acupuncture, that the CAB may provide that credit is granted for relevant prior training and experience when that training or experience otherwise meets the standards set by the CAB.

(BPC § 4941)

10) Provides that the CAB shall have the authority to investigate and evaluate each and every applicant applying for a license to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a license, in conformance with the Act. (BPC § 4944)

11) Provides for a guest acupuncturist from another state or country to engage in the practice of acupuncture in conjunction with lectures, clinics, or demonstrations for a maximum of six months, as specified. (BPC § 4949)

This bill:

1) Specifies that any school or college offering education and training in the practice of acupuncture that was approved by the CAB prior to January 1, 2017, has not had its approval revoked, and has not changed its curriculum since receiving

board approval, is deemed to have had its curriculum approved by the CAB.

- 2) Eliminates the requirement that the CAB shall establish standards for the approval of educational training and clinical experience received outside the United States by January 1, 2017.
- 3) Specifies that "approved credential evaluation service" means an agency or organization that is approved by the CAB to evaluate education completed outside the U. S. and identify the equivalency of that education to education completed within the U.S.
- 4) Provides that when education is completed outside the U.S., the applicant shall do both of the following:
 - a) Submit documentation of his or her education to a board approved credential evaluation service for evaluation.
 - b) Have the results of the evaluation sent directly from the credential evaluation service to the board.
- 5) Provides that if the CAB receives the results of an

applicant's evaluation, the CAB shall examine the results and determine whether the applicant meets requirements for licensure. If the evaluated education is not sufficient to meet the requirements for licensure, the CAB may offer the applicant additional education, training, or standardized testing to satisfy the educational requirements.

6) Specifies that the CAB shall not require the applicant to complete education, training, or testing that is not otherwise required of applicants who complete education or training within the U.S.

7) Requires the CAB to establish by regulation an application process, criteria and procedures for approval of credential evaluation services accepted by the CAB and that these regulations shall require the credential evaluation service to provide information, furnish evaluations, be reevaluated, perform evaluations, and perform other functions and tasks, as specified.

8) Extends the sunset date of the CAB and the CAB's authority to appoint an executive officer from January 1, 2017 to January 1, 2019.

Background

California Acupuncture Board. The CAB regulates the practice of acupuncture and Asian medicine in California. According to the CAB's most recent sunset review report, it regulates 17,801 acupuncturists, 11,644 of which are actively practicing in the state.

The practice of acupuncture involves the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions. A licensed acupuncturist while engaged in the practice of acupuncture is permitted to perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal and mineral products, and dietary supplements to promote, maintain and restore health.

The primary responsibility of the CAB is to protect California consumers from incompetent, and/or fraudulent practice through the enforcement of the Acupuncture Licensure Act and the CAB's regulations. The CAB implements regulatory programs and performs a variety of functions to protect consumers. These activities include setting licensure requirements for acupuncturists, developing and administering the licensure exam, issuing and renewing licenses, overseeing the investigation of

complaints against licensees or allegations of unlicensed activity, overseeing the continuing education program and monitoring probationer acupuncturists.

Sunset Review Oversight Hearings. In March of 2016, the Senate Business and Professions Committee and the Assembly Business and Professions Committee (Committees) conducted several joint oversight hearings to review 12 regulatory entities, including the CAB. This bill is intended to implement legislative changes as recommended by the Committees' staff Background Papers prepared for each entity reviewed.

Foreign Applicants Credential Evaluation Services. SB 1246 (Lieu, Chapter 397, Statutes of 2014) which takes effect on January 1, 2017, made some major changes in the way that the CAB will approve schools within the U.S. and requires, among other things, the CAB to start relying on the ACOAM, the national accrediting agency, for accrediting acupuncture schools. When the provisions of SB 1246 take effect the CAB will also be required to establish standards for the approval of educational training and clinical experience received outside the U.S. and Canada. While the CAB will start using the ACAOM to accredit training programs when the requirement goes into effect, the ACAOM does not approve schools outside of the United States. This amendment will ensure the CAB has the specific

authority to utilize educational credential evaluation services to provide a way for applicants who obtained education from outside the U.S. to obtain equivalent credits.

FISCAL EFFECT: Appropriation: No Fiscal
Com.:YesLocal: No

According to the Senate Appropriations Committee, this bill will result in ongoing costs of \$3.8 million per year for the continued operation of the CAB, costs of which are paid for by license fee revenues. The analysis notes that the bill will also result in minor costs to establish requirements for assessing the educational equivalency of applicants who received their training outside the U.S.

SUPPORT: (Verified 8/15/16)

California Acupuncture Board

OPPOSITION: (Verified 8/15/16)

None received

ASSEMBLY FLOOR: 80-0, 5/31/16

AYES: Achadjian, Alejo, Travis Allen, Arambula, Atkins, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim,

Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis,
Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte,
O'Donnell, Olsen, Patterson, Quirk, Ridley-Thomas, Rodriguez,
Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting,
Wagner, Waldron, Weber, Wilk, Williams, Wood, Rendon

Prepared by: Bill Gage / B., P. & E.D. / (916) 651-4104

8/16/16 17:55:13

State of California

**California Acupuncture Board
Board Member Administrative
Manual**

Adopted September 18, 2015



Edmund G. Brown Jr., Governor
State of California

Members of the Board

~~Michael Shi, L.Ac, President, Licensed Member~~

Hildegarde Aguinaldo, J.D., ~~Vice~~ President, Public Member

Jamie Zamora, Vice President, Public Member

Kitman Chan, Public Member

Dr. Michael Corradino, DAOM, L.Ac, Licensed Member

Francisco Hsieh, Public Member

Jeannie Kang, L.Ac, Licensed Member

~~Jamie Zamora, Public Member~~

Executive Officer

~~Terri Thorfinnson, J.D.~~ Benjamin Bodea – Acting Executive Officer

This procedure manual is a general reference including a review of some important laws, regulations, and basic Board policies in order to guide the actions of the Board 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	6
 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
Tape 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	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 Officer16
Board Administration.....16
Executive Officer Evaluation.....16
Board Staff16
Board Budget16
Communication with Organizations & Individuals17
Business Cards17

CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions18
Terms and Removal of Board Members.....18
Resignation of Board Members.....18
Conflict of Interest.....19
Contact with Licensees and Applicants19
Contact with Respondents.....19
Service of Legal Documents.....19
Serving as an Expert Witness19
Gifts from Licensees and Applicants20
Ex Parte Communications20
The Honoraria Prohibition21
Board Member Orientation21
Ethics Training.....21
Sexual Harassment.....21

CHAPTER 1. Introduction

Mission Statement

To protect, benefit, and inform the people of California by exercising the licensing, regulatory, and enforcement mandates of the Acupuncture Licensure Act and Acupuncture Regulations.

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. Subsequently, the law was amended to allow acupuncture research to be conducted under the auspices of medical schools rather than just 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 Assembly Bill 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; expanded the acupuncturists' scope of practice to include electroacupuncture, cupping, and moxibustion; clarified that Asian massage, exercise and herbs for nutrition were within the acupuncturist's authorized 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).

Function of the Board

The Acupuncture Board's (Board) legal mandate is to regulate the practice of acupuncture and Asian medicine in the State of California. The Board established 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 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 improvement of educational training standards, continuing education, enforcement of the B&P 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
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
DAG	Deputy Attorney General
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 shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, 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 documents and information related to Board business.
- ❖ Board Members shall commit the time and 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 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 Code Section 4929)

The Board consists of seven members. Three members are licensed acupuncturists and four are public members. The Governor appoints the three licensed members and two 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.

Board Meetings

(B & P Code Section 101.7)

(Government Code Section 11120 et seq. – Bagley-Keene Open Meeting Act)

The full Board shall meet at least three 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 conduct their business 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

(Business and Professions Code 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 commitment to the governor and the people of the State of California. Board members shall attend a minimum of 75% of all scheduled board meetings. If a member is unable to attend, he or she must contact the Board President or the Executive Officer, and provide a written explanation of their absence.

Public Attendance at 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 committee consists of more than two members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. 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.

Agenda Items

(Board Policy)

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 15 days prior to 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 a conflict, the Board President shall make the final decision. 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.)

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board's mailing list 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.

Notice of Meetings Posted on the Internet

(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.

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 his or her 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

(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)

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.

Tape Recording

(Government Code Section 11124.1(b))

The meeting may be audio and video tape recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members of the public may tape record, videotape or otherwise record a meeting unless they are disruptive to the meeting and the President has specifically warned them of their being disruptive, then the President may order that their activities be ceased.

The Board may place the audio 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

(Board Policy)

Public comment is always encouraged and allowed, however, if time constraints mandate, the comments may be limited to five minutes per person. 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 shall receive Executive Officer approval for all travel and salary or per diem reimbursement, except for regularly scheduled Board, committee, and conference meetings to which a Board 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 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 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 Code Section 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 Code Section 103. In relevant part, B&P 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 at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed the Executive Officer shall be notified and approval shall be obtained from the Board President prior to Board Member's attendance.

2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned.

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.
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 at the first meeting of each year a President and Vice President.

Election of Officers

Elections of the officers shall occur annually at the first meeting of each 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 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 written by any Board Member in his or her 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, his or her 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 he or she deems 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 for 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 he or she is 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.

CHAPTER 5. Board Administration & Staff

Executive Officer

(B & P 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.

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. Board members provide information to the President on the Executive Officer's performance in advance of this meeting.

Board Staff

(B & P 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 this complexity, the Board delegates this 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

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.

Communications 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, his or her 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.

Business Cards

Business cards will be provided 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 his/her 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 Code Sections 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 his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision.

Any Board Member who feels he or she is 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 his/her 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 his or her capacity as Board Member, he or she 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 appointees 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 his or her State employment or as a part of the appointee's duties as a State officer.

Gifts from Licensees and Applicants

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.

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 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 he or she realizes 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, he or she 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, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Board's legal counsel.

Honoraria Prohibition

(Government Code Section 89503 and 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 his or her 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 he or she, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

Board Member Orientation

The Board Member orientation session shall be given to new Board Members within one year of assuming office.

Ethics Training

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

Sexual Harassment Training

(Government Code Section 12950.1)

Board Members are required to undergo sexual harassment training and education once every two years.