

California Acupuncture Board Meeting

March 25 – 26, 2021

WebEx Conference Call



Board Members

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

Kitman Chan, C.P.A., Vice President

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

John Harabedian, Esq.

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

Dr. Shu Dong Li, Ph.D

Ruben Osorio

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**ACUPUNCTURE BOARD
LICENSING AND EXAMINATION COMMITTEE MEETING
AGENDA**

**Thursday, March 25, 2021
9:30 a.m. to 10:30 a.m. or until the completion of business**

LOCATION:

Web Ex Teleconference

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=eb6b4b960f8999bcb1eb33c237c6c678d>

Important Notices to the Public

The Acupuncture Board Licensing and Examination Committee will hold a public meeting via WebEx Events. To participate in the WebEx Events meeting, please log on at the web address under ‘Location’ on the day of the meeting.

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Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

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- 1. Call to Order, Roll Call, and Establishment of Quorum (Kitman Chan, Chair)**
- 2. Chair’s Remarks (Chan)**
 - Welcoming message and meeting information**
- 3. Public Comment on Items Not on the Agenda (Chan)**
- 4. Discussion and Possible Committee Action on Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service (AB 2190) (Title 16 CCR §§ 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419)**
- 5. Future Agenda Items (Chan)**
- 6. Adjournment (Chan)**

Informational Notes:

Discussion and action may be taken on any item on the Board Committee meeting agenda. The agenda, as well as any available Board Committee meeting minutes and materials, can be found on the California Acupuncture Board website: www.acupuncture.ca.gov. The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this committee 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 follow the log-in instruction listed above. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

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

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

HOW TO – Join – DCA WebEx Event

The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the URL <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the DCA logo and the text "California Department of Consumer Affairs".

Event Information: 3/26

Event status: Started

Date and time: Thursday, March 26, 2020 10:30 am
Pacific Daylight Time (San Francisco, GMT-07:00)
[Change time zone](#)

Duration: 1 hour

Description:

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

Join Event Now

To join this event, provide the following information.

First name:

Last name:

Email address:

Event password:

[Join Now](#)

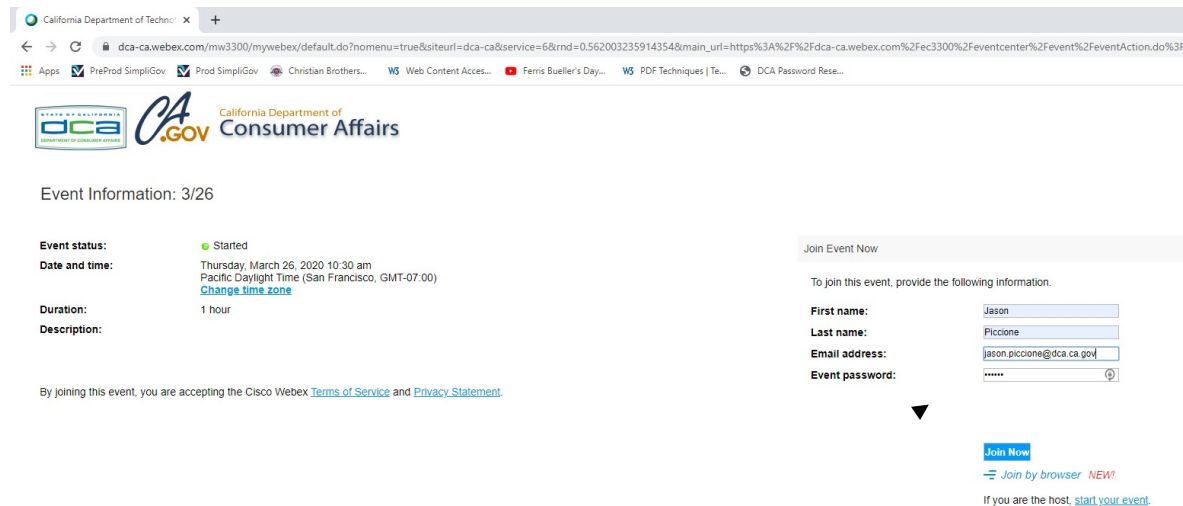
[Join by browser](#) **NEW!**

If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment.

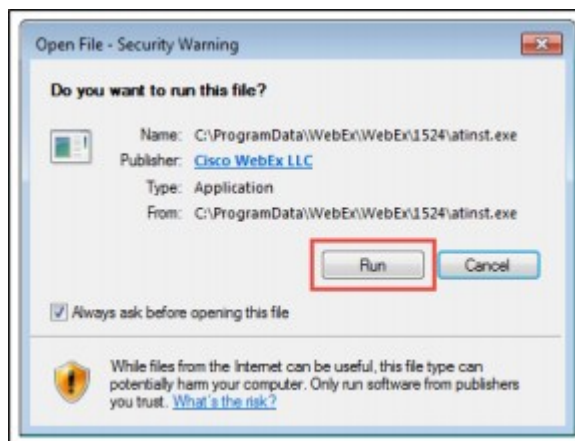
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



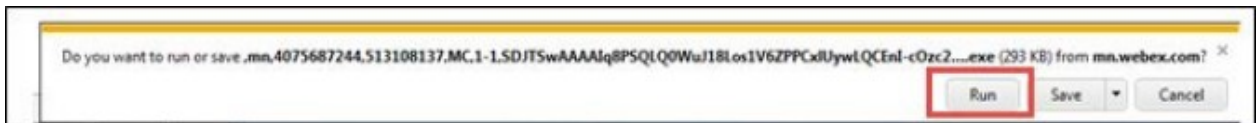
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



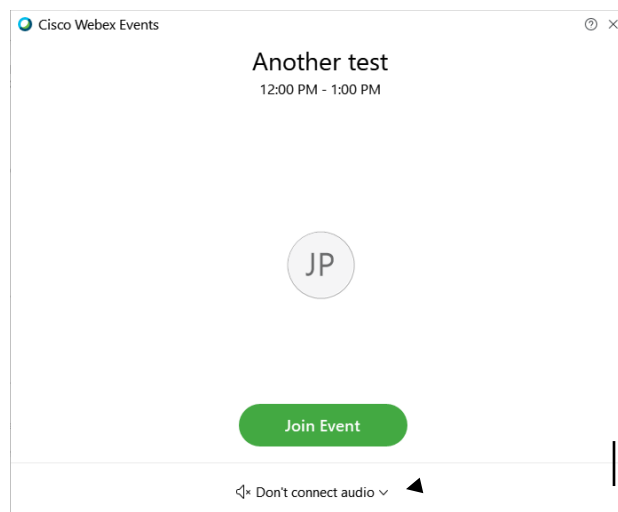
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



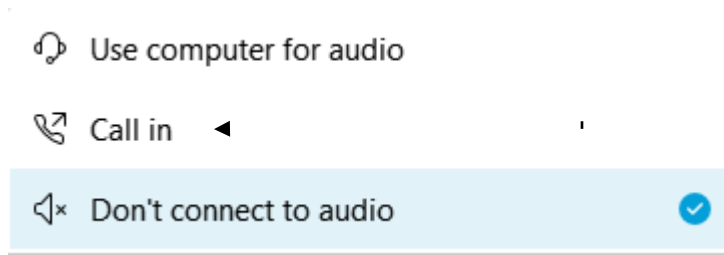
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.



HOW TO – Join – DCA WebEx Event

8. When the audio menu appears click 'Call in'.

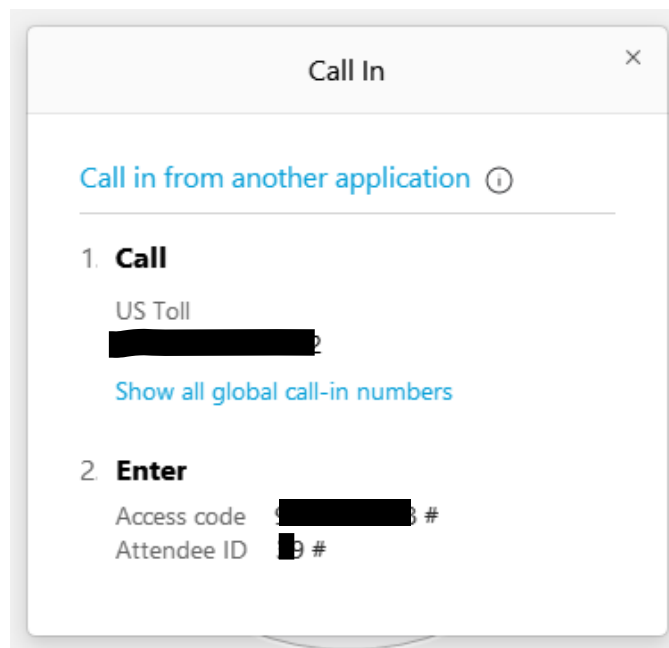


9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



Call in ▾

10. Call into the audio conference with the details provided.

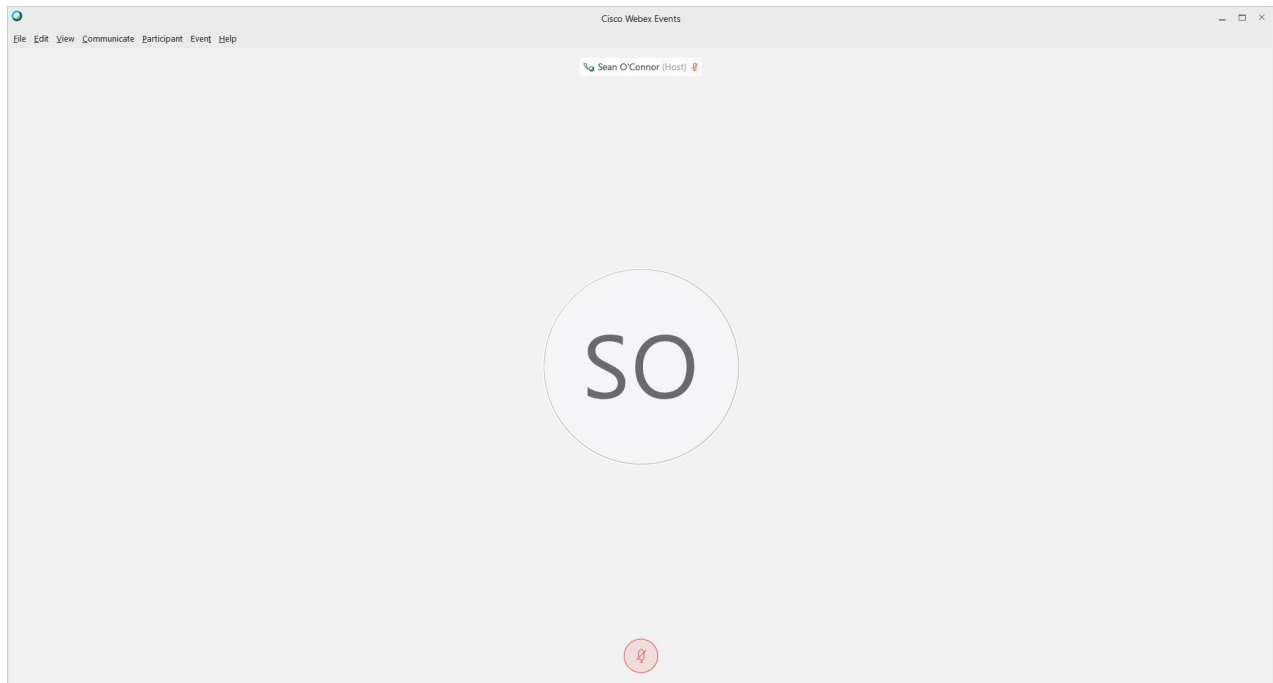


HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

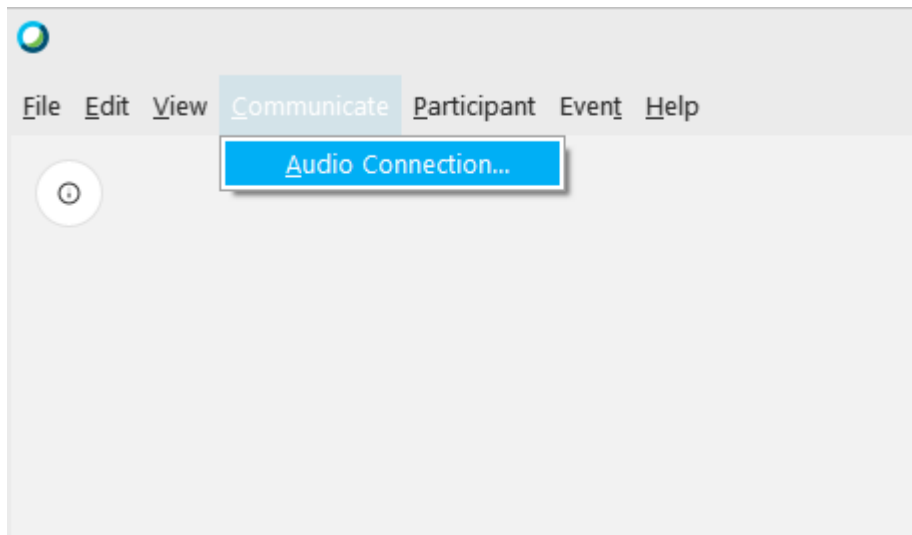


NOTE: Your audio line is muted and can only be unmuted by the event host.

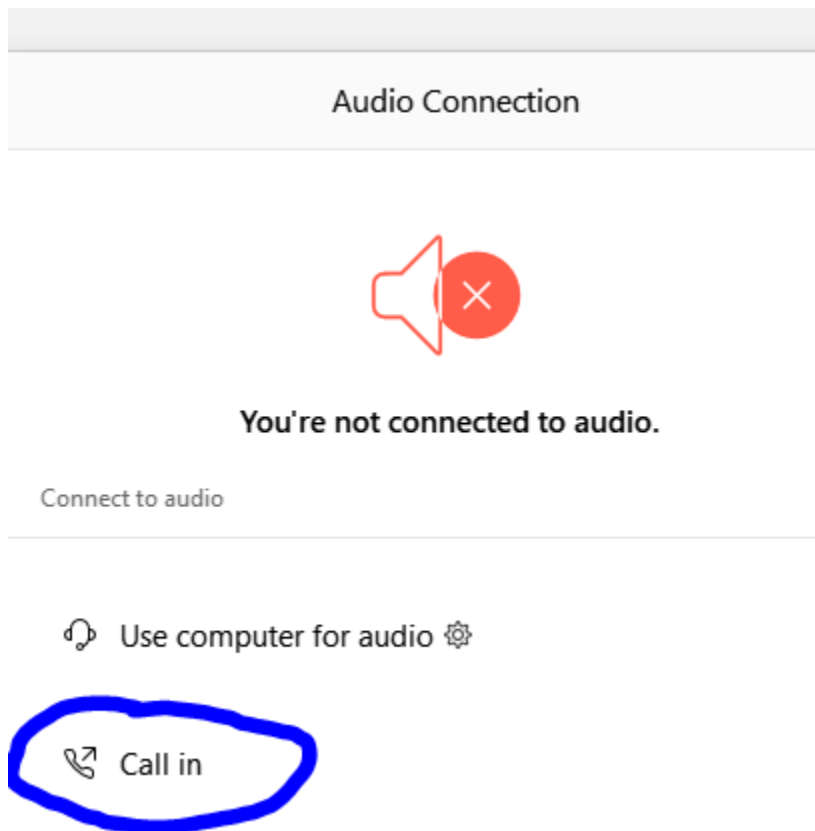
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



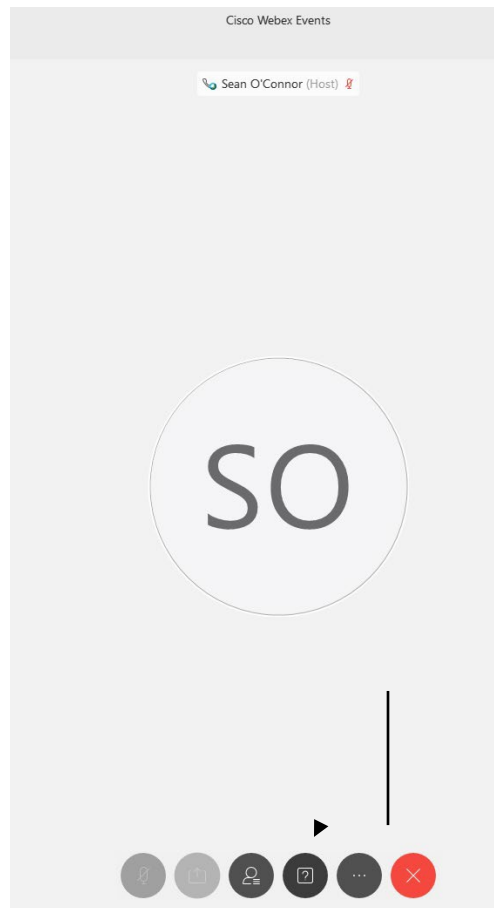
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

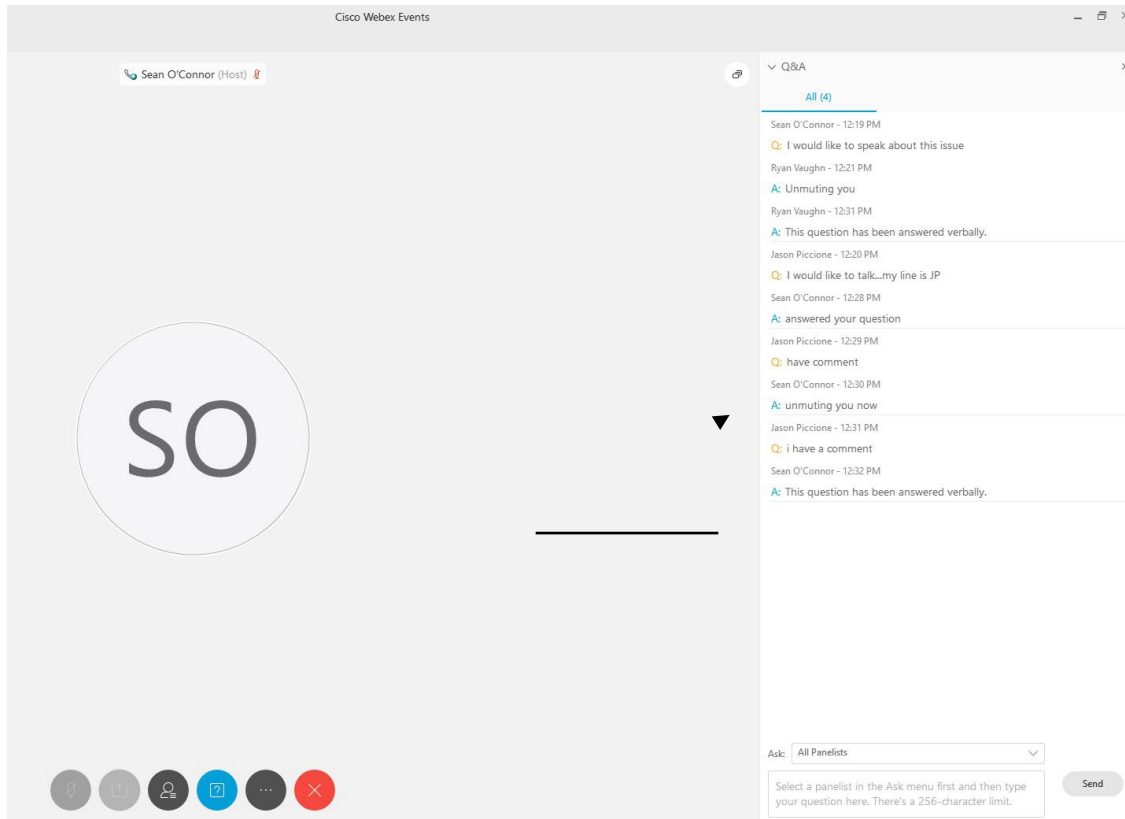
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

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| | |
|----------------|---|
| DATE | March 25 – 26, 2021 |
| TO | Licensing and Examination Committee |
| FROM | Jay Herdt, Licensing Manager |
| SUBJECT | Discussion and possible recommendation to the Board on Regulatory Language for Implementation of AB 2190 and Examination Clean-up |

Background

Assembly Bill 2190 (AB 2190) (Salas, Chapter 667, Statutes of 2016) was the Acupuncture Board's (Board) Sunset Review bill extending the operation of the Board and authority to appoint an Executive Officer to January 1, 2019. Substantively, it made changes related to the Board's approval of educational training and clinical experience received outside the United States. The legislation arose from the Board's joint review by the Senate and Assembly Business and Professions Committees. The legislative changes were derived from the recommendations by the Committees' staff Background Paper.

Historically, the Board has never had authority to approve programs or schools outside of the United States. Under Business and Professions Code (BPC) section 4927.5, the Board has authority to approve curriculum offered by domestic schools that are accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or have pre-accreditation status by ACAOM and received full institutional approval from the Bureau of Private Postsecondary Education.

Since ACAOM also does not accredit schools outside of the U.S., there was a need to provide more of an authentication process for foreign education. Amendments to BPC section 4939 ensure the Board 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.

The following are provisions of BPC Section 4939:

- Defines an "approved credential evaluation service" is an agency or organization that is approved by the Board to evaluate education completed outside the U. S. and identify the equivalency of that education to education completed within the U.S.
- When education is completed outside the U.S., the applicant shall do both of the following:
 - a) Submit documentation of their 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.

- If the Board receives the results of an applicant's evaluation, the Board 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 Board may offer the applicant additional education, training, or standardized testing to satisfy the educational requirements.
- The Board 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.
- Requires the Board to establish by regulation an application process, criteria and procedures for approval of credential evaluation services accepted by the Board 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.

The proposed regulatory language being brought to the Licensing and Examination Committee reflects all of the requirements set by BPC section 4939.

Additionally, staff has made amendments to outdated language from when the exam was administered twice a year to align provisions with the Board's current computer-based testing administration which occurs throughout the year. Staff has also made changes to identify requirements of the Board's applications for examination and update for examination to ensure the most current forms are correctly included in regulation. Amendments also reflect other general clean-up.

Staff has brought proposed language to start the discussion among Committee members and stakeholders in attendance.

Recommendation

Staff recommends the Committee review and discuss the proposed language and provide any amendments for the purposes of bringing the matter to the full Board for consideration. Alternatively, the Committee may direct staff to conduct more research and bring the matter back to the Committee at a future meeting.



AB 2190 Bill Analysis

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**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Jerry Hill, Chair
2015 - 2016 Regular

Bill No: AB 2190 **Hearing Date:** June 27, 2016
Author: Salas
Version: June 22, 2016
Urgency: No **Fiscal:** Yes
Consultant: Bill Gage

Subject: Acupuncture Board: executive officer

SUMMARY: 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.

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) Operative January 1, 2017, provides 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 ACAOM. (BPC § 4927.5)

- 7) Operative January 1, 2017, provides 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) Provides that when education is completed outside the United States, the CAB may require an applicant to submit documentation of his or her education to a credential service approved by the CAB for evaluation and to cause the results of this evaluation to be reported to the CAB in order to assess educational equivalency.
- 2) 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.
- 3) 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.

FISCAL EFFECT: This bill is keyed "fiscal" by Legislative Counsel. According to the Assembly Appropriations analysis dated April 20, 2016, there would be costs of approximately \$3.5 million per year, for calendar years 2017 and 2018, to continue the operation of the CAB beyond the current January 1, 2017 sunset date.

COMMENTS:

1. **Purpose.** This measure is sponsored by the Author. According to the Author, unless legislation is carried this year to extend the sunset date for the CAB, it will be repealed on January 1, 2017. The legislative changes reflected in this bill are solutions to issues raised about the CAB in the Assembly Committee on Business and Professions' staff Background Paper and during its subsequent sunset review hearing held on March 14, 2016. In addition, this bill will extend the CAB's authority to appoint an executive officer.
2. **Background on CAB.** 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 (CE) program and monitoring probationer acupuncturists.

3. **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.
4. **Foreign Applicants Credential Evaluation Services.** Currently, the CAB has no authority to approve schools outside the United States or provide credit for equivalency. When the provisions of SB 1246 (Lieu, Chapter 397, Statutes of 2014) take effect, the CAB will be required to establish standards for outside education approval. 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.

5. **Clarifying Amendment Regarding CAB Approved Curriculum.** SB 1246 requires, among other things, the CAB to start relying on ACOAM; the national accrediting agency for accrediting acupuncture schools. While all approved schools will continue to maintain the same standards, this bill will clarify that, so long as the school has not changed its curriculum or had its approval revoked, the school will not need to reapply for approval.
6. **Continued Regulation of Acupuncturists by the CAB.** The health, safety, and welfare of consumers is protected by a well-regulated acupuncture profession. While the CAB has had issues in the past, the current CAB is newly formed and has stated a strong commitment to protecting the public, ameliorating past deficiencies, and improving efficiency in its operations. Staff of the Committees has observed improvements in the CAB's operations since its last sunset review in 2014 and notes that the CAB has taken significant steps in improving its overall administration and performances. The CAB has responded to the request to promulgate consumer protection regulations, has improved in processing time for applications, has made strides to improve CE oversight, and has made changes to staff and management. Therefore, this bill will extend the CAB's sunset date to January 1, 2019.
7. **Prior Related Legislation.** SB 1246 (Lieu, Chapter 397, Statutes of 2014, among other things, extended the CAB and the CAB's authority to appoint an executive officer until January 1, 2017, and revises acupuncture program approval requirements.
8. **Arguments in Support.** The CAB is in support of this measure and indicates that they are pleased to support the Board's sunset bill and look forward to working with the Legislature as the bill advances.

SUPPORT AND OPPOSITION:Support:

California Acupuncture Board

Opposition:

None on file as of June 21, 2016.

-- END --



BPC 4939

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Business and Professions Code § 4939

(a) For purposes of this chapter, “approved credential evaluation service” means 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.

(b) If an applicant completes education outside of the United States, the applicant shall do both of the following:

(1) Submit documentation of his or her education to a board-approved credential evaluation service for evaluation.

(2) Have the results of the evaluation sent directly from the credential evaluation service to the board.

(c) If the board receives the results of an applicant’s evaluation pursuant to subdivision (b), the board 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 board may offer the applicant additional education, training, or standardized testing to satisfy the educational requirements. The board 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 United States.

(d) The board shall establish, by regulation, an application process, criteria, and procedures for approval of credential evaluation services. The regulations shall, at a minimum, require the credential evaluation service to meet all of the following requirements:

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

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

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

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

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

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

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

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

(9) Have an appeal procedure for applicants.

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

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

(A) Its credential evaluation policy.

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

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

(Repealed and added by Stats. 2016, Ch. 667, Sec. 6. (AB 2190) Effective January 1, 2017.)



Proposed Language

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ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

1399.411. Certification of documentation.

Documentation submitted ~~by or~~ on behalf of the applicant shall be certified by the appropriate official or governmental seal or authority. The board in its discretion may waive this requirement when it is determined that it cannot be obtained through the exercise of due diligence. The board will accept certified copies of original transcripts used by an approved credential evaluation service.

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

§ 1399.413. Application deadline.

~~(a) All new applications for examination shall be submitted on the form provided by to the board, accompanied by such statements and documents as required under paragraphs (9), (11), and (14) - (15), and provide information including: All such applications shall be received in the board's Sacramento office at least 120 calendar days prior to the date of the examination for which the application is made.~~

(a) The application for examination described in this section shall request that the applicant provide the following information:

(1) Name.

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

(3) Address.

(4) Email address.

(5) Telephone number.

(6) Social Security Number or Individual Tax Identification Number.

(7) Examination language preference.

(8) Number of times applicant previously applied.

(9) For applicants from approved educational and training programs: list of schools where Asian Medicine, undergraduate education, and transfer credit education were obtained, including transcripts.

(10) Years each school was attended.

(11) For foreign-trained applicants: list of foreign schools attended where Asian Medicine education was obtained, including transcripts.

(12) For tutorial applicants: list the name and license number of supervising acupuncturist and program completion date.

(13) Other acupuncture/healing arts license/certification in any jurisdiction, including state or country, type of license, license number, date of issuance, and dates of practice.

(14) Prior license or exam denial or denied permission to practice acupuncture or other healing arts in any jurisdiction.

(15) Certify under penalty of perjury that all statements made in the application are true, and that misstatements or omissions of material facts may be cause for denial of application, or suspension or revocation of a license.

~~(b) All applications for re-examination shall be submitted on a form provided by to the board ("Application Update for Examination/Licensure", revised 3/96), accompanied by such statements and documents as required under paragraphs (8) and (9), and provide information that includes: All such applications shall be received in the board's office at least 30 calendar days prior to the date of the examination for which the application is made.~~

(c) The application update for examination described in subsection (c) shall request that the applicant provide the following information:

(1) Name.

(2) Examination ID Number.

(3) Indicate if address is different than last application.

(4) Current mailing address.

(5) Email address.

(6) Telephone number.

(7) Examination language preference.

(8) Prior license or exam denial or denied permission to practice acupuncture or other healing arts in any jurisdiction.

(9) Certify under penalty of perjury that all statements made in the application are true, and that misstatements or omissions of material facts may be cause for denial of application, or suspension or revocation of a license.

~~(c) All transcripts and supporting documents from qualifying educational institutions or tutorial supervisors shall be received in the board's office at least 30 calendar days prior to the date of examination for which an application was made.~~

~~(d) The board may waive the foregoing filing dates if there are difficulties with the administration of the examination or other circumstances warrant.~~

(d) All transcripts and supporting documents from qualifying domestic educational institutions shall be original copies certified by the registrar of the institution, sent directly from the institution to the board's offices in an unopened, sealed envelope. The board may accept electronic submission of transcripts if secured by two factor authentication sent directly from the institution or their designated agents. The board may waive this requirement in unusual circumstances if the institution is no longer in operation or does not maintain such records.

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

1399.414. Denial of applications.

(a) Any applicant whose application to take the licensing exam is denied, may submit within fifteen (15) calendar days from the date of rejection, a request, in writing, that their application be ~~presented to the board for further evaluation~~ed. The board shall respond, in writing, to the request within fifteen (15) calendar days from the date the request is received.

(b) If the board determines that an applicant has met the requirements for acupuncture licensure set forth under subsection (a) paragraphs (1), (2), and (5) of Section 4938, it shall ~~schedule~~ approve the applicant for examination.

(c) Nothing in this section shall ~~be constructed to deprive~~ deny an applicant of their rights of appeal, as afforded by other provisions of law.

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

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

(a) In order for documented educational training and clinical experience to qualify for licensure under Section 4938, subdivision (b)(3) of the Code, the an applicant from an approved training program shall document that such education and experience meets the curriculum requirements of Section 1399.436, subsections (a), (b), and (c) or, if applicable, Section 1399.434.

(b) All foreign-trained applicants shall submit documentation of their his or her education to a credentials evaluation service approved by the board, that is a member of the National Association of Credentials Evaluation Services, Inc. pursuant to Section 1399.416.1 for review and a report to the board a course-by-course evaluation. This report evaluation shall be filed by the applicant with his or her application for examination. shall be sent directly from the approved credential evaluation service to the board on behalf of the applicant. All evaluations provided to the board shall include certified copies of the original documentation, along with the English translation.

(c) Each evaluation provided by a board approved Service shall:

(1) Be originals furnished directly to the Board, in English; via first class or priority mail. Direct electronic submission secured by two factor authentication may be accepted in addition to receipt of the evaluation by mail;

(2) Affirm, in a written statement, that the evaluation is based only upon verified authenticated, original transcripts and degree certificates received directly from the educational institution or its governing body;

(3) Include the specific method or methods of authentication for the transcripts, certification, degrees, and other education evaluated for the purposes of the report;

(4) Include a report of each degree held by the applicant, along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;

(5) Include a listing of the course titles, with the unit and hour equivalents, for each course listed in chronological order without categorization, extra emphasis, or distinguishing formatting for any of the courses listed;

(6) Provide the total number of units completed and evaluated by the Service;

(7) Include certified copies of all original documents submitted;

(8) Identify the primary evaluator at the Service;

(9) Include the name or names of the applicant, as shown on the transcripts submitted, as well as the name under which the applicant requested the evaluation;

(10) Include the following disclaimer: "This evaluation service is not authorized by the California Acupuncture Board to include in this evaluation any opinion as to whether certain courses will be accepted by the Board as meeting the Board's requirements or whether the applicant meets the Board's requirements for taking the licensing exam or for licensure."

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

§ 1399.416.1 Requirements for Credential Evaluation Services of Foreign Education.

(a) To receive and to maintain board approval, a credential evaluation service (Service) shall submit a completed application provided by the board.

(b) The application for a Service to apply for board approval described in subsection (a) shall request the Service provide the following information:

(1) Direct contact information for a staff member who may act as a point of contact for the board:

(A) Name of applicant organization;

(B) Address;

(C) Phone number;

(D) Fax number;

(E) Website;

(F) Email;

(G) Primary contact name and title;

(H) Primary contact phone number;

(I) Primary contact email;

(2) A copy of the Service's credential evaluation policy;

(3) A complete list of terminology and evaluation terms used in producing the Service's credential evaluations;

(4) A detailed description of the specific methods utilized for credential authentication by the Service;

(5) List of at least three accredited colleges and universities or other licensing agencies currently using its services, along with a contact person at each institution;

(6) Resumes or curriculum vitae for each evaluator and translator containing biographical information, including a list of languages spoken and years in service;

(7) Three sample evaluations that complies with the requirements of Section 1399.416 subsection (c).

(8) Organization Chart showing the ratio of senior staff members to junior staff members (not to exceed a one to five ratio).

(c) The application for a Service to apply for board approval described in subsection (a) shall request the Service certify the following information:

(1) The Service is a member of a nationally recognized foreign credential association such as, but not limited to, the American Association of Collegiate Registrars and Admissions Officers (AACRAO) and the National Association of Credential Evaluation Services (NACES);

(2) The Service maintains a complete set of reference materials;

(3) The service's references are adequate to prepare complete, accurate evaluations;

(4) The Service's references are the most current editions available;

(5) The Service has, or agrees to establish, within thirty (30) days of board approval, a minimum six-year document retention policy;

(6) When renewing, indicate if anything disclosed in the prior application has changed.

(d) The application for a Service to apply for board approval described in subsection (a) shall request the Service certify and furnish the following information:

(1) A copy of the Service's current written procedure for identifying fraudulent transcripts, and certify, on the application, to the Service's compliance with that procedure;

(2) A copy of the Service's appeal procedure for applicants, and certify that the Service is in compliance with that procedure on the application;

(3) Three letters of reference from public or private agencies that have worked with the Service;

(4) Statistical information on the number of applications processed, annually, for the past five years.

(e) The Service shall have at least one senior staff member with not less than five years of foreign student college admission experience or closely related credentials evaluation experience, at all academic levels, to provide the requisite understanding to properly evaluate each program that an applicant will submit that the Service is verifying.

(f) The Service shall report to the board, in writing, annually, whether it has undergone any organizational changes and explain to the board what effect upon the Service these changes have caused to the Service.

(g) Approval issued under this section shall expire five (5) years after the date of issuance. The approval may be renewed by submitting an application, as specified in subsection (a).

(1) As a condition of renewal, a Service shall certify continued compliance with a minimum six-year document retention policy and provide statistical information pursuant to subsection (d) paragraph (3).

(h) In order to remain as a board approved Service, the Service shall respond to any inquiries by the board, submit any documents and provide any information requested by the board, and cooperate in any investigation conducted by the board regarding the Service's compliance with the board's requirements. Failure to respond to the board within 30 days will result in loss of approval pursuant to Section 1399.416.1 subsection (i).

(i) Approval may be withdrawn, at any time, if the Service fails to comply with any of the requirements of this section or furnishes any false, inaccurate, incomplete and/or misleading information to the board.

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

§ 1399.416.2 Foreign-Trained Applicant Equivalent Training and Clinical Experience Qualifying for Licensure.

(a) For purposes of this section:

(1) "Foreign-trained Applicant" means a person who completed education outside of the United States.

(2) "Credential evaluation" means an evaluation sent from a board approved credential evaluation service (Service) to the board, as required by 16 CCR 1399.416.1, subsection (c). All foreign-trained applicants must have successfully

completed equivalent coursework to the coursework set forth under 16 CCR 1399.434.

(b) Once the board has received the foreign-trained applicant's credential evaluation report, the board shall examine the results of the report to determine if the foreign-trained applicant is eligible to take the licensing examination. If the foreign-trained applicant does not meet the educational requirements, set forth in 16 CCR 1399.434, the board will notify the foreign-trained applicant that the foreign-trained applicant may complete additional courses or training to allow the foreign-trained applicant to qualify for the licensing examination. The foreign-trained applicant shall be responsible for determining and researching the best manner for completion of the missing courses or training.

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

(1) An educational institution with a board approved acupuncture educational and training program, as defined by section 4927.5 of the Code. The approved educational and training program shall not require the foreign-trained applicant to complete any coursework beyond what has been identified by the list of missing courses provided by the board; or

(2) A private institution of higher education accredited by an accrediting agency recognized by the United States Department of Education and approved by the Bureau of Private Postsecondary Education; or

(3) A public institution of higher education, as defined by Education Code Section 66010.

(d) Upon verification of completion of the missing courses, the foreign-trained applicant shall be approved for examination.

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

§ 1399.417. Abandonment of Applications.

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

~~(1)-~~ The applicant fails to complete ~~his or her~~their application within 180 calendar days after it has been filed. An application shall be deemed complete when all

documents and information required to determine eligibility for examination have been submitted to the board.

~~(2)-~~ The applicant fails to take the licensing examination within two (2) years after the date that ~~he or she~~ the applicant is notified by the board of ~~his/her~~ their eligibility to take the examination, unless, prior to the application being deemed abandoned, the applicant submits a written explanation to the board, of ~~his or her~~ the applicant's inability to appear for the examination. The board may extend the applicant's eligibility to take the examination for ~~two more consecutive administrations of the examination~~ one (1) year.

~~(3)-~~ The applicant, after failing the examination, fails to take a re-examination within two (2) years after the date the applicant was notified of such failure, unless prior to the application being deemed abandoned, the applicant submits a written explanation to the board explaining the cause of ~~his or her~~ the applicant's inability to appear for the examination. The board may extend the applicant's eligibility to take the examination for ~~two more consecutive administrations of the examination~~ one (1) year, upon a showing of good cause to the board.

(b) An application submitted after the abandonment of a former application for examination shall be treated as a new application.

(c) An applicant who, after passing the examination, fails to submit a complete application for licensure within three (3) years after the date ~~he or she~~ the applicant is notified ~~that of his or her eligibility for licensure~~ ~~he or she~~ the applicant passed the examination shall be deemed to have abandoned ~~his or her~~ the application for licensure. An application submitted after the abandonment ~~for~~ of a former application for licensure shall be treated as a new application and the applicant shall ~~take~~ qualify for and pass the examination, if any, which would be required of ~~him or her~~ the applicant if an initial application for licensure was being made.

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

§ 1399.419. Review and Processing of Exam Applications.

(a) Within this section, the term "Completed Application" means all of the documentation required in the application for examination has been received by the board.

(b) The board will only evaluate applications for eligibility from applicants who have completed their education and training, as set forth required under section 4938 (a)(2) of the Code.

~~(ac)~~ Within forty-five (45) calendar days after receipt of an application for examination, the board shall inform the applicant whether the application is complete and ~~accepted for filing~~ approved or that ~~it~~ the application is deficient and what specific information or documentation is required to complete the application.

~~(bd)~~ An applicant will be notified of his or her their eligibility for the examination ~~W~~within forty-five (45) calendar days of receipt of a ~~e~~Completed aApplication received by an applicant from an approved educational and training program or tutorial program., ~~the applicant will be notified as to his/her eligibility for the written examination.~~

(e) An applicant will be notified of his or her the applicant's eligibility for the examination within ninety (90) calendar days of receipt of a Completed Application received by from an applicant who is applying by foreign equivalency.

~~(ef)~~ Within thirty (30) calendar days from the date the ~~written~~ examination is administered, candidates will be officially notified of their results by the board, or its designee, and if the applicant has passed the examination, will be offered, upon payment of the specified fee and fingerprint compliance with section 144 of the Code, a license to practice acupuncture.

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

~~Minimum – 130 calendar days~~

~~Median – 155 calendar days~~

~~Maximum – 180 calendar days~~

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

~~(eg)~~ In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to safely perform as an acupuncturist, ~~safely~~ because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the

board. The board shall pay the full cost of such examination. An applicant's failure to comply with ~~the~~ this requirement shall render his or her application incomplete.

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

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 480, 820, 4938 and 4944, Business and Professions Code.

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Sample Application

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1747 N. Market Blvd., Suite 180
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



Application for Credential Evaluation Services

Please provide all requested information listed below.

| |
|---|
| Name of Applicant Organization: _____ |
| Address: _____ |
| City: _____ State: _____ Zip Code: _____ |
| Phone Number: _____ Fax Number: _____ |
| Toll-Free Number (if available): _____ |
| Website: _____ |
| Email: _____ |
| Name of Primary Contact: _____ Title: _____ |
| Primary Contact Phone Number: _____ |
| Primary Contact Email: _____ |

The Organization certifies to the following:

(Check)

1. It is a member of:

American Association of Collegiate Registrars and Admission Officers (AACRAO); or, _____

National Association of Credential Evaluation Services (NACES). _____

2. It complies with its current written procedure for identifying fraudulent transcripts. _____

3. It maintains a complete set of current reference materials that are adequate to prepare complete, accurate evaluations and are the most current editions available. _____

4. It complies with its appeal procedure for applicants. _____

5. Select one of the following:

This is its initial application and it agrees to establish a minimum six-year document retention policy. _____

This is its renewal application, and it complies with a minimum six-year document retention policy. _____

6. Will comply with the requirements of Title 16, California Code of Regulations §1399.416.1(b) for an evaluation. _____

The following must be included with this application:

1. A copy of its current written procedure for identifying fraudulent transcripts.
2. Organization Chart showing the ratio of senior staff members to junior staff members (not to exceed a one to five ratio).
3. Written evidence that a minimum of 50% of evaluations performed by junior staff members are reviewed by senior staff members (Written evidence means providing, for the previous five years, the total number of

evaluations performed, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members).

4. A list of at least three accredited colleges and universities or other licensing agencies currently using its services with a contact person for each.
5. Three letters of reference, written within the last year, from public or private agencies.
6. A copy of its appeal procedures for applicants.
7. Resumes or curriculum vitae for each evaluator and translator which provide biographical information, including a list of languages spoken and years in service.
8. A complete list of terminology and evaluation terms used in producing the Service's credential evaluations.
9. A detailed description of the specific methods utilized for credential authentication by the Service.
10. For initial applications only, three sample evaluations that complies with the requirements of Title 16, California Code of Regulations § 1399.416.1 (b) (7).

I hereby certify, under the penalty of perjury under the laws of the State of California, that I am a person authorized to act for and bind the applicant and that all statements, answers and representations made on this form and any accompanying attachments are true, complete and accurate to the best of my knowledge. By submitting this form and signing below, I am granting permission to the California Acupuncture Board to verify the information provided.

Authorized Signature

Date

NOTICE OF COLLECTION OF PERSONAL INFORMATION

The information requested on this application is mandatory pursuant to Business and Professions Code Section 4939 and Title 16, California Code of Regulations Section 1399.416.1. Failure to provide all of the information requested will result in the application being rejected as incomplete. The information provided will be used to determine qualification and continued qualification of the applicant for approval by the California Acupuncture Board as a credential evaluation service. The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Board unless the records are exempted from disclosure by law. Individuals may obtain information regarding the location of his or her records by contacting the Board directly at 1747 North Market Blvd., Suite 180, Sacramento, California 95834 or 916-515-5200.

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FBM Agenda

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Acupuncture Board Meeting Agenda

Thursday and Friday, March 25 and 26, 2021

Day One

Thursday, March 25, 2021

11:30 a.m. to 5:00 p.m.

(or upon completion of business)

Location:

Web Ex Teleconference

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=eb6b4b960f8999bcb1eb33c237c6c678d>

Important Notices to the Public

The Acupuncture Board (Board) will hold a public meeting via WebEx Events. To participate in the WebEx Events meeting, please log on at website listed under Location (see above) on the day of the meeting:

-

Pursuant to the provisions of Governor Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA

-

Members of the Board

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

Kitman Chan, C.P.A., Vice President

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

John Harabedian, Esq.

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

Dr. Shu Dong Li, Ph.D

Ruben Osorio

-

1. **Call to Order, Roll Call, and Establishment of Quorum for Day One**
(Dr. Amy Matecki, Board President)
2. **President's Remarks (Dr. Matecki)**
 - Welcoming message and meeting information

3. Public Comment on Items Not on the Agenda (Dr. Matecki)

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

4. Review and Possible Approval of the December 17 - 18, 2020 Board Meeting Minutes (Dr. Matecki)

5. Executive Officer's Report (Ben Bodea, Executive Officer)

(A) Budget Update - Fund Condition

(B) Staffing Update

(C) Business Modernization Update

(D) Board Services that Accept Credit Card Payments

6. Licensing Report – Q2, FY 20-21 (Herdt)

7. Enforcement Report – Q2, FY 20-21 (Cricket Borges, Enforcement Coordinator)

8. Legislative Report of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)

- i) [AB 2](#) (Fong) Regulations; legislative review; regulatory reform
- ii) [AB 29](#) (Cooper) State bodies: meetings
- iii) [AB 54](#) (Kiley) COVID-19 emergency order violation; license revocation
- iv) [AB 107](#) (Salas) Department of Consumer Affairs: boards: temporary licenses: military spouses
- v) [AB 339](#) (Lee) State and local government: open meetings
- vi) [AB 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions
- vii) [AB 885](#) (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
- viii) [AB 918](#) (Quirk-Silva) Acupuncture; licensure; examination
- ix) [AB 1236](#) (Ting) Healing arts: licensees: data collection
- x) [AB 1386](#) (Cunningham) License fees: military partners and spouses
- xi) [SB 772](#) (Ochoa Bogh) Professions and vocations: citations: minor violations.

9. Regulations Update (Brothers)

(A) Review of the Board's Submitted 2021 Rulemaking Calendar

- 1) Substantial Relationship and Rehabilitation Criteria
(Title 16 CCR sections 1399.469.4, 1399.469.5, 1399.469.6)**
- 2) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure
(Title 16 CCR section 1399.469)**
- 3) Align Curriculum Standards and Approval Related Regulations with Statute
(Title 16 CCR sections 1399.415, 1399.416, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439)**
- 4) Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service
(Title 16 CCR sections 1399.411, 1399.413, 1399.414, 1399.415, 1399.416, 1399.416.1, 1399.416.2)**
- 5) Board Fee Schedule
(Title 16 CCR sections 1399.460, 1399.461, 1399.462)**
- 6) Application for Retired Status; Retired Status
(Title 16 CCR section 1399.419.3)**
- 7) Continuing Education Requirements
(Title 16 CCR sections 1399.483, 1399.489)**
- 8) Standards of Practice for Telehealth Services
(Title 16 CCR section 1399.452.1)**

(B) Board Regulations Progress Tracker

- 10. Report from Licensing and Examination Committee Chair on March 25, 2021 Committee Meeting and Possible Action on any Recommendations (Kitman Chan, Committee Chair)**
- 11. Report on the Commencement of the Occupational Analysis (Herdt)**
- 12. Consumer and Professional Associations Reports**
- 13. Future Agenda Items (Dr. Matecki)**
- 14. Adjournment of Day One**



ACUPUNCTURE BOARD MEETING

Day Two

FRIDAY, March 26, 2021

9:30 a.m.

TO

5:00 p.m.

(OR UPON COMPLETION OF BUSINESS)

LOCATION:

Web Ex Teleconference

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=ead84733016f1ecbf6ca70f5cec3d1f63>

15. **Call to Order, Roll Call, and Establishment of Quorum for Day Two**
(Dr. Amy Matecki, Board President)
16. **President's Remarks (Dr. Matecki)**
 - Welcoming message and meeting information
17. **Public Comment on Items Not on the Agenda (Dr. Matecki)**

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)
18. **Presentation of CalATMA of Bloodletting/Bleeding**
19. **Discussion of the New Acupuncture Board Fees (Business and Professions Code sections 4970 and 4971) (Discussion Only) (Bodea)**
 - Credit Hour Fee for Renewal of CE Courses
 - Fee for Wall License at Each Practice Location
20. **Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR §§ 1399.483, 1399.489: Continuing Education Ethics Requirements (Herdt)**
21. **Discussion and Possible Action to Initiate a Rulemaking to Amend 16 CCR §**

1399.452.1: Standards of Practice for Telehealth Services (Herdt)

- 22. Discussion and Possible Action on the Regulatory Package Related to Align Curriculum Standards and Approval Related Regulations with Statute (Bruggeman)**
- **Approve Amended Meeting Minutes from August 15-16, 2019 Board Meeting Related to the Board's Approval to Initiate a Rulemaking to Amend 16 CCR §§ 1399.439**
 - **Initiate a Rulemaking to Amend 16 CCR § 1399.415 and Remove Prior Amendments of 1399.416 from Regulatory Package**
- 23. Future Agenda Items (Dr. Matecki)**
- 24. Adjournment of Day Two (Dr. Matecki)**

Informational Notes:

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

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

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

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please follow the log-in instruction listed above. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the

agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

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

HOW TO – Join – DCA WebEx Event

The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the address bar displaying the URL: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the DCA logo and the text "California Department of Consumer Affairs".

Event Information: 3/26

| | |
|-----------------------|---|
| Event status: | Started |
| Date and time: | Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00) Change time zone |
| Duration: | 1 hour |
| Description: | |

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

Join Event Now

To join this event, provide the following information.

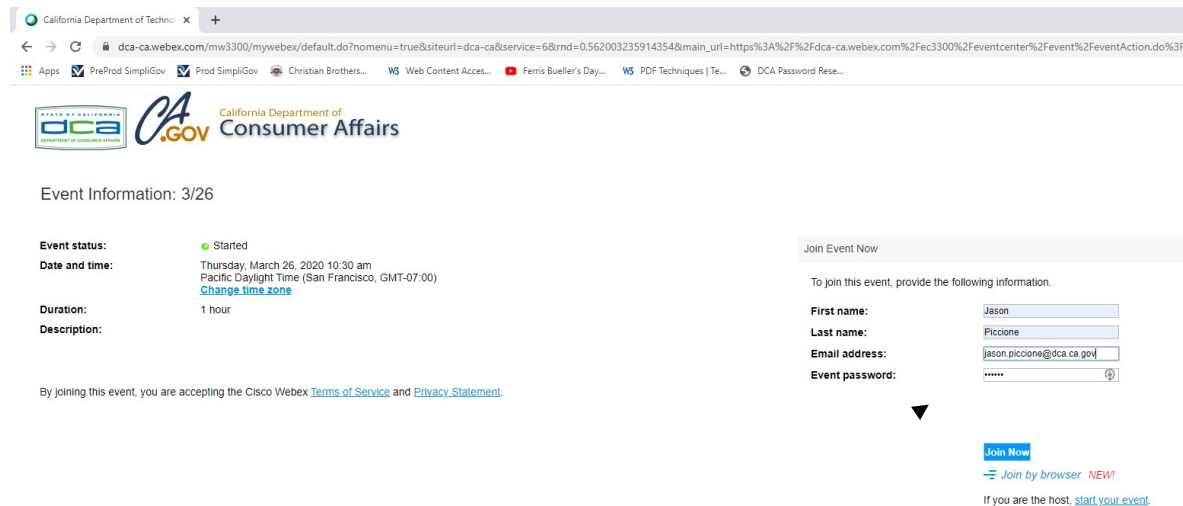
| | |
|------------------------|--------------------------|
| First name: | <input type="text"/> |
| Last name: | <input type="text"/> |
| Email address: | <input type="text"/> |
| Event password: | <input type="password"/> |

[Join Now](#)
[Join by browser](#) **NEW!**
If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment.

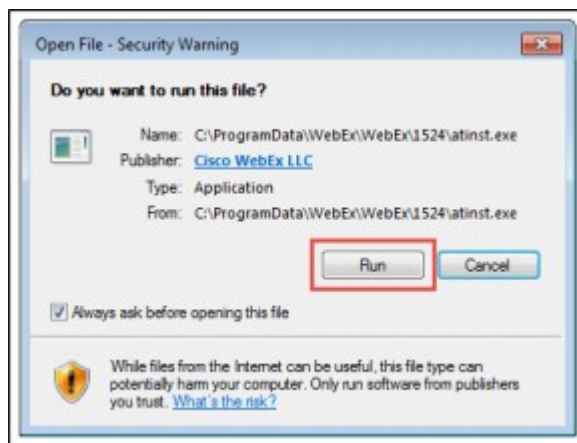
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



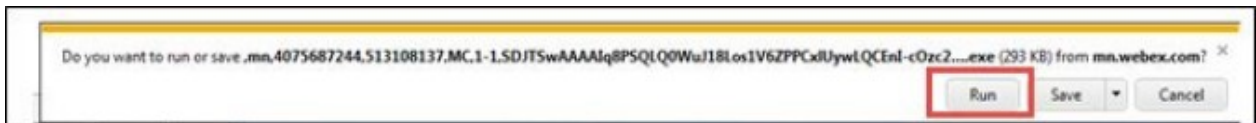
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



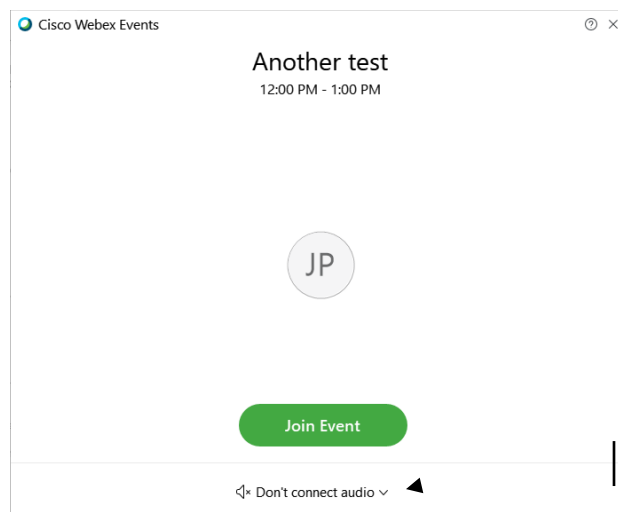
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



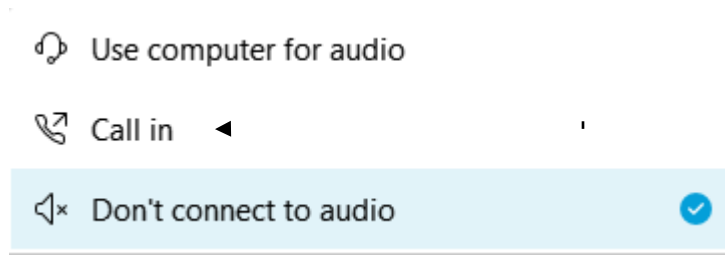
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.



HOW TO – Join – DCA WebEx Event

8. When the audio menu appears click 'Call in'.

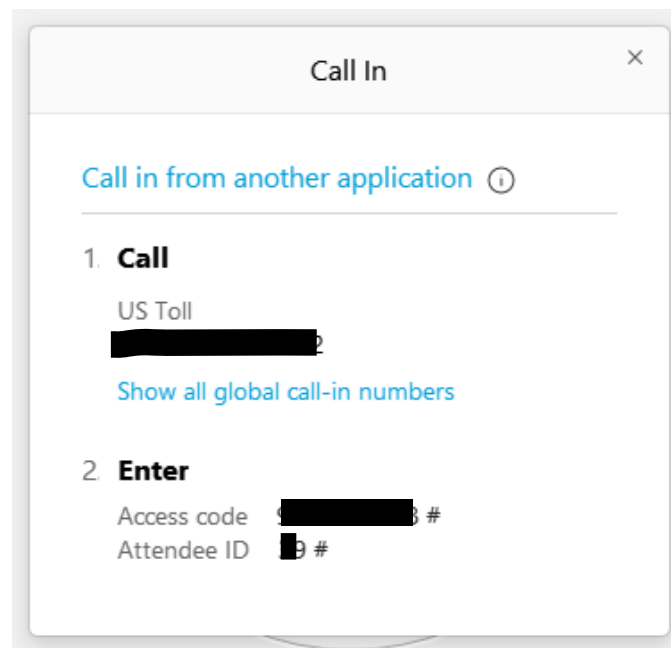


9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



Call in ▾

10. Call into the audio conference with the details provided.

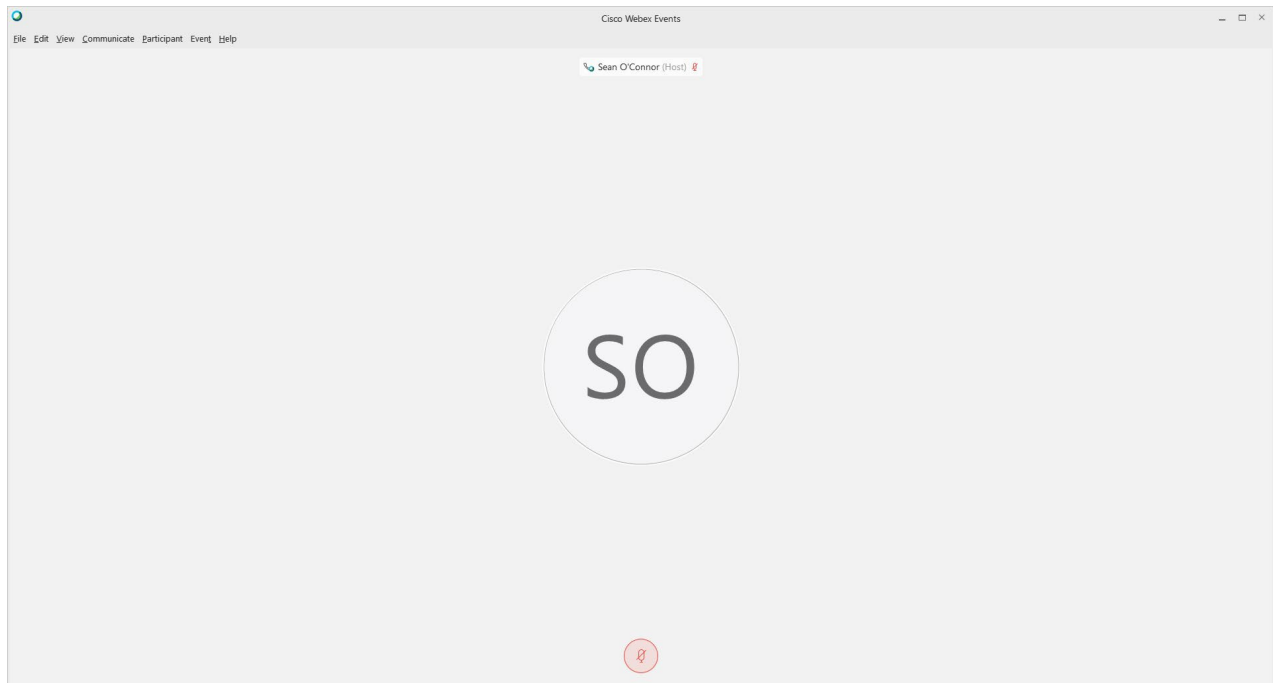


HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

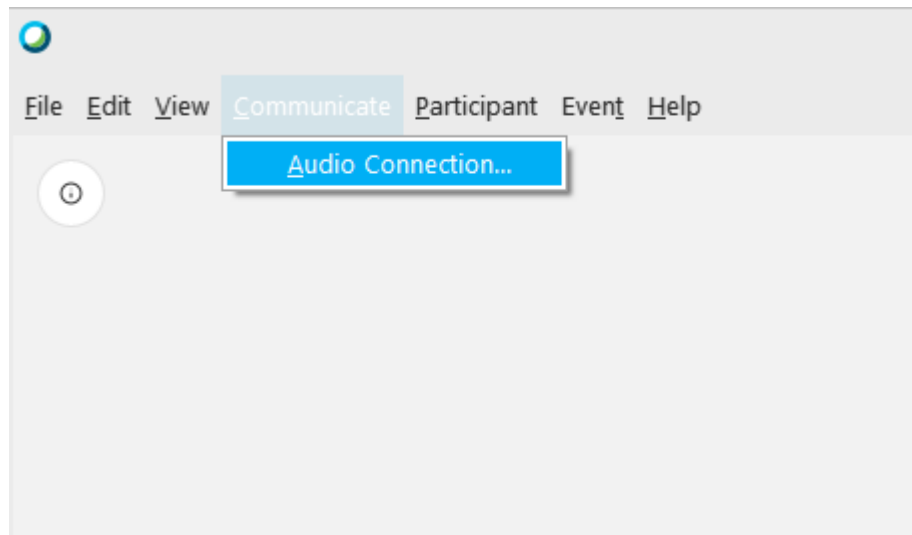


NOTE: Your audio line is muted and can only be unmuted by the event host.

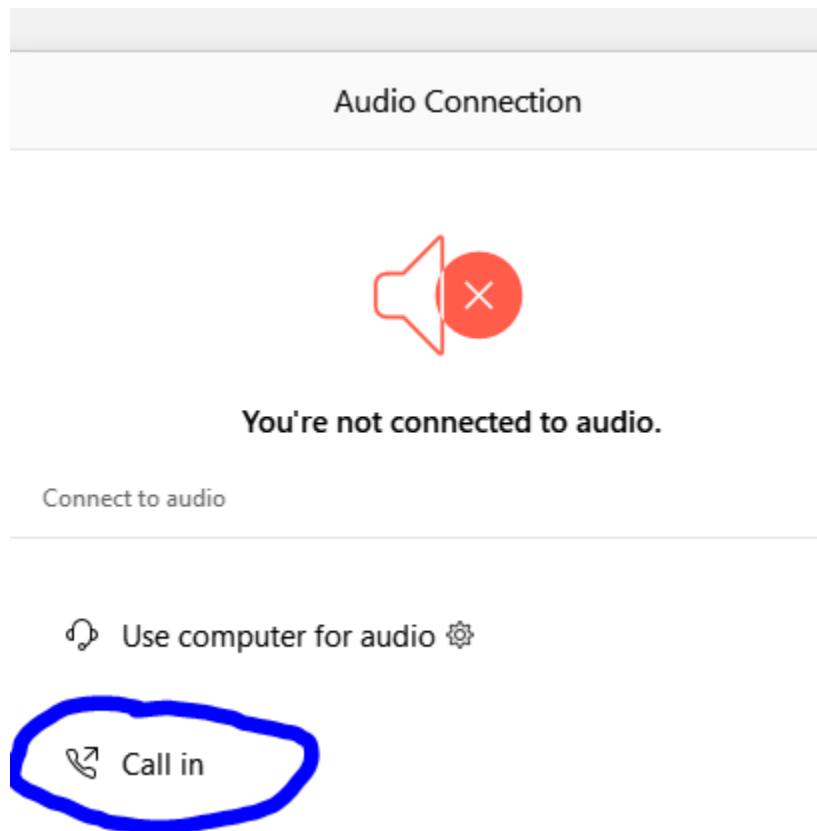
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



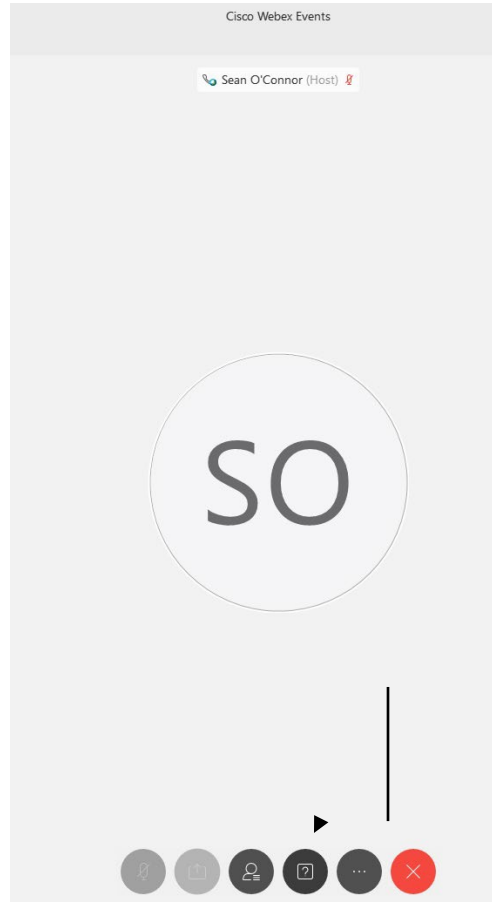
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

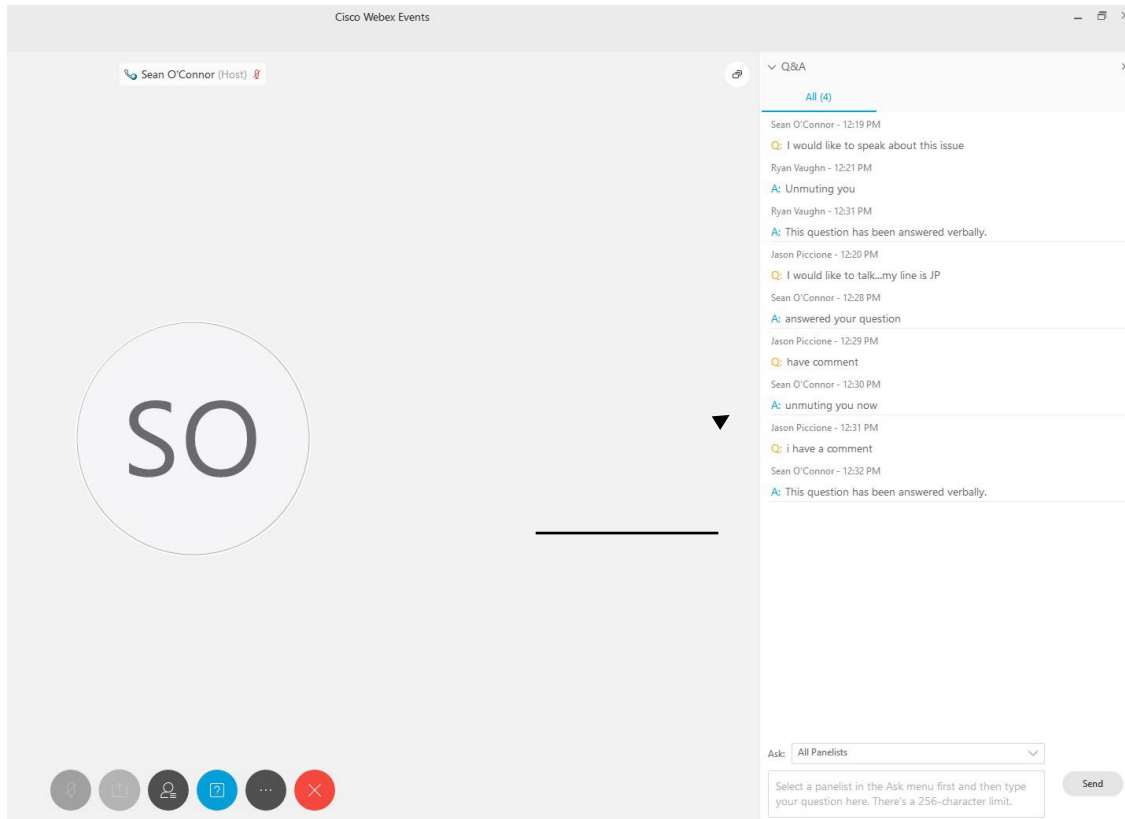
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.



4 - 12/20 Minutes

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BOARD MEETING
DRAFT Meeting Minutes
December 17-18, 2020

LOCATION:

Web Ex Teleconference

Board Members Present

Dr. Amy Matecki
Kitman Chan
John Harabedian
Dr. Yong Ping Chen
Hyun "Francisco" Kim
Shu Dong Li
Ruben Osorio

Members of the Board

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

Staff Present

Benjamin Bodea, Executive Officer
Fred Chan-You, Legal Counsel
Jay Herdt, Licensing Manager
Kristine Brothers, Policy Coordinator

Guest List on File

Full Board Meeting – Thursday, December 17, 2020

1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, President)

Board President, Dr. Amy Matecki (President Matecki), called the meeting to order at 12:02 p.m.

Policy Coordinator, Kristine Brothers (Brothers), called the roll.

Members Present:

7 Present – Matecki, Chan, Chen, Harabedian, Kim, Li, and Osorio.

7-0 Quorum Established



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**Note: Members Harabedian and Li confirmed connection at 12:12 p.m.*

2. President's Remarks (Dr. Amy Matecki, President)

President Matecki noted that this year everyone had to make changes to how they operate during the pandemic. Professional associations, training programs, continuing education providers and other stakeholders have all been challenged to continue serving the public.

President Matecki observed that the fee increases were coming at an inopportune time, but there has been progress. The Board is meeting online, more courses are available online, and associations have increased their activities to address the challenges their members are facing right now.

President Matecki was reminded of the Board's 2018 strategic planning sessions. One of the guiding values chosen in those sessions was collaboration. President Matecki noted that this value has been an important reason why the Board has been able to do what it has during this time and will remain critical while we move through our challenges.

President Matecki closed her remarks by thanking Department of Consumer Affairs (DCA) and Board staff for their flexibility and diligence in maintaining Board operation. She also thanked Board members for their continued service.

3. Public Comment on Items Not on the Agenda (Dr. Amy Matecki, President)

A commenter asked for a pointer to the specific action of the Governor that designated acupuncturists as 'essential.' He also noted that CalATMA has requested the Board address the issue of bleeding since 2018.

4. Update from the Department of Consumer Affairs (Carrie Holmes, Deputy Director for Board and Bureau Relations)

Deputy Director Holmes (Holmes) introduced herself noting one of her responsibilities covers board member appointments. She reported that members' terms will expire effective June 2021 after which they can start a one-year grace period; and could be re-appointed if they have not already served two terms. She said that Board members seeking reappointment have different procedures depending on their appointing authority.

Deputy Director Holmes then described the many steps that the Department and the State have taken to respond to the pandemic. To minimize exposure and maximize service to the public, the Department and its staff conduct its work remotely as much as practical. For those services that must be done in person, public health measures have been implemented across the Department. The State and the Department have taken



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steps to limit expenditures as well as hiring, and are working to address an expected five percent budget reduction to take place no later than the 21-22 fiscal year. Holmes closed her remarks noting that the shift to telework includes training for Board staff and Board members.

5. Discussion and Possible Action on the Waiver for Clinical Distance Education (Herdt)

Licensing Manager Jay Herdt (Herdt) presented a summary of the discussion on a Waiver for Clinical Distance Education held by the Education and Research Committee (ERC) meeting before today's Board meeting. Herdt first noted that the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) has updated their waiver language since the meeting materials were developed. Under the new language, at least 25 hours of the 150-hour clinical application requirement must be live (allowing 125 hours to be distance education). And, at least 250 hours of the clinical training requirement must be live (allowing up to 450 hours to be distance education).

Herdt noted that current law and regulations do not allow for distance education. He then summarized current regulations going over the clinical hour requirements pursuant to California Code of Regulations (CCR) section 1399.434(h).

Herdt explained that these requirements are difficult to comply with during the pandemic based upon the requirement that the Clinical Supervisor be physically present. Educational and training programs for acupuncture in California must be approved by ACAOM. Without this approval their students could not receive federal financial aid. Herdt described ACAOM's waiver program, which is a temporary waiver of curriculum requirements to allow for some clinical hours to be done through distance learning.

Herdt then compared the ACAOM waiver terms with the current regulatory requirements. Required hours for clinical observation and clinical practice are very close. The Board requires 100 more hours for clinical practice as ACAOM but the same hours of clinical observation.

Herdt mentioned that the Board would require a mechanism to approve a waiver, and Governor Newsom's Executive Order N-39-20 allows state regulatory boards to seek waivers of regulations and laws. Staff has developed a draft waiver for the Board's consideration. Herdt indicated the waiver would align Board requirements with the ACAOM waiver, with one exception. The Board waiver would allow for a limited number of clinical hours to be done through distance learning. There would be no change in content or in how many total hours were required.

The proposed waiver would also reduce the required percentage of clinical hours done at a clinic owned and operated by the school from 75 percent to 50 percent. Given



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the changes in this proposed waiver language, staff felt it necessary for the ERC to review it prior to Board approval, which was done.

ERC Chair Harabedian noted that the waiver would be temporary and limited, and he considers the proposed language reasonable, which the ERC as a whole agreed. Member Kim agreed that the waiver language is acceptable. He noted that students still need hands-on training in the clinic setting, but it doesn't have to be a school-owned clinic. President Matecki showed support for the waiver. While she emphasized the temporary nature of the waiver, she felt it may be worth considering what parts of the waiver should be made permanent. Member Chen conveyed support but expressed concern about ensuring the quality of clinic instruction done away from the school facility. President Matecki noted the concerns and emphasized the temporary nature of the waiver.

Public Comment

The first commenter noted that ACAOM has the same standards for clinical training conducted on campus as for clinical training done away from campus. When there are accreditation visits training handled on and off campus is reviewed.

The second commenter, CalATMA's representative Neal Miller, indicated that CalATMA supported the waiver motion. Post-COVID syndrome has been an issue for patients in their clinic and something heard in conversation with schools. The commenter mentioned a need for a higher minimal level of competency in acupuncture programs, particularly for herbal medicine and telemedicine.

The third commenter expressed support for the waiver and noted that in their experience, students benefitted from having opportunities in clinical settings outside of acupuncture schools.

MOTION

Member Harabedian motioned that Board staff work with the Department of Consumer Affairs and the Governor's Office to develop a waiver for clinical distance education.

President Matecki seconded the motion.

Vote

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

7-0 Motion passes

6. Discussion and possible action on the Regulatory Language for Licensed Acupuncturist Practice of Telehealth (Herdt)

Herdt went over the memo prepared by staff for the Licensing and Examination



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Committee (LEC) on the implementation of a telehealth regulation. The LEC has recommended that the full Board consider the memo. It reflects the input of staff and stakeholders.

Governor Newsom issued Executive Order N-43-20 to encourage the use of telehealth services to both reduce exposure to health care workers and to maximize the ability of Californians to obtain health care services. Both licensees and the public have asked the Board questions about telehealth services for acupuncture and the Board issued a statement providing general guidance for licensees on providing telehealth services.

Business and Professions Code section 2290.5 provides statutory authority for licensees in the healing arts to provide services over telehealth. Based on that authority Board staff has determined that additional guidelines and regulations are needed and have drafted proposed regulatory language. The LEC was asked to review the language and provide any amendments, which they have.

Herdt then read the proposed language. To provide acupuncture via telehealth the acupuncturist's license must be current and valid, the patient must be in California and subject to California laws and regulations, and the acupuncturist must obtain informed consent from the patient for providing services via telehealth. Such informed consent must include provisions specific to telehealth. The licensee would determine that telehealth is appropriate after considering several factors. The licensee must also be competent in delivering acupuncture services via telehealth, based on the licensee having relevant knowledge, skills and abilities. The licensee must take reasonable steps to transmit data securely, notifying the patient immediately of any known data breach or unauthorized dissemination of data. The licensee must follow all other provisions of the Acupuncture Licensure Act, acupuncture regulations, other provisions of law and standards of care for the State. Failure to comply with these laws and regulations, as well as the laws and regulations for telehealth in another state that the licensee or patient would be located, constitutes unprofessional conduct.

President Matecki thanked staff for their work on this project. Chair of the LEC, Member Kitman Chan (Chan), indicated the LEC agrees with the recommendation. Member Chan asked staff for more research and felt the change should be temporary. Member Yong Ping Chen (Chen) thanked the staff for their work and felt the proposal should be advanced to the Board for discussion. From Member Chen's perspective, there are limited applications for telehealth in acupuncture, focused on what can be done with internal medicine rather than needling. Member Chen raised two questions for discussion: Should the language specify what practices can and cannot be done via telehealth, and should the Board establish a standard consent, or have the stakeholders present consent language to the Board for approval.

Executive Officer Ben Bodea (Bodea) then outlined for the Board some changes staff



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and legal counsel have identified since the LEC met earlier this morning. Bodea encouraged the Board to keep this as a full Board meeting item, and to move to place this issue on the 2021 Rulemaking calendar. Revised language would be brought back to the Board for review at a future Board meeting.

Dr. Matecki commented that her experience over the last few months suggests telehealth can have advantages for acupuncturists and their patients. She also sees potential for more collaborations through telehealth. Member Kim noted that the use of telehealth is expanding, but it will require safety measures. It will be important to have continuing education available for acupuncture and telehealth.

Public Comment

The first commenter commended the Board for acting quickly on the matter of telehealth. The commenter noted that CalATMA is working on a telemedicine presentation and that other stakeholders and associations in the profession have provided online resources or have otherwise been discussing telehealth and acupuncture. The commenter wanted to confirm that herbal medicine was part of the telehealth conversation.

The second commenter encouraged the Board to provide specific language for obtaining consent from patients.

Executive Officer Bodea confirmed that the language would include the scope of the acupuncturist that is viably delivered via telehealth. For the delivery to be viable, the standards of care must line up with the delivery of service.

Motion

Member Harabedian moved to include telehealth on the 2021 rulemaking calendar, and for the Board to consider revised regulatory language at its next meeting.

Member Chen seconded the motion

Vote:

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

7-0, the motion passes.

7. Review and Possible Approval of the August 27, 2020 Board Meeting Minutes

The Board members had no comments on or changes to the draft minutes for the August 27, 2020 Board meeting.

Motion

Member Harabedian moved that the Board approve the draft minutes for the August



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27, 2020 Board meeting as written

Member Kim seconded the motion.

There was no public comment.

Vote:

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

7-0, the motion passes

Recess taken from 1:40 until 2 p.m.

Roll Call Attendance Taken.

Members Present:

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 Quorum present.

8. Discussion and Possible Action regarding Regulations as a result of AB 2138 Licensing Boards to Amend 16 CCR §§ 1399.469.4, 1399.469.5, and 1399.469.6: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction (Brothers)

Brothers provided a brief history of the AB 2138 rulemaking package and pointed out the three separate comment periods that occurred. The key provisions of the law, which became effective July 1, 2020, were summarized. The purpose of reviewing each of the public comments received from the initial 45-day public comment period and second 45-day comment period was explained to the Board. Brothers provided that the rulemaking process required the Board to review and consider each comment received. Each comment and Board response would be made part of the final rulemaking record as part of the Final Statement of Reasons. The summary of each comment and recommended response were prepared in consultation with, and based upon, direction given by the Board's Executive Officer.

Brothers summarized seven total comments from a letter received by Root and Rebound Reentry Advocates and Community Legal Services of East Palo Alto in congregation with 18 other organizations. Brothers also presented each proposed response on each comment for the Board's consideration. In addition, Brothers provided a summary of an email received from Licensed Acupuncturist, Dixie Wall, which was received during the second 45-day comment period when the proposed language was noticed once more as part of an amended notice. A recommended response for the Board's consideration was also presented.

Member Kim asked if the proposed regulations to implement AB 2138 were similar to



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other DCA boards to which EO Bodea explained they are. EO Bodea also indicated that the first letter with the seven comments was sent to several other boards when their proposed language was noticed and their interpretation parallels Board staff's interpretation as well.

The Board collectively reviewed and considered each of the proposed responses and voted.

MOTION:

President Matecki moved to direct staff to accept the comments, but reject the action(s) requested in the proposed comments, provide the response to the comments (as indicated in the meeting materials), remove the gender pronouns to refer to the actor, specifically applicant or licensee, and use when completing the regulatory process, as authorized by motion at the Board's June 26, 2020, meeting.

Member Kim seconded the motion.

Vote:

Yes - Matecki; Chan; Chen; Harabedian; Kim; Li; Osorio.

7 – 0, motion passes.

Public Comment

First commenter requested that the proposed responses be edited to ensure gender neutral pronouns be used.

Second commenter showed support of the Board's action and also requested that the proposed responses be made gender neutral.

9. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR § 1399.469 (Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees and the Incorporation of SB 1448 and AB 2138) (Brothers)

Brothers provided a brief overview of the Disciplinary Guidelines regulatory package that incorporates implementation of SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), SB 1448 (Hill, Chapter 570, Statutes of 2018), and AB 2138 (Chiu, Chapter 995, Statutes of 2018). Brothers explained the purpose of bringing the proposed language and Disciplinary Guidelines back to the Board was to align the sections of the Guidelines that incorporate AB 2138 language with the modified AB 2138 text amendments approved by the Board at its June 26, 2020 meeting.

Brothers pointed out a new revision date as part of the text for Title 16, CCR § 1399.469 and went over the amendments to the Guidelines (a document incorporated by reference) on pages 12 – 15 that now reflect the modified text approved by the Board.



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Additionally, another change on page 52 concerning the inclusion of optional term #29 as a recommended minimum penalty for violation of Business and Professions Code section 480 was noted by Brothers.

The Board discussed the changes and a vote was made.

MOTION:

Member Harabedian moved to approve the proposed amended regulatory text for Title 16, Section 1399.469, and to direct staff to submit the text to the director of consumer affairs and the Business Consumer Services and Housing Agency for review, and if no adverse comments are received, authorize the executive officer to take all steps necessary to initiate a rulemaking package, make any non-substantive technical and/or grammatical changes to the package, and schedule the matter for a hearing if requested.

Member Osorio seconded the motion.

Vote:

Yes - Matecki; Chan; Chen; Harabedian; Kim; Li; Osorio.

7 – 0, motion passes.

Public Comment

CalATMA's representative, Neal Miller, reported the association's support of the motion.

10. Establishment of the 2021 Board Meeting Calendar (Bodea)

The following dates were set for Board meetings in 2021:

March 25-26

June 24-25

August 26-27

November 4-5

The August and November meetings would also likely involve reviewing some of the material Board staff will be gathering for sunset review as the Board is up for its review in 2021.

11. Future Agenda Items (President Matecki)

Board members were invited to make suggestions for topics for future Board meetings. Member Harabedian asked about the status of the bleeding presentation from CalATMA. EO Bodea indicated that the presentation could be done in the first or



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second meeting of the year, barring any need to respond to crisis situations. Member Kim requested the Board address additional clinical training opportunities for students outside of the school-owned clinics, which may include making the Clinical Distance Education waiver language permanent. Member Kim also suggested telehealth as a future Board meeting item. Member Chen would like the Board to address how to regulate the practice of herbal medicine in acupuncture. EO Bodea noted that the business modernization process, sunset review and other projects are also scheduled for 2021.

Public Comment

The first commenter noted topics that had been brought up before (dry needling, bloodletting, lasers and Asian massage) and suggested additional topics. The Board should address COVID guidelines, increasing the minimal competency requirements of educational programs, and clean needle technique.

The second commenter would like the Board agenda to include laser acupuncture as part of the scope of practice.

The third commenter indicated that the Council of Colleges on Acupuncture and Herbal Medicine has also been working on an educational presentation on clean needle technique. It is fully online, and the commenter, Valerie Hobbs, who co-chairs the effort) offered to make a presentation on it should there be interest in placing it on the agenda.

12. CLOSED SESSION

13. Pursuant to Government Code Section 11126 (a) (1), the Board will Meet in Closed Session to conduct an Evaluation of the Executive Officer.

Closed session began at 3:28 pm.

14. Return to OPEN SESSION

Open session reconvened at 4:39 pm.

15. Adjournment (Dr. Amy Matecki, President)

Meeting Adjourned at 4:40 pm.

Day Two, Full Board Meeting - Friday, December 18, 2020

16. Call to Order, Roll Call, and Establishment of Quorum for Day Two

(Dr. Amy Matecki, Board President)



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Meeting started at 9:32 am.

President Matecki called the Board to order. Brothers called the roll:

Members Present

7 Present – Matecki, Chan, Chen, Harabedian, Kim, Li, and Osorio.

7-0 Quorum Established

17. President's Remarks (Matecki)

President Matecki noted the hardships the Board faced in 2020, thanked the stakeholders for their work with the Board through this time. She then deferred to her remarks provided on day one.

18. Public Comment on Items Not on the Agenda (Matecki)

The first commenter noted the recent fee changes for renewal of continuing education (CE) courses and explained why these would pose an undue burden on large providers of CE courses. The commenter does not have a problem with the other new fees for CE courses, just the \$10/credit hour fee for renewal of courses. The commenter believes there are many possibilities for addressing this fee, including a bulk rate discount.

The second commenter represents AAMCA and is also concerned about fees. They suggested holding off on implementing the fees until after the COVID-19 pandemic. Further, the commenter objects to the new wall license fee of \$50 per wall license.

19. Executive Officer's Report (Executive Officer Ben Bodea)

EO Bodea updated the Board on its financial standing, personnel numbers and business modernization processes.

(A) Budget Update – Fund Condition

The Board's financial standing is solid, with reserves on hand low, but within acceptable limits. Fluctuations in expenditures and income can be traced to the investments for business modernization and the fee increase coming into effect in January 2021.

(B) Staffing Update

Bodea noted that staff vacancies continue to be filled, and the staff has been great in addressing the workload amidst the challenges of the pandemic.

(C) Business Modernization Update

Herdt addressed the business modernization process. To date, license renewal and exam applications have been moved online, including payments. The second phase of



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the project is moving the wall license application and payments processes online, as well as cashiering the continuing education processes from the back office. That phase is currently in progress. The third phase involves moving the rest of the continuing education program functions online, along with examination retakes, which should begin early in the new year.

Member Kim asked about any connection between the fee increase and the modernization processes. Bodea indicated they were somewhat contemporaneous. He is optimistic that the fee increase coupled with time savings and streamlined processes from the modernization effort will provide the Board greater financial stability.

President Matecki asked about the endpoint of the project. Bodea anticipated that the remaining rollout of functions will take place over the next six months with an additional year of maintenance and operations and smaller developments. Matecki asked about remaining costs for the project and Bodea noted that most of the project expenditures have been paid out, with maintenance costs being most of what remains.

Public Comment

The first commenter thanked the staff, singling out Kristine Brothers, for all their hard work during the pandemic, especially with the additional resource challenges they faced.

The second commenter wished to echo concerns raised under the previous agenda item about continuing education fees for distance learning courses.

The first commenter would like the minutes to reflect who attends the meetings and who says what. The commenter echoed the concerns raised earlier over fees, and noted that few of the organizations and associations in the profession were at Board meetings. These meetings are a source of information for the profession and CalATMA is working to better disseminate meeting information to those who couldn't attend.

Board Legal Counsel Fred Chan-You (Counsel Chan-You) noted that speakers are not obligated to identify themselves at Board meetings.

20. Enforcement Report – Q1, FY 20-21 (Bodea)

EO Bodea presented the enforcement data for the first quarter of the 2020-2021 fiscal year (July-September). Complaint numbers are down. Average intake cycle time has increased, but it is still well within the 10-day target. Average total case time has decreased, remaining below the target time of 200 days. Citation numbers have been steady. However, intake cycle time and total completion time for these cases have both increased. Attorney General initiated cases are within historical trends.

Member Kim asked about possibly creating courses to address some of the common issues arising from enforcement actions. Bodea noted that Board staff will continue to



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look at enforcement data for trends. If the Board wants to develop a course on its laws and regulations, it can. It would be worth considering working with associations and other stakeholders who are engaged on the matter.

Member Chan asked for more details concerning the data on cases involving professional misconduct. Bodea and Brothers noted that the category is a catch-all of sorts, where violations that don't fit another category well tend to be placed. Member Kim asked about impacts on enforcement due to the pandemic. Bodea noted that incoming complaints are down, but it is a little early to note a trend. For instance, an increase in violations due to failure to notice the Board of a change of address has occurred, and we may not see the full impact on the total numbers until later in the fiscal year. So far there has been an increase in citation-level activity (which can be handled by office staff) but a decrease in cases that require referral to the Attorney General. Member Chen encouraged stakeholders to communicate the laws and regulations to their members, as that can help address some of the violations.

Public Comment

A commenter noted the decrease in sexual misconduct charges, and restated a frequent concern expressed to the Board about the use of the term 'Asian massage' given its problematic associations. The commenter would like to see that term replaced in law and regulation. He concurred with the idea of using communication with students and licensees to increase understanding of laws and regulations and to decrease unprofessional conduct.

21. Licensing Report – Q1, FY 20-21 (Herdt)

Herdt reviewed the licensing statistics for the first quarter of the 2020-2021 fiscal year. Total numbers of licenses have remained stable, with mild fluctuations going back to the 2018-2019 fiscal year. New applications were greater than cancellations, and two educational and training programs lost their approvals due to a failure to receive accreditation. There was a high number of tutorial programs that lost approval, primarily due to failure to submit the necessary renewal and reports. The statistics for exam participation and pass rates for the second half of 2020 will be available shortly after the end of the year.

Herdt noted that the Occupational Analysis will be starting soon, and how important it is to have a high level of participation across the profession. The Board is offering four continuing education (CE) hours to licensees who complete the survey, which should encourage participation.

Dr. Matecki asked for clarification about the data on exam participation and pass rates. Herdt indicated they will be posted online as soon as available but not until the next Board meeting.



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Member Kim asked for the number of educational and training programs approved by the Board to which Herdt noted there are 34 approved in total. Bodea noted there are 16 approved educational and training programs in California. Herdt indicated he would include those numbers in future licensing reports.

Member Kim expressed concerns about the decline in licensee numbers and has observed a lot of retirements in both acupuncturists and other medical professions in part due to the pandemic. He considers more online education as a way to address this. Herdt echoed his observations about retirements increasing.

Public Comment

The first commenter asked if there were any indications of unusual pass rates or statistical anomalies in the examination data. The commenter also asked about any feedback on ACAOM's performance as an accreditor, relaying complaints heard over ACAOM's responsiveness to complaints against programs. The comments were concluded by echoing the importance of participating in the occupational analysis and applauding the approval of CE for participation.

The second commenter emphasized that their concern (and that of many of their colleagues) about the new fees was specific to the fees for renewal of a CE course. They believe the Board has the authority to adjust the fees to address their concerns.

Recess taken from 11:01 to 11:15 a.m.

Members Present:

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 *Quorum present.*

22. Legislative Report of 2020 Legislative Bills of Interest to the Board

Brothers noted that while Board members have information on all the bills the Board has tracked during the 2019-2020 Legislative session, the Legislative report will focus on the three bills of that group that were enacted into law.

(i) AB 2113

AB 2113 takes effect January 1, 2021. It requires agencies in the Department of Consumer Affairs (DCA) to expedite the initial licensure process for any applicant that provides sufficient evidence that they are a refugee, have been granted asylum or have a special immigrant visa. Programs have the authority to adjust their regulations to implement these provisions. The Board will need to change its printed application form through regulation and adapt the online licensing forms as well. Staff is working with the Office of Information Services to ensure the qualifying applications are flagged and



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moved within the queue. Brothers does not expect this to affect a large number of applications.

(ii) AB 3330

AB 3330 is the fee bill, which will take effect January 1, 2021, raising all fees and establishing a few new ones. There is a big implementation plan for this bill. Forms will be updated, the website requires changes, and new processes will have to be implemented to handle some of these changes. While staff will need to submit a regulatory package to implement some of the fees, many fees will be implemented by statute. The new fees will be integrated into the business modernization process.

(iii) SB 878

SB 878 requires each licensing board or bureau in DCA to post on their website for each license type, the average processing times for initial and renewal license applications. It becomes law July 1, 2021. DCA is leading the implementation of this law.

President Matecki noted the concerns raised during the meeting by stakeholders about the fees. She asked how a stakeholder might respond to these fee increases. EO Bodea noted that besides bringing their concerns to the Board, stakeholders can work with the Legislature to seek changes to these statutes. The Board staff tracks legislation of interest and discusses them at each Board meeting. The public can also track legislation online. Board staff attend legislative hearings and work to keep informed on legislative actions. Member Kim commented that there can be a role for associations in getting more participation from stakeholders as these bills are being developed. President Matecki indicated that getting involved earlier in the process makes it easier to affect the outcome.

Herd noted that Board staff had from late September 2020 to develop processes and systems for implementing the new fees. This included developing communications for all stakeholders affected, informing them of the new laws. Once the law is in effect, feedback can be gathered. President Matecki noted that the fee increase was coming at a bad time given the economic impact of the pandemic. Member Chen wondered if the Board had authority to postpone the fee increase, and if the fee increases are reasonable (and for whom they are reasonable).

President Matecki wanted clarification on the status of the bills the Board has been tracking but have not yet been discussed. Brothers emphasized that the other bills the Board has been tracking were not signed into law by the end of the session. They would have to be reintroduced in the next session if they were to become law. Brothers mentioned the website leginfo.ca.gov as a useful research tool allowing interested parties to track bills or search for bills on specific topics or with specific phrases in their text.



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Public Comment:

The first commenter raised whether the Board could postpone the fee increases. The commenter would like a better-quality pocket license.

EO Bodea noted that staff is working on an improved quality pocket license, and it should go to production once the Board has transitioned to the new system. Bodea would encourage the Board not to postpone implementing the fees as it would put significant financial strain on operations.

The second commenter, CalATMA representative Neal Miller, noted that CalATMA has been attending Board meetings consistently for many years. It supports the fee increases, but objects to the wall license fee as it was not handled in a transparent fashion. Given the data presented on enforcement earlier in the meeting, the commenter does not believe the wall license fee would be an effective means of combatting unauthorized practice.

The third commenter disagrees that the ability to change fees is limited to the Legislature. The commenter re-iterated that they object to the fees for renewed courses as excessive and believes many courses would be lost as a result. The commenter goes on to note that they believe language in sections 4970 and 4972 of the Business and Professions Code would allow the Board flexibility in imposing fees that would allow them to act on the course renewal fees without going to the Legislature.

The fourth commenter echoed the sentiment that the Board should be able to act on the course renewal fee without going to the Legislature. They felt the Board has not done a good job in communicating these actions to its stakeholders, and the material is not easily found on the website. It would also be helpful to have an online payment option.

The fifth commenter echoed the concerns over the course renewal fees brought by other commenters. The commenter would like e-Lotus's letter on the matter put on the agenda for the next Board meeting. They feel that the Board has the authority to implement a separate fee structure for course renewals, and it is urgent to do so to prevent harm to the profession and the public. They also feel the wall license requirement is unnecessary as people don't look at the expiration dates of licenses for other professionals.

Before continuing with other commenters, President Matecki noted that there will be time later in the meeting to discuss the fee increases.

The remaining commenters opted to defer their comments to that later portion of the agenda.



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23. Regulations Update (Brothers)

The Board reviewed the 2020 Regulatory Rulemaking Calendar and the status of each regulatory topic on the calendar.

Public Comment

A commenter asked the Board to consider regulations establishing a bulk fee schedule for previously approved continuing education courses.

24. Discussion of 2021 Implementation of the requirement for Wall Licenses (Brothers)

The new wall license legislation is separate from the new fees. The wall license requirements, AB 779, was passed into law in 2019, with an implementation date of January 1, 2021. The legislation was covered during all of the 2019 Board meetings.

Existing wall license regulations require licensees to, within 30 days, notify the Board that there is no place of practice or to register their place of practice. If licensees have more than one place of practice, they must obtain a duplicate wall license. Wall licenses must be placed in a conspicuous area within the practice location.

It has been an ongoing enforcement issue to ensure that all places of practice are registered. However, violations of this law are often found through the investigation of other violations, and the statistics may not accurately reflect the number of violations around the wall license.

Under the new law, licensees will need to register all places of practice. Each location will have its own wall license, with a unique identifier. One wall license comes at no charge with the initial acupuncture license. Each additional wall license is \$50. Wall licenses will expire every two years at the same time as the acupuncture license. Licensees that have no place of practice must notify the Board of this and carry a pocket license. Brothers noted that these changes were intended to help address those who do not register their places of practice. Other boards are making similar changes.

Brothers took questions and comments from Board members. Renewing wall licenses will be done in the same process as renewing the acupuncture license. Member Harabedian asked practitioners on the Board if they felt the new requirements were onerous, which commenters have suggested. While President Matecki noted her medical wall license lasts for longer than two years, she supported the new requirements. The pandemic is certainly straining everyone, so the timing may not be ideal. There may be ways to adjust the wall license fees that would be more acceptable.

HerdT clarified some of the new regulations and noted what wasn't changing as well.



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The wall license renewal is rolling out by license expiration month, so not everyone will need to deal with it in January. Most licensees also have just one location. It would be more common for multiple acupuncturists to share a location.

President Matecki asked if combining both licenses and fees together rather than separate would help. Brothers indicated that the wall license is a separate kind of license, and many boards do handle different types of licenses. With the new online system, the burden on staff should be lower. While the licenses would be separate items, the new payments system should make it easier to handle all the payments at once. EO Bodea noted that putting the wall license fee into the acupuncture license fee would effectively subsidize licensees that require many wall licenses. The wall license fee is increasing from \$15 to \$50, which isn't far from the cost of inflation over the years since the fee was last set.

Public Comment

The first commenter returned to an earlier point that the Board has the authority to change the fees for renewal of distance education courses. The commenter cited Business and Profession Code section 4972 as allowing the Board to set lower fees.

The second commenter asserted that the wall license fee was not handled properly, and that the rulemaking process violated the Administrative Procedures Act and the Open Meetings Act. The commenter indicated they would not pay the fee and encouraged others to do so.

The third commenter had a series of questions. Would they be able to keep their very nice license from when they first received it many years ago? What is preventing them from using their pocket license as a wall license and claiming they have no place of practice? Will we be able to pay by credit card? They closed by asserting the fee increase for the wall license works out to \$1.46 per month.

The next commenter suggested that pulling the wall license fee back into the acupuncture license fee would be a good idea. They expressed concern that the wall license fee would prevent practitioners from working in clinics and/or to teach.

The fifth commenter wanted to know if other professions have to get a renewable wall license. They would like an explanation of why the pocket license couldn't serve the function of the wall license.

The sixth commenter believes the wall license is intended to help consumers recognize when a practitioner has an active license. They are skeptical about how many consumers would check these licenses. In addition to the increased telehealth interactions under COVID, it seems less likely the public would be in less of a position to check. The commenter questioned why have such a burden if it seems unlikely to achieve the desired goal.



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The third commenter returned for additional comment. The commenter asserted that the wall licenses would be very easy to fake, and that it would not be effective in serving the public.

Board Counsel Chan-You noted that the wall license fee (including renewal) has been set by law at \$50, and the Board has no discretion on this matter.

Recess taken from 1:05 to 1:20 p.m.

Members Present:

5 Present: Matecki, Chan, Chen, Harabedian, Kim

5-0 Quorum present.

25. Discussion of 2021 Implementation of the New Acupuncture Board Fees (Bodea)

EO Bodea began the session by outlining the new fee schedule that would take effect on January 1, 2021. The changes reflect the implementation of AB 3330. Some fees may require a Section 100 rulemaking to be implemented at the appropriate fee level. In those cases, there is a floor set for the fee that would be operative until the Section 100 process is approved. The raised fees represent the first increase in fees for many decades and reflects the recommendations of the recent fee study.

Member Kim was pleased to see the feedback from licensees and associations but noted that there had not been such feedback during the long development process.

Public Comment

The first commenter felt it wasn't feasible for providers to attend every Board meeting or review every recording of the Board's meetings. The commenter summarized earlier concerns they had raised on the impact of the fee for renewal of continuing education courses. The commenter referred to a letter sent to the Board by several acupuncture education providers. Without a bulk fee system in place, providers will drop a great number of courses, reducing income for teachers of these courses and keeping knowledge away from students and licensees. The commenter feels such a change can be implemented by the Board within its regulatory authority and does not require legislation.

The next commenter apologized for previous comments regarding the wall license. They re-emphasized their previous comments about the wall license being an inadequate measure for preventing fraud or other bad actions. They believe that fake wall licenses can be easily created, and that people will opt not to pay and/or rely on their pocket license.

The third commenter representing a continuing education provider noted they only



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object to the fees for renewal of continuing education. The new fees would change what they owe from \$75 per year to approximately eight to nine thousand per year. They feel they would have no choice but to retire courses or to make them unavailable for California CEU credits.

The fourth commenter objected to the short notice of this change, citing an email that went out on December 16th. The commenter echoed concerns raised by others about restricting knowledge, but also noted that the renewal process for previously approved courses would be unnecessary effort for both the Board and the provider, as they have been previously approved. The commenter felt the new fee was unnecessary, and the commenter recommended following NCCAOM's process for handling these renewals.

The fifth commenter believes that the extra fees for renewal of CE courses does not protect the public. The increase is significant, and overboard. It should be a flat fee and the Board should revisit this in regulation.

The sixth commenter considers the renewal fees to be excessive and believes the Board has authority through Business and Professions Code (BPC) section 4970 to make the necessary changes. The commenter would like to see a bulk rate fee system set up for renewals, similar to NCCAOM.

Before a second round of comments began, Counsel Chan-You noted that the provisions of AB 3330 set the fees in statute, and that changing them is not within the Board's discretion. EO Bodea noted that what discretion the Board does have with respect to the CE fee is within a range of \$10-\$20 per credit hour.

The seventh commenter outlined what a bulk rate fee system might look like. The commenter also indicated BPC section 4970 permits the Board to set fees below an established floor, provided it is done consistent with Section 4972. As the section does not specifically mention course renewals.

The eighth commenter noted an interest in ensuring credit card payments to the Board would be an option moving forward. They then reiterated their perspective that there is room for interpretation with existing laws and regulations and that the Board should consider it.

The ninth commenter agreed with other commenters who felt there is room for interpretation, particularly since there is no specific reference to previously approved or renewal course fees.

The tenth commenter pointed Counsel Chan-You to Chapter 4 of Section 308 of the Statutes of 2019. This was the authority amending Section 4970 of the BPC to allow the Board to set a lower fee, if done in accordance with section 4972.

The eleventh commenter expressed concern that California will lose CE providers as a



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result of these fees.

President Matecki thanked all the commenters in the discussion. Herdt, who was an active licensed acupuncturist for 18 renewal cycles, noted that with the tuition fees he's had quoted for several CE courses, that one student's tuition would cover the Board fee. It would appear that there are some numbers involved in CE that the Board is not seeing. Member Kim expressed willingness for the Board to work with stakeholders to see what can be done to address the concerns.

Counsel Chan-You asked President Matecki to put this item on the agenda for the next Board meeting. He indicated he would like to do further research on the issue.

EO Bodea emphasized the fees are effective January 1, 2021. Failing to display the wall license if practicing in a clinic constitutes unprofessional conduct. While the Board can't be in every location to check on this, it will be checked if a complaint has been filed. Any changes to CE fees will require going through the regulatory process, which on average takes one and a half to two years. It's worth noting that while the business modernization process is focused on licensees it will be available to CE providers later in 2021. Until that time, the Board will not be able to receive credit card payments for CE fees.

President Matecki asked how licensees and stakeholders can communicate with the Board. EO Bodea noted that all interested parties receive email communications from the Board if they sign up for the mailings, and stakeholders can send their positions to Acupuncture@dca.ca.gov. Member Chen wanted to know the best way for licensees to contact the Board, or what associations should be doing to inform licensees. Bodea noted that the public is welcome to sign up on the Board website to keep informed. Licensees are not automatically registered for these lists. Member Kim encouraged every association to attend the Board meetings, and to have someone focused on Board business and communications to attend these meetings. President Matecki indicated the issue will be put on the next Board meeting agenda.

26. Consumer and Professional Association Reports

CalATMA

The association was represented by Neal Miller, newly elected President. CalATMA saw a significant membership growth and is now the largest acupuncture association in the state. It elected new officers and trustees in October.. The first act of the new Board of Trustees was to establish a non-discrimination policy.

CalATMA continues to work with other associations on issues of importance to the profession. The matter of replacing the California exam in whole or in part with NCCAOM accredited tests remains divisive. The association has established a task force



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to research the matter and seek consensus in the profession. CalATMA has established a Government and Legislative Affairs Committee and is working on short- and long-term goals. CalATMA supported Assemblyman Low's AB 888 on non-opioid pain relievers and would support a similar bill in the next session.

CalATMA discussed the association's legislative goals. The association has hired a lobbyist and set up several committees and task forces.

CSOMA

Nell Smircina, President of CSOMA reported that the association considers 2020 a banner year, with significant increases in membership and activity. The organization was active in advocacy, filing several letters of public comment. It held national town halls and continued to publish its peer-reviewed journal. Looking forward, CSOMA intends to introduce legislation to elevate the profession, and wants to work with the Board on the sunset review process and any legislation that moves forward.

Academy of Chinese Culture and Health Science

Roy Zal commented on the new fees for the wall license and previously approved continuing education credits. Their comments echoed previous objections about the amount of the fees.

AACMA

Philip Yang shared that the organization is going through its election season. It elected new board members in December and will elect a president and vice-president in January. It continues to provide guidance for its members, especially on pandemic matters. It has been working with other associations in the field to keep up to date on changes in law and regulation.

California Acupuncture United Association

Hongmei Li asked on behalf of the association if it was possible to reduce the renewal fees in light of the pandemic and a reduction in insurance payments.

Public Comment

A commenter stated now was not the time for large increases in the fees for tutorials.

27. Future Agenda Items (Dr. Matecki)

Member Kim asked to see discussion about changing the clinical training requirement related to the required hours in a clinic owned and operated by the training program.

Member Chen asked to see telehealth covered, as well as the regulation of herbal medicine.



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Member Osorio echoed Member Chen's suggestion on herbal medicine and wanted to see credit card transactions on the agenda.

Public Comment

The first commenter asked to see the following topics on a future meeting agenda: bloodletting, dry needling, laser and light therapy, and use of the term 'Asian massage' by the profession. Additionally, the commenter believes a discussion is needed on increasing the basic level of competence in acupuncture graduates. This discussion should start in the Education and Research Committee.

The second commenter wanted laser acupuncture included on the agenda.

The third commenter wanted the new fees placed on the agenda, including a letter they had submitted to the Board. The commenter reiterated their belief that the Board had the ability to make needed changes without legislation. The commenter reiterated their concerns from earlier about the fee increase for tutorials and their supervisors.

The fourth commenter wanted the Board to consider delaying the implementation of the new fees to accommodate the pandemic-related economic challenges many practitioners face.

The fifth commenter echoed interest in having credit card transactions, laser acupuncture, and the CE renewal fee on the agenda. The following commenter echoed that interest in having the CE renewal fees on the agenda.

The final commenter was Sarah Jacobs, a Deputy Attorney General from the Office of the Attorney General and introduced herself to the Board as the Attorney General's liaison to the Board.

28. Adjournment (Dr. Amy Matecki, President)

Meeting adjourned at 3:11 p.m.

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5 - Budget Update

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**0108 - CA Acupuncture Board Fund Analysis of Fund Condition
(Dollars in Thousands) 2020-21 Governor's Budget**

| | PY 2019-20 | CY 2020-21 | BY 2021-22 | BY+1 2022-23 | BY+2 2023-24 |
|--|-----------------------|-----------------------|-----------------------|-------------------------|-------------------------|
| BEGINNING BALANCE | \$4,043 | \$3,720 | \$1,873 | \$1,178 | \$336 |
| Prior Year Adjustment | -\$277 | \$0 | \$0 | \$0 | \$0 |
| Adjusted Beginning Balance | \$3,766 | \$3,720 | \$1,873 | \$1,178 | \$336 |
| REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | | | | | |
| Revenues | | | | | |
| 4121200 - Delinquent fees | \$12 | \$44 | \$76 | \$76 | \$76 |
| 4127400 - Renewal fees | \$1,907 | \$2,493 | \$2,936 | \$2,936 | \$2,936 |
| 4129200 - Other regulatory fees | \$51 | \$128 | \$194 | \$194 | \$194 |
| 4129400 - Other regulatory licenses and permits | \$317 | \$540 | \$598 | \$598 | \$598 |
| 4150500 - Interest from interfund loans | \$30 | \$0 | \$0 | \$0 | \$0 |
| 4163000 - Income from surplus money investments | \$95 | \$28 | \$28 | \$5 | \$0 |
| 4171400 - Escheat of unclaimed checks and warrants | \$2 | \$2 | \$2 | \$2 | \$2 |
| 4173500 - Settlements and Judgements - Other | \$0 | \$2 | \$0 | \$0 | \$0 |
| Totals, Revenues | \$2,414 | \$3,237 | \$3,834 | \$3,811 | \$3,806 |
| Transfers and Other Adjustments | \$1,000 | -\$186 | \$0 | \$0 | \$0 |
| TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | \$3,414 | \$3,051 | \$3,834 | \$3,811 | \$3,806 |
| TOTAL RESOURCES | \$7,180 | \$6,771 | \$5,707 | \$4,989 | \$4,142 |

| | PY | CY | BY | BY+1 | BY+2 |
|---|----------------|----------------|----------------|----------------|----------------|
| | 2019-20 | 2020-21 | 2021-22 | 2022-23 | 2023-24 |
| EXPENDITURES AND EXPENDITURE ADJUSTMENTS | | | | | |
| Expenditures: | | | | | |
| 1111 Program Expenditures (State Operations) | \$3,231 | \$4,707 | \$4,138 | \$4,262 | \$4,390 |
| 9892 Supplemental Pension Payments (State Operations) | \$43 | \$43 | \$43 | \$43 | \$43 |
| 9900 Statewide Pro Rata | \$186 | \$148 | \$348 | \$348 | \$348 |
| TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS | \$3,460 | \$4,898 | \$4,529 | \$4,653 | \$4,781 |
| FUND BALANCE | | | | | |
| Reserve for economic uncertainties | \$3,720 | \$1,873 | \$1,178 | \$336 | -\$639 |
| Months in Reserve | 9.1 | 5.0 | 3.0 | 0.8 | -1.6 |

NOTES:

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

Department of Consumer Affairs
Expenditure Projection Report
 Acupuncture Board
 Fiscal Month: 7
 Fiscal Year: 2020 - 2021

PERSONAL SERVICES

| Fiscal Code | PY Budget | PY FM13 | CY Budget | YTD | Projections to Year End | Balance |
|--|--------------------|--------------------|--------------------|------------------|-------------------------|------------------|
| 5100 PERMANENT POSITIONS | \$911,000 | \$743,821 | \$865,000 | \$440,452 | \$778,685 | \$86,315 |
| 5100 TEMPORARY POSITIONS | \$19,000 | \$62,660 | \$19,000 | \$17,848 | \$51,920 | -\$32,920 |
| 5105-5108 PER DIEM, OVERTIME, & LUMP SUM | \$12,000 | \$6,300 | \$12,000 | \$18,407 | \$20,807 | -\$8,807 |
| 5150 STAFF BENEFITS | \$573,000 | \$440,703 | \$536,000 | \$244,623 | \$432,475 | \$103,525 |
| PERSONAL SERVICES | \$1,515,000 | \$1,253,484 | \$1,432,000 | \$721,330 | \$1,283,886 | \$148,114 |

OPERATING EXPENSES & EQUIPMENT

| Fiscal Code | PY Budget | PY FM13 | CY Budget | YTD | Projections to Year End | Balance |
|---|--------------------|--------------------|--------------------|--------------------|-------------------------|--------------------|
| 5301 GENERAL EXPENSE | \$79,000 | \$18,294 | \$79,000 | \$3,453 | \$20,569 | \$58,431 |
| 5302 PRINTING | \$18,000 | \$4,382 | \$18,000 | \$127 | \$5,838 | \$12,162 |
| 5304 COMMUNICATIONS | \$18,000 | \$2,810 | \$18,000 | \$1,544 | \$3,087 | \$14,913 |
| 5306 POSTAGE | \$28,000 | \$1,382 | \$28,000 | \$0 | \$2,000 | \$26,000 |
| 5308 INSURANCE | \$0 | \$30 | \$0 | \$0 | \$0 | \$0 |
| 53202-204 IN STATE TRAVEL | \$34,000 | \$17,444 | \$34,000 | \$5,802 | \$9,947 | \$24,053 |
| 53206-208 OUT OF STATE TRAVEL | \$0 | \$1,002 | \$0 | \$0 | \$0 | \$0 |
| 5322 TRAINING | \$4,000 | \$34,752 | \$4,000 | \$0 | \$4,000 | \$0 |
| 5324 FACILITIES | \$65,000 | \$134,198 | \$65,000 | \$83,181 | \$143,999 | -\$78,999 |
| 53402-53403 C/P SERVICES (INTERNAL) | \$577,000 | \$293,917 | \$539,000 | \$171,477 | \$324,869 | \$214,131 |
| 53404-53405 C/P SERVICES (EXTERNAL) | \$1,066,000 | \$366,798 | \$1,170,000 | \$231,210 | \$580,705 | \$589,295 |
| 5342 DEPARTMENT PRORATA | \$874,000 | \$798,566 | \$959,000 | \$773,250 | \$959,000 | \$0 |
| 5342 DEPARTMENTAL SERVICES | \$334,000 | \$283,506 | \$334,000 | \$127,866 | \$148,137 | \$185,863 |
| 5344 CONSOLIDATED DATA CENTERS | \$4,000 | \$10,493 | \$4,000 | \$297 | \$11,000 | -\$7,000 |
| 5346 INFORMATION TECHNOLOGY | \$5,000 | \$790 | \$43,000 | \$11,759 | \$21,078 | \$21,922 |
| 5362-5368 EQUIPMENT | \$66,000 | \$58,625 | \$0 | \$4,522 | \$31,116 | -\$31,116 |
| 5390 OTHER ITEMS OF EXPENSE | \$3,000 | \$1,730 | \$3,000 | \$0 | \$2,000 | \$1,000 |
| 54 SPECIAL ITEMS OF EXPENSE | \$0 | \$1,459 | \$0 | \$0 | \$0 | \$0 |
| OPERATING EXPENSES & EQUIPMENT | \$3,175,000 | \$2,030,178 | \$3,298,000 | \$1,414,489 | \$2,267,344 | \$1,030,656 |

| | | | | | | |
|-----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| OVERALL TOTALS | \$4,690,000 | \$3,283,662 | \$4,730,000 | \$2,135,819 | \$3,551,230 | \$1,178,770 |
|-----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|

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6 -Licensing Report

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FY 2020/21 Acupuncture Licensing Report

| License Status | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 April - June |
|---------------------------------------|-----------------|-----------------|-----------------|--------------------|
| Active | 12248 | 12224 | - | - |
| Inactive | 2286 | 2299 | - | - |
| Delinquent | 1106 | 1160 | - | - |
| Cancelled | 50 | 46 | - | - |
| Initial License Applications Approved | 64 | 72 | - | - |
| Initial License Applications Denied | 0 | 0 | - | - |
| License Renewals | 1641 | 1789 | - | - |

Fiscal Year 2020/21 Continuing Education Report

| Type | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 April - June |
|---|-----------------|-----------------|-----------------|--------------------|
| CE Provider Applications Approved | 17 | 33 | - | - |
| CE Provider Applications Denied | 0 | 0 | - | - |
| Course Applications Received | 781 | 921 | - | - |
| Course Applications Approved | 718 | 884 | - | - |
| Course Denials | 63 | 37 | - | - |
| Continuing Education Providers current as of June 2020 | 590 | 542 | - | - |
| Providers - Total Provider numbers issued to date | 1697 | | | |

Fiscal Year 2020/21 Acupuncture Educational and Training Programs

| Application for Board Approval of Curriculum (ABAC) | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 April - June |
|--|-----------------|-----------------|-----------------|--------------------|
| ABAC - Received | 0 | 5 | - | - |
| ABAC - Incomplete | 0 | 0 | - | - |
| ABAC - Approved | 2 | 0 | - | - |
| Loss of Approval | 2 | 0 | - | - |

Fiscal Year 2020/21 Acupuncture Tutorial Training Programs

| Type | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 April - June |
|--------------------------------|-----------------|-----------------|-----------------|--------------------|
| Applications Received | 4 | 6 | - | - |
| New Program Approvals | 1 | 3 | - | - |
| Programs Completed | 1 | 1 | - | - |
| Programs Terminated, Abandoned | 13 | 1 | - | - |
| Total Approved Programs | 34 | 35 | - | - |

Fiscal Year 2020/21 Examination Report

| Type | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 April - June |
|---|-----------------|-----------------|-----------------|--------------------|
| Initial Exam Applications Received | 105 | 101 | - | - |
| Initial Exam Applications Approved & Closed | 79 | 64 | - | - |
| First time Test Takers | 62 | 84 | - | - |
| Re-Test Test Takers | 21 | 20 | - | - |
| Total Exam Takers | 83 | 104 | - | - |

EXAMINATION RESULTS STATICS - FIRST TIME AND OVERALL

7/1/2020 - 12/31/2020

| Approved Acupuncture and Educational Training Programs | 1ST TIME TAKERS | | | OVERALL (Including Retakers) | | |
|---|-----------------|-----------|------------|---------------------------------|-----------|------------|
| | #PASS | #FAIL | PASS % | #PASS | #FAIL | PASS % |
| Academy of Chinese Culture & Health Sciences | 7 | 2 | 78% | 7 | 2 | 78% |
| Acupuncture & Integrative Medicine College | 5 | 0 | 100% | 5 | 2 | 71% |
| Alhambra Medical University | 4 | 1 | 80% | 4 | 2 | 67% |
| American College of Traditional Chinese Medicine - CIIS | 7 | 1 | 88% | 8 | 2 | 80% |
| Bastyr University | 0 | 2 | 0% | 0 | 3 | 0% |
| Dongguk University Los Angeles | 5 | 3 | 63% | 5 | 6 | 45% |
| Emperor's College of Traditional Chinese Medicine | 13 | 3 | 81% | 14 | 3 | 82% |
| East West College of Natural Medicine | 0 | 1 | 0% | 0 | 1 | 0% |
| Five Branches University | 15 | 3 | 83% | 16 | 5 | 76% |
| Golden State University | 1 | 0 | 100% | 1 | 0 | 100% |
| Nine Star University | 1 | 0 | 100% | 1 | 1 | 50% |
| National University of Natural Medicine | 2 | 0 | 100% | 2 | 0 | 100% |
| Pacific College of Health and Science (Pacific College of Oriental Medicine) | 23 | 1 | 96% | 25 | 5 | 83% |
| South Baylo University | 26 | 7 | 79% | 32 | 14 | 70% |
| Southern California University School of Oriental Medicine and Acupuncture | 2 | 1 | 67% | 2 | 1 | 67% |
| Southern California University of Health Sciences | 0 | 0 | 0% | 0 | 3 | 0% |
| Stanton University | 0 | 0 | 0% | 1 | 0 | 100% |
| University of East West Medicine | 8 | 3 | 73% | 8 | 4 | 67% |
| YoSan University of TCM | 3 | 1 | 75% | 5 | 1 | 83% |
| Tutorials | 1 | 1 | 50% | 1 | 1 | 50% |
| Foreign | 6 | 2 | 75% | 7 | 3 | 70% |
| GRAND TOTAL | 129 | 32 | 80% | 144 | 59 | 71% |



7 -Enf. Report

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| | |
|----------------|---|
| DATE | March 2021 |
| TO | Board Members |
| FROM | Cricket Borges, Enforcement Coordinator |
| SUBJECT | Enforcement Report for Q2 FY 2020/2021: Oct 1, 2020 to Dec 31, 2020 |

COMPLAINTS/CONVICTIONS & ARRESTS

| DCA Category | | Received |
|--|------------------|-----------|
| Unprofessional Conduct | Sub-Total | 9 |
| • <i>Scope of Practice</i> | 2 | |
| • <i>Misleading Advertising</i> | 3 | |
| • <i>Office Conduct</i> | 3 | |
| • <i>Address Change</i> | 1 | |
| Unlicensed/Unregistered | | 9 |
| Criminal Charges/Convictions** | | 8 |
| • <i>Applicants</i> | 6 | |
| • <i>Licensees</i> | 2 | |
| Sexual Misconduct | | 0 |
| Fraud | | 0 |
| Non-jurisdictional | | 8 |
| Incompetence/Negligence | | 1 |
| Unsafe/Unsanitary Conditions | | 1 |
| Other | | 0 |
| Substance Abuse/Drug & Mental/Physical Impairment | | 0 |
| Discipline by Another State Agency | | 0 |
| Total | | 36 |

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

INVESTIGATIONS*

| DCA Category | Initiated | Pending ** | Closed |
|---|-----------|------------|-----------|
| Unprofessional Conduct | 9 | 60 | 12 |
| Unlicensed/Unregistered | 9 | 36 | 3 |
| Criminal Charges/Convictions (includes pre-licensure) | 8 | 22 | 11 |
| Sexual Misconduct | 0 | 13 | 3 |
| Fraud | 1 | 45 | 2 |
| Non-jurisdictional | 9 | 3 | 9 |
| Incompetence/Negligence | 1 | 32 | 2 |
| Unsafe/Unsanitary Conditions | 2 | 8 | 0 |
| Other | 0 | 0 | 0 |
| Substance Abuse/Drug & Mental/Physical Impairment | 0 | 0 | 0 |
| Discipline by Another State Agency | 0 | 1 | 0 |
| Total | 39 | 220 | 42 |

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

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

Statistics Report

Performance Measures (PM) 1 Volume Convictions/Arrests received

| Complaint Intake | | | | | | |
|--|------------|---------------------|-----|-----|-----|-----|
| | FY 2019/20 | Fiscal Year 2020/21 | | | | |
| | YTD | Q1 | | Q2 | | YTD |
| | | Jul | Sep | Oct | Dec | |
| PM1: Total Complaints Received | 180 | 33 | | 28 | | 61 |
| PM1: Total Convictions/Arrest Received | 53 | 10 | | 8 | | 18 |
| PM1: Total Received | 233 | 43 | | 36 | | 79 |

*Of the Convictions/Arrests, 2 were received on Applicants and 8 were received on Licensees.

PM2 Cycle Time Intake - Average number of complaints intake during the specified time period.

| Intake | | | | | | |
|-----------------------|------------|---------------------|-----|-----|-----|-----|
| Target: 10 Days | FY 2019/20 | Fiscal Year 2020/21 | | | | |
| | YTD | Q1 | | Q2 | | YTD |
| | | Jul | Sep | Oct | Dec | |
| PM2: Intake/Avg. Days | 4.3 | 5 | | 5 | | 5.0 |

PM3 Cycle Time - Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline. (Includes intake, investigation, and case outcome or non-AG formal discipline.)

| Investigations | | | | | | |
|--|------------|---------------------|-----|-----|-----|-----|
| Target: 200 Days | FY 2019/20 | Fiscal Year 2020/21 | | | | |
| | YTD | Q1 | | Q2 | | YTD |
| | | Jul | Sep | Oct | Dec | |
| PM3: All Investigations Closed | 174 | 49 | | 38 | | 87 |
| PM3: Average Cycle Time Investigations | 189 | 233 | | 248 | | 241 |

The percent reflects how many investigation cases were closed in the respective time frames.

| | FY 2019/20 | Fiscal Year 2020/21 | | | | |
|--------------------------|------------|---------------------|-----|-----|-----|-----|
| | YTD | Q1 | | Q2 | | YTD |
| | | Jul | Sep | Oct | Dec | |
| Up to 90 Days | 45% | 23 | | 21 | | 47% |
| 91 - 180 Days | 16% | 8 | | 0 | | 9% |
| 181 Days - 1 Year (364) | 15% | 5 | | 6 | | 12% |
| 1 to 2 Years (365-730) | 18% | 9 | | 10 | | 20% |
| 2 to 3 Years (731- 1092) | 5% | 6 | | 4 | | 11% |
| Over 3 Years (1093 +) | 1% | 0 | | 1 | | 1% |

The average time frame reflects the length of time it took to process the citations that were closed within the respective quarter.

| Citations | | | | | | |
|-----------------------|------------|---------------------|-----|-----|-----|-------|
| | FY 2019/20 | Fiscal Year 2020/21 | | | | |
| | YTD | Q1 | | Q2 | | YTD |
| | | Jul | Sep | Oct | Dec | |
| Final Citations | 33 | 9 | | 6 | | 15 |
| Average Days to Close | 240.5 | 385 | | 532 | | 458.5 |

PM4 Cycle Time-Discipline Average number of days to close cases transmitted to the AG for formal disciplinary action. This includes formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

| Transmittals to Attorney General (AG) | | | | | | | | |
|---------------------------------------|------------|---------------------|-----|-----|-----|-----------|-----------|-----|
| Target: 540 Days | FY 2019/20 | Fiscal Year 2020/21 | | | | | | |
| | YTD | Q1 | | Q2 | | Q3 | Q4 | YTD |
| | | Jul | Sep | Oct | Dec | Jan - Mar | Apr - Jun | |
| PM4:Volume AG Cases | 8 | 6 | | 4 | | | | 10 |
| PM4: Total Cycle Time | 512 | 702 | | 920 | | | | 811 |

| | FY 2019/20 | Fiscal Year 2020/21 | | | | | | |
|----------------------------------|------------|---------------------|-----|-----|-----|-----------|-----------|-----|
| | YTD | Q1 | | Q2 | | Q3 | Q4 | YTD |
| | | Jul | Sep | Oct | Dec | Jan - Mar | Apr - Jun | |
| AG Cases Initiated | 16 | 4 | | 2 | | | | 6 |
| AG Cases Pending | 16 | 14 | | 14 | | | | 14 |
| SOIs Filed | 0 | 0 | | 0 | | | | 0 |
| Accusations Filed | 15 | 2 | | 3 | | | | 5 |
| Total Closed after Transmission | 8 | 6 | | 4 | | | | 10 |
| Revoked | 1 | 2 | | 1 | | | | 3 |
| Voluntary Surrender | 4 | 3 | | 1 | | | | 4 |
| Probation | 2 | 1 | | 2 | | | | 3 |
| License Denied | 0 | 0 | | 0 | | | | 0 |
| Public Reprimand | 1 | 0 | | 0 | | | | 0 |
| Closed w/out Disciplinary Action | 0 | 0 | | 0 | | | | 0 |

The percent represents how many cases already assigned for discipline were closed in the specified range.

| Total Orders Aging/Final Decision | | | | | | | | |
|-----------------------------------|------------|---------------------|-----|-----|-----|-----------|-----------|-----|
| | FY 2019/20 | Fiscal Year 2020/21 | | | | | | |
| | YTD | Q1 | | Q2 | | Q3 | Q4 | YTD |
| | | Jul | Sep | Oct | Dec | Jan - Mar | Apr - Jun | |
| Up to 90 Days | 0% | 0 | | 0 | | | | 0% |
| 91 - 180 Days | 13% | 1 | | 0 | | | | 10% |
| 181 Days - 1 Year (364) | 13% | 0 | | 0 | | | | 0% |
| 1 to 2 Years (365-730) | 38% | 3 | | 3 | | | | 60% |
| 2 to 3 Years (731- 1092) | 13% | 0 | | 0 | | | | 0% |
| Over 3 Years (1093 +) | 25% | 2 | | 1 | | | | 30% |

| Other Legal Actions | | | | | | | | |
|---------------------|------------|---------------------|-----|-----|-----|-----------|-----------|-----|
| | FY 2019/20 | Fiscal Year 2020/21 | | | | | | |
| | YTD | Q1 | | Q2 | | Q3 | Q4 | YTD |
| | | Jul | Sep | Oct | Dec | Jan - Mar | Apr - Jun | |
| PC 23 Ordered | 1 | 1 | | 0 | | | | 1 |
| Interim Suspension | 0 | 0 | | 0 | | | | 0 |



8 -Leg. Report

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2021 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 12-18-20

DEADLINES

| JANUARY | | | | | | | |
|---------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| | | | | | | 1 | 2 |
| Wk. 1 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Wk. 2 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| Wk. 3 | 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| Wk. 4 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| Wk. 1 | 31 | | | | | | |

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 11** Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 18** Martin Luther King, Jr. Day.
- Jan. 22** Last day to submit **bill requests** to the Office of Legislative Counsel.

| FEBRUARY | | | | | | | |
|----------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Wk. 1 | | 1 | 2 | 3 | 4 | 5 | 6 |
| Wk. 2 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| Wk. 3 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Wk. 4 | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| Wk. 1 | 28 | | | | | | |

- Feb. 15** Presidents' Day.
- Feb. 19** Last day for bills to be **introduced** (J.R. 61(a)(1), J.R. 54(a)).

| MARCH | | | | | | | |
|---------------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Wk. 1 | | 1 | 2 | 3 | 4 | 5 | 6 |
| Wk. 2 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| Wk. 3 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Wk. 4 | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| Spring Recess | 28 | 29 | 30 | 31 | | | |

- Mar. 25** **Spring Recess** begins upon adjournment (J.R. 51(a)(2)).
- Mar. 31** Cesar Chavez Day observed.

| APRIL | | | | | | | |
|---------------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Spring Recess | | | | | 1 | 2 | 3 |
| Wk. 1 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Wk. 2 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| Wk. 3 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| Wk. 4 | 25 | 26 | 27 | 28 | 29 | 30 | |

- Apr. 5** Legislature reconvenes from Spring Recess (J.R. 51(a)(2)).
- Apr. 30** Last day for **policy committees** to meet and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

| MAY | | | | | | | |
|----------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Wk. 4 | | | | | | | 1 |
| Wk. 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Wk. 2 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| Wk. 3 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| Wk. 4 | 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| No Hrgs. | 30 | 31 | | | | | |

- May 7** Last day for **policy committees** to meet and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 14** Last day for **policy committees** to meet prior to June 7 (J.R. 61(a)(4)).
- May 21** Last day for **fiscal committees** to meet and report to the floor bills introduced in their house (J.R. 61(a)(5)).
- Last day for **fiscal committees** to meet prior to June 7 (J.R. 61(a)(6)).
- May 31** Memorial Day.

*Holiday schedule subject to final approval by Rules Committee.

| JUNE | | | | | | | |
|----------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| No Hrgs. | | | 1 | 2 | 3 | 4 | 5 |
| Wk. 1 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Wk. 2 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| Wk. 3 | 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| Wk. 4 | 27 | 28 | 29 | 30 | | | |

June 1-4 Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(7)).

June 4 Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

June 7 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

| JULY | | | | | | | |
|---------------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Wk. 4 | | | | | 1 | 2 | 3 |
| Wk. 1 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Wk. 2 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| Summer Recess | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| Summer Recess | 25 | 26 | 27 | 28 | 29 | 30 | 31 |

July 2 Independence Day observed.

July 14 Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)).

July 16 Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

| AUGUST | | | | | | | |
|---------------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| Summer Recess | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Summer Recess | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| Wk. 3 | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| Wk. 4 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| No. Hrgs. | 29 | 30 | 31 | | | | |

Aug. 16 Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

Aug. 27 Last day for **fiscal committees** to meet and report bills (J.R. 61(a)(12)).

Aug. 30-Sept. 10 Floor session only. No committees may meet for any purpose, except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(13)).

| SEPTEMBER | | | | | | | |
|----------------|----|----|----|----|----|----|----|
| | S | M | T | W | TH | F | S |
| No Hrgs. | | | | 1 | 2 | 3 | 4 |
| No Hrgs. | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| Interim Recess | 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| Interim Recess | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| Interim Recess | 26 | 27 | 28 | 29 | 30 | | |

Sept. 3 Last day to **amend** bills on the floor (J.R. 61(a)(14)).

Sept. 6 Labor Day.

Sept. 10 Last day for any bill to be passed (J.R. 61(a)(15)). **Interim Recess** begins upon adjournment (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM RECESS

2021

Oct. 10 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 10 and in the Governor's possession after Sept. 10 (Art. IV, Sec. 10(b)(1)).

2022

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

*Holiday schedule subject to final approval by Rules Committee.



Legislative Report

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| | |
|----------------|---|
| DATE | March 25 - 26, 2021 |
| TO | Board Members, Acupuncture Board |
| FROM | Kristine Brothers, Policy Coordinator |
| SUBJECT | 2020 - 2021 Pending CA Legislation of Interest as of March 15, 2021 |

AB 2 (Fong) Regulations: legislative review: regulatory reform.

Status:

This bill is located in the Assembly Committee on Accountability and Administrative Review.

Summary:

This bill would require the Office of Administrative Law to submit a copy of each major regulation it submits to the Secretary of State to each house of the Legislature for review. Regulations become effective on a quarterly basis based upon a regulation filing date. This bill would add an additional exception to those currently provided which specifies a regulation does not become effective in accordance with the quarterly dates if the Legislature enacts a statute to override the regulation.

On or before January 1, 2023, this bill would require each state agency to review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise the identified regulations, and report to the Legislature and Governor. The bill would repeal these provisions on January 1, 2024.

Staff Recommendation: Watch

This bill is intended to ensure laws are more efficiently implemented and enforced and to reduce unnecessary and outdated rules and regulations during this time the state's economy is slowly recovering. Staff regularly reviews its regulations and has identified regulations that are in need of revisions and repeals. The bill would create efficiencies with implementing such regulatory clean-up given the deadline proposed by the Legislature.

It is unknown how Agency will facilitate its review of all regulations adopted by its departments and how its reporting requirements will involve each department. However, it is likely the review and reporting will be initiated by Department of Consumer Affairs' (DCA) programs and DCA will report to Agency for compliance with the reporting requirements and deadlines specified in the bill.

Recommended Motion Language:

I motion that the Acupuncture Board take a [watch] position on AB 2 (Fong), as introduced on December 7, 2020, for the reasons discussed by members and staff and as reflected in the staff memo.

~~~

**AB 29 (Cooper) State bodies: meetings.**

**Status:**

This bill is located in the Assembly Committee on Governmental Organization.

**Summary:**

There are three main provisions of this bill:

1. Require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.
2. Require those writings or materials pertaining to the meeting be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.
3. Prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

**Staff Recommendation: Watch**

This bill has the goal of timely transparency. Staff always complies with notice requirements and generally posts its meeting materials between 10 days and 72 hours prior to its public meetings. However, staff recognizes there are some exceptions concerning materials that are provided to the Board, most often public comment, too close to the date of the meeting that would push the Board out of compliance with the posting and dissemination requirements. In addition, since the Board relies on DCA's Internet Team for posting and they request documents be provided ten days in advance of posting, this puts staff in a bind with an burdensome production deadline resulting in documents posted the same day the materials are disseminated to the Board members.

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [watch] position on AB 29 (Cooper), as introduced on December 7, 2020, for the reasons discussed by members and staff and as reflected in the staff memo.

~~~

AB 54 (Kiley) COVID-19 emergency order violation: license revocation.

Status:

This bill is located in the Assembly Committee on Business and Professions and the Assembly Committee on Governmental Organization.

Summary:

This bill would prohibit DCA, a board within DCA, and the Department of Alcoholic Beverage Control (ABC) from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

This bill would declare that it is to take effect immediately as an urgency statute.

Staff Recommendation: Watch

This bill has been introduced in order to protect businesses, including small businesses, which continue to make significant contributions to economic security, which help ensure public safety during the COVID-19 pandemic. The bill's author proposes the statute take effect as soon as possible as it is deemed necessary given the state of the economy and the affected businesses. Staff does not estimate the provisions of this bill to be a significant impact given the small volume of complaints the Board has seen thus far related to compliance with COVID-19 emergency orders. In addition, staff has learned through similar legislation in SB 102, that healing arts boards have been excluded on that bill and so these kinds of bills may just be intended for the business boards and bureaus. There has not been recent movement on this particular bill which leads staff to believe SB 102, which does not apply to Acupuncture Board, may be the primary bill on this subject, and AB 54 may not proceed further.

Recommended Motion Language:

I motion that the Acupuncture Board take a [watch] position on AB 54 (Kiley), as introduced on December 7, 2020, for the reasons discussed by members and staff and as reflected in the staff memo.

~~~

**AB 107 (Salas) Licensure: veterans and military spouses.**

**Status:**

This bill was amended 2/25/21 and re-referred to the Assembly Committee on Business and Professions.

**Summary:**

One of the provisions of this bill would require specific licensing boards, not including Acupuncture, to issue temporary licenses to applicants who provide sufficient evidence that they are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California.

The portion of the bill that applies to the Acupuncture Board is establishing reciprocity with other states for licensure for those applicants who meet the specified criteria. The bill establishes a new requirement to issue licenses to applicants who provide sufficient evidence that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States. Applicants eligible for reciprocity shall also meeting the following criteria:

1. The applicant shall hold a current, active, and unrestricted license from another state, district, or territory of the United States that is in the same profession or vocation as the license they seek from the board.
2. The applicant shall submit an application to the board attesting that they meet the licensing requirements.
3. The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code.
4. The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

5. The applicant shall be fingerprinted upon request of the board to conduct a criminal background check.

The bill authorizes boards to adopt regulations to administer the section of law.

The rest of the provisions of the bill relate to web posting requirements for DCA to promote accessibility of military member resources. Additionally, the bill requires DCA to report military, veteran, and spouse licensure data as part of an annual report for the Legislature.

**Staff Recommendation: Watch**

This bill has been introduced to increase portability of licenses for veterans and partners of active duty military members brought on by frequent moves. During these transitions, the legislation would ensure they are able to help support their families while providing critical services to their communities. Through the bill, the Legislature declares prioritizing military spouses as part of state economic recovery efforts must be viewed proactively in a way that recognizes their preexisting challenge of substantially higher unemployment and underemployment than their civilian counterparts.

The impact of this bill is minor given the low volume of applications the Board receives from veterans and spouses of active duty members of the military. While this legislation could open the Board to receive more applicants' examination fees, as well as possible initial and ongoing licensing fees, there is concern these applicants will be granted a license without the requirement of the California Acupuncture Licensing Examination or state jurisprudence. Based on amendments to BPC 115.6 subsection (c) paragraph (3), requiring an applicant to attest to the fact that the applicant meets all of the requirements for the license, in the same area and scope of practice issued in the other state, district, or territory of the United States, the Board interprets this as reassurance that those who qualify for reciprocity under this bill will meet all of the licensing requirements for California, including the Board's curriculum requirements.

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [watch] position on AB 107 (Salas), as amended on February 25, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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AB 339 (Lee) State and local government: open meetings.

Status:

Not yet scheduled to be heard in Committee.

Summary:

This bill would require all meetings, including a virtual congregation using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option. Both of these options shall provide closed captioning services and requires both a call-in and an internet-based service option to be provided to the public.

This bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings.

This bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except when

simultaneous translation are available. Translation services shall be provided for all languages of which 5 percent of the population of the state body's jurisdiction speaks.

This bill would require legislative bodies of local agencies, and state bodies to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5 percent of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

Staff Recommendation: Oppose

While the intention of the bill is worthwhile in allowing for greater public access through requiring call-in, and internet-based service and instructions, and allowing for greater accommodations for non-English speakers, and those with disabilities, the logistics of meeting these legal mandates comes at a high price for these state agencies.

The areas of the bill that are of fiscal concern are providing translation for public comment at the meeting and the translation of the agenda and instructions in all languages for which 5 percent of the population speak. In the past when the Board has contracted for translation services as part of administrative hearings, a full day translation for just one language was around \$800. If the Board had to provide multiple translators for each Board meeting – four times a year, that would add up. Further, the cost of translating agendas and instructions four times a year requires additional expenditures of the Board's budget, and further affect the production timeline of agenda's to meet posting requirements.

Recommended Motion Language:

I motion that the Acupuncture Board take a [oppose] position on AB 339 (Lee), as introduced on January 28, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

~~~

**AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions.**

**Status:**

On 2/25/21, this bill was referred to Assembly Committee on Business and Professions.

**Summary:**

This bill is identical to AB 1616 from the 2019/2020 Legislative session which the Board reviewed last year and took a watch position at that time.

AB 646 would require programs under the Department of Consumer Affairs that post information on its website about a revoked license due to a criminal conviction to post notification of an expungement within 90 days of the board receiving an expungement order related to the conviction for those who reapply for licensure or are relicensed. Additionally, the bill would require boards, on receiving an expungement order, to remove the initial posting on its website that the person's license was revoked and information regarding arrests, charges, and convictions if the person is not currently licensed and does not reapply for licensure. The person seeking the change in either case must pay to the board a \$50 fee unless a different amount is determined by the board to cover the administrative costs of these requirements.

**Staff Recommendation: Watch**

This bill is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process.

There is already a process in place for licensees to establish they are rehabilitated through a petition for reinstatement of a revoked license with the Board. It is through this process the Board can separately make a determination if a licensee is rehabilitated since the court system may have different criteria than the Board. The licensee's expungement is taken into consideration at this time and the Board's disciplinary action, which is separate from the court's action, can be reconsidered. However, there is no process in place where the licensee's disciplinary documents are removed. Although the revocation imposed by the Board resulted from a conviction, it is a distinct action on the license unrelated to the licensee's criminal record. The purpose of having a licensee's disciplinary actions on the Board's website is to allow the consumer to see the nature of the violation so they can make an informed decision when choosing their provider.

The Board may see some minor increases in revenue if this bill passes as individuals seek expungement and apply for the removal of disciplinary documents or posting of the expungement.

The web posting and removal of documents would fall under the Board's regular pro rata towards DCA - Office of Information Services - services and would be minor and absorbable. Staff recommends the Board develop a form within regulation for purposes of the applicant submitting the expungement record and \$50 to the Board in a standardized manner.

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [watch] position on AB 646 (Low), as introduced on February 12, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

~~~

AB 885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing.

Status:

On 2/25/21, this bill was referred to Assembly Committee on Governmental Operations.

Summary:

This bill would require a state body that conducts a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. This bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies.

The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

Staff Recommendation: Watch

The intention of the bill is to provide additional means other than just audio when meetings are conducted remotely. Given the wide use of platforms like WebEx, Zoom, and Microsoft Teams that have cameras and other visual aids via screen sharing, holding open meetings where the public can observe audibly and visually should not be a problem. Providing more access to the public for participation and observation of the Board conducting business is the goal of expanding the platform of the meetings. The only constraint could be the bandwidth supported by the Department's Office of Information Services if too many videos are connected at once. However, if only Board members and staff utilize cameras, compliance with this bill could be manageable.

Recommended Motion Language:

I motion that the Acupuncture Board take a [watch] position on AB 885 (Quirk), as introduced on February 17, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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### **AB 918 (Quirk-Silva) Acupuncture: licensure: examination.**

#### **Status:**

On 2/25/21, this bill was referred to Assembly Committee on Business and Professions.

#### **Summary:**

Existing law requires the examination for acupuncture licensure to be administered by the Board and developed by the Office of Professional Examination Services of DCA.

This bill would instead require applicants to obtain a passing score on one or more examinations administered by the National Certification Commission for Acupuncture and Oriental Medicine, as determined by the board based on the skills, standards, and knowledge required for licensure pursuant to the act.

#### **Staff Recommendation: Oppose**

The Board's mandate is to protect the public. The California Acupuncture Licensing Exam (CALE) is one of the final safeguards before licensure that the Board has in place to protect the public by ensuring applicants meet entry level competencies to be licensed as an acupuncturist. The Board ensures that the examination addresses this charge by conducting an Occupational Analysis (OA) of the California acupuncture profession every five years. To change the licensing examination used by the Board will require that this safeguard is in place by reviewing the content of any examination it is seeking to use and comparing it to the CALE.

This process requires the Board to conduct third-party audits of the examination that is being considered. For an informed and accountable decision to be made, an accurate comparison requires that the most recent OA be used for comparison. The Board has started its 2020 OA and anticipates its completion by the summer of 2021. The NCCAOM also conducts its own occupational analysis known as the Job Analysis Survey (JAS). Historically, the JAS was conducted every seven to ten (7 – 10) years. More recently, the NCCAOM has moved to conduct its JAS every five to seven (5 – 7) years with the next JAS set to begin in 2022 and expected to be completed by 2023. Once NCCAOM's JAS is completed, the Board will be able to have a third-party audit of the most current information. It is critical that the Board conduct its audit on the most recent OAs/JSAs to ensure an informed decision is made. The Board's last third-party audit was conducted in 2016.

The 2016 audit, identified the following findings:

1. The NCCAOM examinations are congruent with assessing many of the general areas of entry-level California acupuncture practice, e.g., acupuncture treatment, herbal therapy, diagnostic impressions, etc.
2. The NCCAOM examinations do not assess 100% of the general areas of entry-level California acupuncture practice identified in the 2015 Acupuncture OA, which are part of the CA Acupuncture test plan.
3. The NCCAOM examinations do not assess California-specific areas of entry-level acupuncture practice, including content related to the laws, regulations, and practice requirements specific to California.

Additionally, the audit raised concern that only a small sample of the NCCAOM test questions were provided to the auditing team and thus was not an accurate representation of the complete exam. This affirms the Board's need to conduct a new third-party audit of the most recent OA/JAS's. This audit will need to await the completion of the 2022/23 JAS.

The Board's licensed stakeholders are divided on the issue, receiving strong positions on both sides at both the 2016 and 2018 Sunset Hearings, as well as the 2016 Board meetings where the audit findings were discussed.

AB 918, as introduced, does not have an implementation date identified in the bill, as such, this requirement would go into effect on January 1, 2022. This language also does not account for a requirement to develop a California supplemental examination to address the areas identified in the 2016 audit findings that do not cover the content that the CALE does, including CA laws and regulations, and California specific scope and practices.

As discussed above, a third-party audit of the most current OA and the JAS, will be required for the Board to make an informed decision, which will not be possible until 2024. If a decision is made at that time, an implementation timeline would also need to be accounted for. In consideration of this, as well as the wide disagreement within the profession, staff recommends that the Board oppose this legislation to ensure that public protection is paramount throughout this possible transition.

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [oppose] position on AB 918 (Quirk-Silva), as introduced on February 17, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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AB 1236 (Ting) Healing arts: licensees: data collection.

Status:

On 3/4/21, this bill was referred to Assembly Committee on Business and Professions.

Summary:

Existing law requires specific boards under DCA to collect and report certain demographic information of their licensees.

This bill would repeal those provisions and would, instead, require all boards that oversee healing arts licensees to collect at the time of electronic application for a license and license renewal, or at least biennially, specified demographic information and to post the information on the websites that they each maintain.

Effective July 1, 2022, this bill would require each board, or the DCA on its behalf, to provide the information annually in aggregate form to the Office of Statewide Health Planning and Development.

Staff Recommendation: Watch

The demographic information to be collected include workforce data, gender or gender identity, race or ethnicity, educational background, and job satisfaction. Being that this bill affects all healing arts boards, DCA would likely get involved with the implementation. With the Board's online system, Connect, up and running since September 2020, the inclusion of demographic questions would require minor programming to add to the online applications for license and renewal.

The annual reporting may be facilitated by DCA as well. This is expected to be minor and absorbable and not substantially increase staff work. Having this kind of demographic information for each profession may, overtime, highlight trends and provide more of an understanding of each unique licensee population.

Recommended Motion Language:

I motion that the Acupuncture Board take a [watch] position on AB 1236 (Ting), as introduced on February 19, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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**AB 1386 (Cunningham) License fees: military partners and spouses.**

**Status:**

On 3/11/21, this bill was referred to the Assembly Committee on Business and Professions.

**Summary:**

Existing law requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

**Staff Recommendation: Oppose**

This bill is similar to AB 107 in its approach to providing more ease and convenience for military families when relocations occur for the retainment of one's career. At this time, the Board has a very low volume of applicants who qualify for expedited licensure under Business and Professions Code section 115.5. Therefore, the loss in revenue related to this legislation is expected to be minor and absorbable. However, this kind of legislation may set a precedence for other communities to seek being pardoned from licensing fees.

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [oppose] position on AB 1386 (Cunningham), as introduced on February 19, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations.

Status:

First hearing scheduled for 3/22/21 was cancelled at the request of the author.

Summary:

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

Staff Recommendation: Oppose

The Board has citation and fine authority that is already used to address more minor violations as a means of education to the licensee and bring them into compliance with the law. The majority of the causes for citations and fines meet the proposed criteria for a minor violation set by the bill. The purpose of a fine is to make the licensee more accountable in complying with any possible orders of abatement through the citation. Without the authority to fine for minor violations, there won't be as much incentive for the licensee to comply. Removing the Board's fine authority for minor violations of its laws and regulations would see a loss in revenue brought in by these fines at approximately \$23,000 annually.

Recommended Motion Language:

I motion that the Acupuncture Board take an [oppose] position on SB 772 (Ochoa Bogh), as introduced on February 12, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.



9 -Reg. Report

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Acupuncture Board Regulatory Update

Updated: March 25, 2021

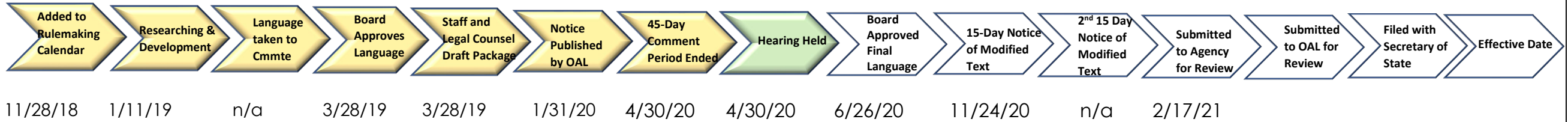
In the table below is a list of the Board's regulations proposed for rulemaking packages in the 2021 calendar year.

| Pending Regulations | | | | | |
|---------------------|---|--|---|--|---|
| | Subject | Title 16, California Code of Regulations (CCR) Section referred | Original authorizing vote date/ subsequent vote | Current Status | Filing Dates / Anticipated Filing Date |
| 1 | AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction | Adopt Sections: 1399.469.4, 1399.469.5, 1399.469.6 | 3/28/19 / 6/26/20 | Modified language approved by Board 6/26/20. Final rulemaking package was completed since 12/20 Board meeting and is currently with Agency for review. | <u>Jan 31, 2020</u> |
| 2 | SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines | Create newly titled Article 6.1 and 6.2 of Division 13.7 of Title 16 Amend Section: 1399.469 | 3/28/19 | Rulemaking package under staff development. Board approved modified text and updates to Guidelines to align with AB 2138 at the 12/20 Board meeting. | May 2021 |
| 3 | SB 1448: Disclosure of Probation Status to Patients | (Implementation through Disciplinary Guidelines) | 3/28/19 | Rulemaking package under staff development. | May 2021 |
| 4 | SB 1246: Align Curriculum Standards and Approval Related Regulations with Statutes | Amend Sections: 1399.415, 1399.416, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439 Retitle Article 3.5 | 8/15/19 | Rulemaking package under staff development. | June 2021 |

| | | | | | |
|---|--|--|---------|---|--------------------|
| 5 | AB 2190: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service | Amend Sections: 1399.411, 1399.413, 1399.414, 1399.415, 1399.416 Adopt Sections: 1399.416.1 & 1399.416.2 | TBD | Proposed regulatory language being brought to the March 2021 Lic/Exam Committee meeting for discussion. | TBD |
| 6 | Increase Board Fees | Amend Sections: 1399.460 & 1399.462 | 8/15/19 | Section 100 rulemaking package submitted under OAL review. | <u>Dec 9, 2020</u> |
| 7 | Application for Retired Status; Retired Status; Restoration | Adopt Section 1399.419.3 | 8/16/19 | Rulemaking package under staff development. Amendments to proposed language to align with AB 2138 is being brought to the March 2021 Board meeting. | May 2021 |
| 8 | Continuing Education Requirements | Amend Sections: 1399.483 & 1399.489 | TBD | Proposed language and research brought to Edu/Research Committee mtg last on 3/28/19. Additional research requested by Committee is being brought to the March 2021 Board meeting for discussion/action. | TBD |
| 9 | Standards of Practice for Telehealth Services | Adopt Section 1399.452.1 | TBD | A vote was made at the 12/20 Board meeting for staff to bring the proposed language with additional amendments to the next Board meeting. Amended proposed language is being brought to the March 2021 Board meeting for discussion/action. | TBD |

2021 Rulemaking Tracking Form

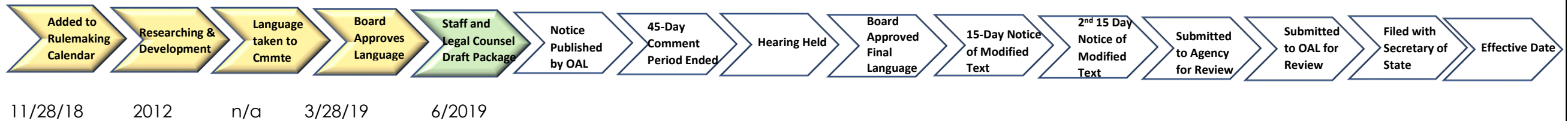
AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction



OAL No.: Z2020-0116-01

Notes: The Board's proposed rulemaking for implementation of AB 2138 has been approved by DCA Legal and the Director and is now with Agency for review.

SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines

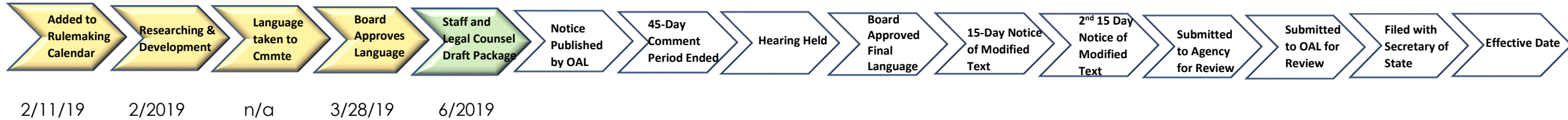


OAL No.:

Notes: Further amendments to the proposed regulatory language was presented at the December 2020 Board meeting. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff and DCA Legal Counsel are working on preparing the initial rulemaking package.

2021 Rulemaking Tracking Form

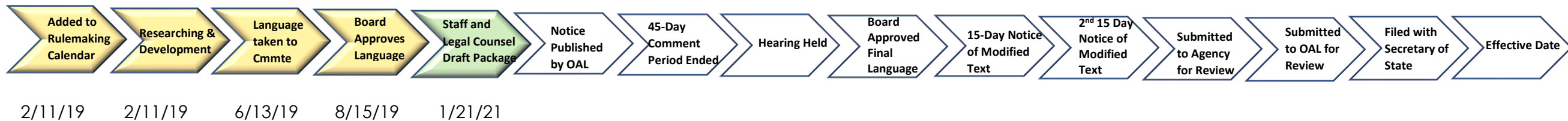
SB 1448: Disclosure of Probation Status to Patients



OAL No.:

Notes: Proposed probationary language within the Disciplinary Guidelines incorporated by reference in the proposed regulatory language was presented at the March 2019 Board meeting. Amendments were brought to the Board at the December 2020 Board meeting. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff and DCA Legal Counsel are working on preparing the initial rulemaking package.

SB 1246: Align Curriculum Standards and Approval Related Regulations with the Statutes



OAL No.:

Notes: Proposed regulatory language and amendments previously recommended by the Education and Research Committee were brought to the August 2019 Board meeting for discussion. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff and DCA Legal Counsel are working on preparing the initial rulemaking package.

2021 Rulemaking Tracking Form

AB 2190: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service

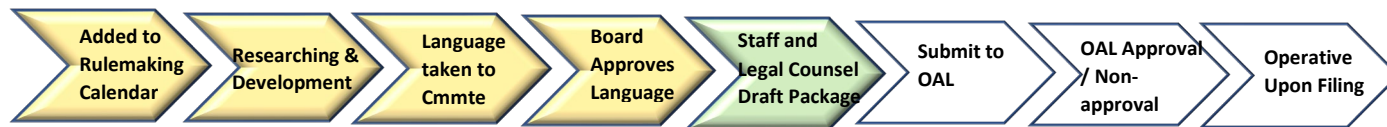


11/28/18 2018/2019 3/25/21

OAL No.:

Notes: Staff has developed proposed regulatory language and drafted applications for the process. Staff has met with several NACES members and discussed operations of the evaluation of foreign applicants for the California Acupuncture Licensing Exam. Staff is bringing proposed regulatory language to the Licensing and Examination Committee for discussion at the March 2021 Board meeting.

Increase Board Fees (Section 100 - Changes without Regulatory Effect)



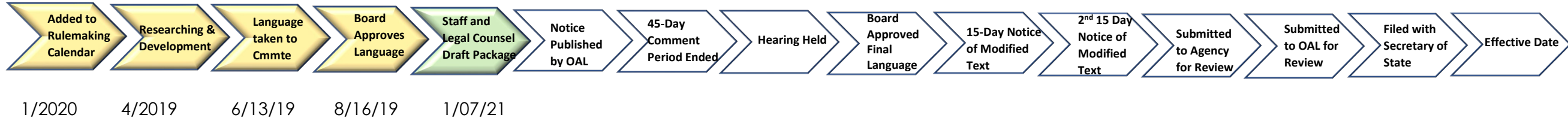
1/2020 7/2019 n/a 8/15/19 11/2020 12/9/20

OAL No.:

Notes: Section 100, Changes without Regulatory effect, rulemaking package was submitted to the Office of Administrative Law on December 9, 2020 to align with the authorizing statutory changes imposed by AB 3330 (Calderon, Chapter 359, Statutes of 2020). The assigned OAL reviewing attorney requested some clarification on the submission. Amendments to the explanatory statement and regulatory text are under review with DCA Legal Affairs.

2021 Rulemaking Tracking Form

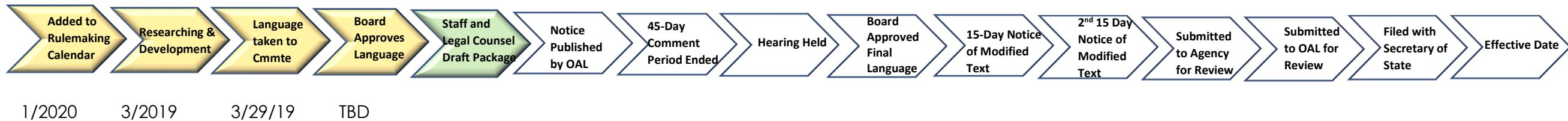
Application for Retired Status; Retired Status; Restoration



OAL No.:

Notes: Staff and DCA Legal Counsel have drafted the rulemaking package. A need to align the regulatory language and requirements with the AB 2138 provisions was identified for when a license is restored from retired status to valid. Amendments to the proposed regulatory language are being brought to the March 2021 Board meeting for discussion and possible action.

Continuing Education Requirements



OAL No.:

Notes: Proposed language and research was brought to the Education and Research Committee meeting last on March 28, 2019. Additional research requested by Committee is being brought to the Board for discussion and possible action at the March 2021 Board meeting.

2021 Rulemaking Tracking Form

| Standards of Practice for Telehealth Services | | | | | | | | | | | | | | |
|---|---------------------------|--------------------------|-------------------------|---------------------------------------|-------------------------|-----------------------------|--------------|-------------------------------|--------------------------------|--|--------------------------------|-----------------------------|-------------------------------|----------------|
| Added to Rulemaking Calendar | Researching & Development | Language taken to Cmmtte | Board Approves Language | Staff and Legal Counsel Draft Package | Notice Published by OAL | 45-Day Comment Period Ended | Hearing Held | Board Approved Final Language | 15-Day Notice of Modified Text | 2 nd 15 Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review | Filed with Secretary of State | Effective Date |
| 1/1/21 | 12/20 | 12/17/20 | TBD | | | | | | | | | | | |
| OAL No.: | | | | | | | | | | | | | | |
| Notes: Proposed Telehealth regulatory language was brought to the December 17, 2020 Licensing and Examination Committee and was taken to the Board meeting for discussion that same day. The Board voted to bring back amendments to the proposed regulatory language at the next Board meeting. Proposed regulation language to implement Telehealth standards is being brought to the Board for discussion and possible action on March 26, 2021. | | | | | | | | | | | | | | |

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11 -Occupational Analysis

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1747 North Market Blvd., Suite 180
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



March 1, 2021

Dear Licensed Acupuncturist,

The Acupuncture Board (Board), is conducting an occupational analysis (OA) of the acupuncture profession in California. This survey was developed by several groups of licensed acupuncturists. We invite licensees to complete the OA survey to identify the knowledge, skills, and abilities required to perform the current practice of California licensed acupuncturists. Results of the occupational analysis will be used to update and improve the California Acupuncture Licensing Examination. Participation by the licensed community will help define what is required to practice acupuncture safely and effectively at the time of licensure.

The Board encourages the participation of California Acupuncturists to ensure all aspects of the profession's practices are recorded in this survey so that the results accurately reflect the practice of acupuncture in California.

The Board understands that our licensees' professional time is valuable, and in acknowledgement of that effort, is offering continuing education units in recognition of this important feedback. Participation in the occupational analysis is essential to this process. The Board requires responses from many licensees to achieve a more accurate representation of the different acupuncture practice areas and geographic locations. Individual responses to the survey questions will be kept confidential and will not be tied to your license or personal information.

Upon completion of the entire survey, participating acupuncturists will receive four (4) Category 1 Distance Continuing Education (CE) hours. The Board will issue CE Certificates of Completion four to six weeks after the survey closes.

To access the survey use this link: <https://www.surveymonkey.com/r/AcupuncturistOA2021>. Licensees can also go to the Board's website at <https://www.acupuncture.ca.gov>. On the main page, under the "What's New" section, click on "Acupuncturist Occupational Analysis Survey."

Please complete the OA survey and submit your responses by May 5, 2021.

The survey is available 24 hours a day/seven days a week and does not need to be completed in a single session. Participants will be able to return to the survey without losing responses if the survey is reopened from the same computer with the same web browser.

We value your contribution to this project and your dedication to the exemplary practice of Acupuncture in California.

Sincerely,

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

Acupuncture Board President

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**18 -Therapeutic
Blood
Withdrawal**

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CalAATMA

California Acupuncture and Traditional Medicine Association

presents

THERAPEUTIC BLOOD WITHDRAWAL

to California Acupuncture Board on March 26, 2021

By Neal S Miller, LAc, DNBAO

Title 16 Article 3.5 Acupuncture Training Programs

- 1399.434 Criteria for Approval of Acupuncture and Oriental Medicine Curriculum (5/24/2017)
- (2) Acupuncture and Oriental Medicine Treatment
 - (I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;
 - (K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use “Clean Needle Technique Manual 7th Edition” (rev. January 2016) [...]

§ 4926

- ... the Legislature intends to establish in this article, a framework for the practice of the art and science of Asian medicine through acupuncture.
- The purpose of this article is to encourage the more effective utilization of the skills of acupuncturists by California citizens desiring a holistic approach to health and to remove the existing legal constraints which are an unnecessary hindrance to the more effective provision of health care services. Also, as it effects the public health, safety, and welfare, there is a necessity that individuals practicing acupuncture be subject to regulation and control as a primary health care profession.

§ 4927 Definitions

- (d) “Acupuncture” means the stimulation of a certain point or 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 electroacupuncture, cupping, and moxibustion.

§ 4937 Use of techniques...Definitions

- An acupuncturist's license authorizes the holder thereof:
 - (a) to engage in the practice of acupuncture.
 - (b) 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. Nothing in this section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing or prescribing the use of any modality listed in this subdivision.

ACAOM COMPREHENSIVE STANDARDS (Jan 2019)

- AOM treatment may include, but is not limited to: the use of AOM clinical procedures to stimulate specific locations via mechanical, electrical, magnet, thermal, laser, photon, or wave-generating means; needle insertion (e.g. acupuncture, dry-needling); moxibustion and localized heat therapy; therapeutic blood withdrawal; cupping; scraping/gua sha; manual therapy (e.g. bodywork, tuina, shiatsu); therapeutic exercise (e.g. taiji, qigong); nutritional counseling; lifestyle recommendations; and internal and/or external herbal therapy.
- Emergency Management is employing inpatient and outpatient services to prevent the death or serious health impairment of the recipient.

LITTLE HOOVER COMMISSION

- Options and alternative to consider regarding the legal scope of practice for Licensed acupuncturists in California
- Clarify and define the questionable areas outlined.

LITTLE HOOVER COMMISSION

- Proper education, training, and competency in the expanded area of scope.
- The requirements are not associated with a corresponding expansion in legal scope of practice.
- However, the requirements do include some increased focus on areas whose inclusion in the legal scope of practice for acupuncturists is currently being debated.
- In addition, some items, such as “bleeding”, are included in the list of curricular requirements in regulation although they are not in the legal scope of practice, in statute.

Q&A



Neal S Miller, LAc, DNBAO

President of the Board of Trustees, CalATMA

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19 -New Fees

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**BPC Sections 4970
and 4971**

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Business and Professions Code § 4970

The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The application fee shall be two hundred fifty dollars (\$250) and may be increased to not more than three hundred fifty dollars (\$350).

(b) The application fee for foreign applicants shall be three hundred fifty dollars (\$350) and may be increased to not more than five hundred dollars (\$500).

(c) The examination and reexamination fees shall be eight hundred dollars (\$800).

(d) The initial license fee shall be five hundred dollars (\$500), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee. The initial license fee shall include one wall license registration if a place of practice is specified in the application.

(e) The renewal fee shall be five hundred dollars (\$500) and may be increased to not more than seven hundred seventy-five dollars (\$775) and, if a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The board shall assess the renewal fee biennially.

(f) The delinquency fee shall be set in accordance with Section 163.5.

(g) The wall license fee shall be fifty dollars (\$50).

(h) The wall license renewal fee shall be fifty dollars (\$50).

(i) If a pocket license is lost or destroyed, the pocket license replacement fee is fifty dollars (\$50).

(j) The endorsement fee is one hundred dollars (\$100).

(k) If a wall license is lost or destroyed, the wall license replacement fee is fifty dollars (\$50).

(l) The approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(m) The biennial renewal approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(n) (1) Fees for continuing education course applications shall be assessed to the continuing education provider at a floor of ten dollars (\$10) per hour of continuing education requested to offer, and a cap of twenty dollars (\$20) per hour of continuing education requested to offer, allowing up to a maximum of 50 hours to be approved per course application.

(2) Fees for course hours shall be prorated in one-half hour increments.

(3) An approved course may be offered for a period of one year from the date of board course approval.

(o) This section shall become operative on January 1, 2021.

(Amended (as added by Stats. 2019, Ch. 308, Sec. 4) by Stats. 2020, Ch. 359, Sec. 5. (AB 3330) Effective January 1, 2021.)

Business and Professions Code § 4971

(a) The amount of fees prescribed for acupuncture tutorial programs shall be as follows:

(1) The application and registration fee to supervise an acupuncture trainee shall be one hundred dollars (\$100) and may be increased to not more than two hundred dollars (\$200).

(2) The annual renewal fee for approval to supervise an acupuncture trainee shall be two hundred (\$200) and may be increased to not more than five hundred dollars (\$500).

(3) The application fee for an acupuncture trainee shall be one thousand dollars (\$1,000) and may be increased to not more than two thousand five hundred dollars (\$2,500).

(4) The annual renewal fee for an acupuncture trainee shall be five hundred dollars (\$500) and may be increased to not more than six hundred dollars (\$600).

(5) The delinquency fee for a supervisor shall be set in accordance with Section 163.5.

(6) The delinquency fee for an acupuncture trainee shall be one hundred dollars (\$100) and may be increased to not more than two hundred dollars (\$200).

(b) This section shall become operative on January 1, 2021.

(Repealed (in Sec. 6) and added by Stats. 2020, Ch. 359, Sec. 7. (AB 3330) Effective January 1, 2021. Section operative January 1, 2021, by it s own provisions.)



**CEP Letter on
New Fees**

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1747 N. Market Blvd., Suite 180
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



March 17, 2021

Re: New Fees effective 1/1/21

Dear Continuing Education Provider:

Assembly Bill 3330 (Calderon, Statutes of 2020) becomes effective January 1, 2021 and amends Business and Professions Code sections 4970 to change the Acupuncture Board's Continuing Education (CE) fees and processes. This language is attached on page three.

The Board has never raised CE provider fees since the CE program's inception, nor charged any fees for processing continuing education course applications. In the 2019 third party fee study of the Board's operations, these items were identified as a major expenditure and a financial loss for the Board. Charging CE course application and CEP fees will decrease the dependence on the use of license renewal fees used to support this program. This will also allow the Board to align its revenues with its expenditures and in part address the current structural imbalance, and allow the Board to continue to provide the CE program for licensees to fulfill the 50 hours of Board approved CE required as a condition of license renewal.

These changes consist of:

- CE Provider Initial Application Fee Increase
- CE Provider Renewal Fee Increase
- New Fee for CE Course Applications
- New Changes to CE Course Application Approvals

CE Provider Fee Increase (Initial and Renewal) and new CE Course Application Fee

| <u>Item</u> | <u>Previous Fee</u> | <u>Fee as of January 1, 2021</u> |
|---------------------------------|---------------------|----------------------------------|
| CE Provider Initial Application | \$150 | \$500 |
| CE Provider Biennial Renewal | \$150 | \$500 |
| CE Course Application | - | \$10 per CE Hour (CEU) |

The CE Provider Initial Application and Renewal fees will increase from \$150 to \$500. A CE Course Application fee will be assessed at \$10 per hour of CE being offered in the course. The fee will be assessed in half hour increments. For example, if a provider is applying for 7.5 CE Units for a course, the fee will be \$75 for that course.

Changes to CE Course Application Process

Starting January 1, 2021:

- All approved CE courses may be taught as frequently as the CEP chooses for a period of one year.
- Courses will be limited to a maximum of 50 CE hours per application.
- Any live in-person or live webinar courses that were approved by the Board prior to January 1, 2021 may be offered for the dates that were approved and will not require payment.
- CE Providers will be required to have all currently approved Home Study/Distance Education (DE) courses submitted for re-approval either at the time of their next CEP renewal or before December 31, 2021, whichever occurs first.

Providers are required to maintain attendance records for all California licensees who have completed a Board approved course and maintain those records for a period of four years.

The CE course application submission requirement of 45 days for approval of new courses and 30 days for previously approved courses remains in effect. Please submit a separate check for each application. At this time the Board can only accept payment via check or money order, mailed to:

California Acupuncture Board
1747 North Market Blvd., Suite 180
Sacramento, CA 95834

Please direct questions to AcuContinuingEd@dca.ca.gov or (916) 515-5200 and choose option 4.

ACUPUNCTURE BOARD

California Business and Professions Code 4970. Fees

The amount of fees prescribed for Continuing Education Providers shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(b) The biennial renewal approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(c) (1) Fees for continuing education course applications shall be assessed to the continuing education provider at a floor of ten dollars (\$10) per hour of continuing education requested to offer, and a cap of twenty dollars (\$20) per hour of continuing education requested to offer, allowing up to a maximum of 50 hours to be approved per course application.

(d) Fees for course hours shall be prorated in one-half hour increments.

(e) An approved course may be offered for a period of one year from the date of board course approval.

(f) This section shall become operative on January 1, 2021.

Please note, for the sections above that indicate a fee range, the lowest fee is the fee floor, and the highest fee is the fee cap. The fee floor will be the active fee on January 1, 2021. Raising the fees above the fee floor would require regulatory action on the part of the Board, and would only be allowed to be raised as high as the fee cap.

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Public Comment

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From: [REDACTED]
To: AcuPolicy@DCA; Acupuncture@DCA
Subject: Feedback
Date: Monday, January 4, 2021 2:06:53 PM

[EXTERNAL]: [REDACTED]

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

DO NOT: click links or open attachments unless you know the content is safe.

NEVER: provide credentials on websites via a clicked link in an Email.

Please provide this as public comment to the board's policy:

Dear CA Acupuncture Board,

I am an out of state licensed acupuncturist practicing in Colorado.

I am very disappointed that the out of state license fee is increasing to \$500.

I do not live in California, and do not visit nor practice there.

I would like to maintain my license since the test fee and study were a large investment that I do not care to repeat.

Due to COVID-19, my budget is very tight.

The inactive license renewal fee at \$500 is completely preposterous. The previous fee of \$325 was also outrageous. \$100 is a reasonable amount given that out of state inactive licensees consume no resources from the state board.

I am not happy to be paying into a system that does absolutely nothing for me.

The state government of California is out of control, wasting more money than any other state, constantly raising taxes and budgeting poorly. The state of California is a disgrace.

Good day,
Alex Grover, L.Ac

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From: [REDACTED]
To: [REDACTED]
Cc: AcuPolicy@DCA
Subject: RE: HealthCMi CEP 329 Continuing Education
Date: Tuesday, January 5, 2021 5:23:45 PM

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 5, 2021 5:07 PM
To: [REDACTED]
Subject: Re: HealthCMi CEP 329 Continuing Education

[EXTERNAL]: [REDACTED]

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!
DO NOT: click links or open attachments unless you know the content is safe.
NEVER: provide credentials on websites via a clicked link in an Email.

.....

Thank you for the honest feedback.

As the law stands, it discourages carrying educational materials beyond a shortlist of profitable topics. Educational companies dedicated to Chinese medicine are hurt by this. Our offerings are important, made by licensed acupuncturist professors (often publishing long held family secrets of Chinese medicine and cutting edge acupuncture modern research), and most are not profitable. We may be forced to discontinue educational materials in California.

This leaves for profit entities representing large interests to continue while squelching professors of acupuncture, thereby lowering the standard of education. The loss of our safety and ethics courses also increases the danger to the general public. Our feedback from licensed acupuncturists shows that they were completely unaware of many pneumothorax and heat lamp dangers issues covered in our publications.

I believe it is the responsibility of the CA Acupuncture Board to correct this issue because:

1. Charging an annual fee per CEU with no limitation discourages access to educational materials. It is similar to charging a library per chapter, per year.
2. The fees for providers with many courses per year is not sustainable unless they are larger for profit entities.
3. Larger providers will seek to replace the California CEP system with the national system, if they are to move toward legislation. We have already seen this with the board exams.

4. Fees without usual and customary limitations will prevent access to public safety educational materials to licensed acupuncturists by creating economic and access barriers to safety and ethics training. This is against the goals of the CA Acupuncture Board to provide public safety.

Please let me know if the CA Acupuncture Board is seeking to work toward fixing this issue that has been created. We are a small educational consortium of acupuncture professors and legislative efforts (such as those proposed to me by large CEU providers) are beyond our capabilities,

Adam White, L.Ac.
HealthCMi CEP320

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PACIFIC COLLEGE
of HEALTH AND SCIENCE

December 16th, 2020

California Acupuncture Board
1747 N. Market Blvd.,
Suite 180 Sacramento,
CA 95834

Dear California Acupuncture Board,

We have received news of Assembly Bill 3330 and the changes that the California Acupuncture Board has implemented as a result of it.

As longstanding Acupuncture Continuing Education providers, we have a shared interest with the Board to support and grow the profession. We welcome the CE Provider Fees increase in 2021, and understand that it is a needed change. For years, we ourselves have questioned the sustainability of a CE program without application fees.

One set of changes, however, was a surprise for us to learn about and not only stands out as being unreasonable, but will likely have damaging effects on the industry:

- The expiration of Distance Education (DE) courses and the requirement for a full new application fee for each course, every year, at \$10 per CE hour.

As you know, we have grown our libraries over the years and our own DE course hours now range from between 900 to 3000. Yearly renewal fees of \$9,000 to \$30,000 for DE courses alone will certainly not be feasible for us. We and many other providers will be forced to immediately retire hundreds of valuable courses as a result of this.

This will have a number of negative impacts on the Acupuncture industry in general, as providers like us will have no option but to fund only the most popular courses—not necessarily the most important ones—moving forward:

1. It will mean real financial consequences to the livelihood of many teachers and practitioners who depend on selling DE courses to earn supplementary income—especially during this pandemic time, when many clinics are either closed or at reduced capacity.

2. It will result in a narrowing of the Acupuncture/TCM field of education. Not only will practitioners have fewer choices in the long run, but the wealth of knowledge that is the lifeblood of this industry will be stifled.
3. We also feel that smaller providers will not be able to afford the fees and, as a result, will not have the opportunity to establish themselves.

We believe there is an easy remedy to this, which is to implement a Bulk Discount system for course renewals, as a number of other accreditation bodies already do.

Proposed Solution

We propose that the Board adopts a Bulk Discount system for *course renewals* (separate from *new course applications*), following a structure similar to the NCCAOM. As you may know, the NCCAOM charges for renewals by course, not by hour, and offers the following:

- The first 50 courses for \$750
- 100 courses for \$1000
- 200 courses for \$1500
- 500 courses and above capped at \$2000

Given the increased \$500 CE Provider Renewal Fee and the \$10 per hour fee for new course applications, we would recommend course renewal pricing tiers lower than the above.

A system like this would allow CE Providers like ourselves to continue to offer DE courses in an affordable way that also brings in long-term revenue for the Board.

Alignment with the Current Legislation

We understand that the decisions of the Board are restricted by the legislature. We see our proposed solution as being fully compatible with the current legislation.

We have reviewed the California Business and Professions Code, Section 4970 and believe that the Acupuncture Board has full jurisdiction to implement a separate fee structure for the renewal of previously-approved DE courses, without the need for any changes to the existing legislation.

1. Paragraph (1) of subsection (n) reads:

“Fees for continuing education course applications shall be assessed to the continuing education provider at a floor of ten dollars (\$10) per hour of continuing education requested to offer, and a cap of twenty dollars (\$20) per hour of continuing education requested to offer, allowing up to a maximum of 50 hours to be approved per course application.”

This paragraph refers to “course applications” and does not mention renewal fees. We believe this is an opportunity of flexibility for the Board to be able to decide, on its own, a separate fee structure for renewals.

2. Paragraph (3) of subsection (n) reads:

“An approved course may be offered for a period of one year from the date of board course approval.”

This paragraph does not mention what occurs after the one-year period is finished. It does not strictly mention that a brand-new application must be submitted. We believe this provides a second point of flexibility for the Board to be able to determine what occurs after that year is complete, and to implement a separate system for course renewals.

3. Moreover, Section 4970 begins with the text:

“The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972”

Section 4972 reads:

“Fees fixed by the board shall be set forth in regulations duly adopted by the board.”

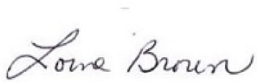
We interpret this as giving full and final jurisdiction to the Board, at present time, should it seek to implement a separate fee system for course renewals.

Conclusion

We thank you for your time and consideration. We are happy to offer further thoughts and feedback as industry stakeholders in the implementation of such a system or on the new fees in general.

We believe our cooperation will result in a more equitable and prosperous landscape for Acupuncture Continuing Education in California.

Sincerely,



Lorne Brown
Healthy Seminars
(formerly Pro D Seminars)



Donna Chow
Lotus Institute of
Integrative Medicine



Todd Luger
Pacific College of Health
and Science



Dylan Stan
Net of Knowledge
(formerly Eastern
Currents Learning)

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Second Letter of Response to the California Acupuncture Board

from Continuing Education Providers

March 1st, 2021



California Acupuncture Board
1747 N. Market Blvd.,
Suite 180 Sacramento,
CA 95834

Dear California Acupuncture Board,

We are writing here as a follow up to our letter from December 16th, 2020. This is in regard to the new California Acupuncture Board (Board) Continuing Education (CE) provider fee schedule recently approved by the legislature.

Introduction

Assembly Bill (AB) 3330 (Chapter 359. Statutes of 2020) increased biennial fees for CE providers and established for the first time a fee for approval of CE courses. We are not concerned about either of these fees and we recognize their importance for the Board to remain viable. We do, however, have serious concerns about the fact that the Board is now requiring previously approved Distance Education (DE) courses to be resubmitted every year with a new application, along with a full new course application fee (communicated in the Board's December 16, 2020 mailing to CE Providers).

As longtime CE providers, we have grown our libraries of courses over the years. These educational offerings allow California licensees to stay current and advance their ability to treat the public safely and effectively. As small businesses, the requirement for us to resubmit and pay for our entire libraries every year will materially damage our ability to continue business as usual. This will result in a number of smaller providers being forced out of business and larger providers will need to substantially cut back on their offerings to California acupuncture licensees.

The consequences are that continuing education options for California licensees will become fewer and more expensive, compared with the rest of the country. CE providers will be forced to limit course offerings to only the most popular and to stop offering courses on less common conditions, safety, and ethics. If uncorrected, we believe this will have a deleterious effect on the level of care and expertise that California's acupuncture licensees will be able to provide to the public.

We have sought legal counsel from Dario J. Frommer, partner at Akin Gump Strauss Hauer & Feld LLP, and former majority leader of the California State Assembly. Mr. Frommer has advised us that the Board does have the ability to offer a more affordable solution to CE providers within the current laws. We will share the legal interpretations below.

On February 10th, a number of CE providers met with Board staff to discuss the current concerns. We raised questions with staff concerning: (1) the burden of the fees on small business; (2) inconsistency and conflicts between the wording of the new statute and existing

Board regulations that are confusing; (3) whether the Board has authority under the new and existing law to assess a separate lower fee for renewal of previously approved courses where there is no change in content; and, (4) whether the Board's fee study adequately considered the cost of processing applications for new courses versus the cost of reviewing existing courses where there has been no change in content or curriculum.

Board staff expressed openness to working with us on finding a solution to these issues.

Legal Interpretations

1. Overview

AB 3330 added the following provision to the Business & Professions Code:

§4970 (n) (1) Fees for continuing education course applications shall be assessed to the continuing education provider at a floor of ten dollars (\$10) per hour of continuing education requested to offer, and a cap of twenty dollars (\$20) per hour of continuing education requested to offer, allowing up to a maximum of 50 hours to be approved per course application.

AB 3330 also added a provision holding that Board approval of CE courses will last for one year (Cal. Bus. Prof. Code § 4970 (n) (3)).

The practical result of this last statute is that existing approvals of all existing CE courses will expire by the end of the year and the providers will have to pay fees to have these courses re-approved, even if there are no changes to the materials or instructor and therefore minimal work is required for the agency to approve renewal of the course.

For the more established CE providers, these course renewal fees could add between \$5,000 to \$30,000 a year in costs, depending on the number of course hours being offered. These fees, which are orders of magnitude higher than any other renewed course fees in the profession, will not be affordable to small businesses and will result in CE providers picking and choosing a much smaller selection for California licensees.

Board staff have previously commented that per-hour pricing in the marketplace for courses (\$15-\$30) should cover the \$10 per hour course application fee within one purchase. We respectfully submit that this does not consider the expenses required to produce the courses, the royalty payments owed to the teachers, staff time, and other operating costs of business. Moreover, for large libraries, a certain percentage of courses may not even sell once in a given year.

Realistically, CE providers will not be able to afford the burden and will be forced to make large amounts of courses unavailable to California licensees.

2. Approval vs Renewal

In our previous letter, we proposed a solution which is to offer a reduction in the *renewal fees* for previously approved DE courses (separate from new course applications). In subsequent conversations with Board staff, they have expressed that they cannot set the “application fee” at a rate that is lower than the statutory minimum. However, AB 3330 is unclear in this case on the distinction between *new course applications* and *renewals of previously approved courses*.

In numerous paragraphs of the Business and Professions Code Section 4972, a clear distinction is made between applications and renewals of other types. For example:

(d) The initial license fee shall be...

(e) The renewal fee shall be...

(g) The wall license fee shall be...

(h) The wall license renewal fee shall be...

(l) The approval fee for each provider of continuing education shall be...

(m) The biennial renewal approval fee for each provider of continuing education shall be...

§4970 (n) (1), on the other hand, does not make this clear distinction, and only refers to “course applications” and not renewals. We believe this gives the board the flexibility to adopt a separate, more affordable renewal pricing system that will avoid the detrimental effects mentioned above.

3. Board Authority

We believe that AB 3330 also gives the Board clear authority to set a different fee for CE course renewals. Specifically, California Business and Professions Code 4970 begins with the sentence: *“The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972”*.

Business and Professions Code Section 4972 states that: *“Fees fixed by the board shall be set forth in regulations duly adopted by the board.”*

4. Regulations

The current Board regulations concerning Continuing Education do not reflect the recent change in the law and are confusing. Such ambiguity violates due process because it does not provide CE providers with adequate notice of the fees they must pay to renew a CE course. (*See People v. Superior Court (Caswell)*, 46 Cal. 3d 381, 389 (1988).) A law violates due process if it “requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application... a law must give the person of ordinary intelligence a reasonable opportunity to know what is prohibited [or required], so that he may act accordingly.”)

While the new law allows the board to collect a fee for “continuing education course applications,” existing Board regulations only require providers to obtain formal Board “approval” or file “applications” for “new courses” or for changes in course materials used in previously approved courses. However, when a previously approved CE course is to be repeated, the provider is only required to “notify” the board in advance.¹

Moreover, the new law and regulations are silent on whether a provider seeking approval for a new live CE course would also be required to file a separate application and pay corresponding additional fees if the exact same course is recorded and to be offered on-demand (as a DE course) at a later date. Despite this, CE providers have been instructed to submit a separate course application for the live and DE versions, resulting in double the fees for the same course.

In sum, the regulations are confusing in a way that does not give the regulated entity a clear idea of when fees and applications are required. This ambiguity should be construed against the Board, and it should adopt a construction that leads to a reasonable result. (*See Goddard v. S. Bay Union High Sch. Dist.*, 79 Cal. App. 3d 98, 106 (Ct. App. 1978).)

4. Fee Study

The fee study conducted by the Board in support of the increases enacted in AB 3330, did not discuss the difference in workload for approval of new CE courses versus renewal of previously approved CE courses where there is no change in content or curriculum. This has been identified as a potential flaw in the study.

5. Taxation vs Fees

California Constitution Article 13 §3 (a) (2) and (3) requires a two-thirds majority vote to levy a tax but permits the Legislature by majority vote to levy fees to cover reasonable regulatory costs of administration or to cover the costs of providing a specific government service, *provided that the fee does not exceed the reasonable cost to the state of providing service to the payor.*

In this instance, there is no way that the cost of reviewing a previously approved CE course that is being renewed without content changes is the same as the cost of reviewing a new course offering.

¹ **CCR §1399.484. Application for Course Approval.**

1. (a) Providers may not offer a course for continuing education hours without prior approval from the board. To obtain approval for a course, a provider shall submit to the board, at least 45 days before the course is first offered, a request for course approval, in English, on the “Request for Continuing Education (CE) Course Approval Form” (Rev. 5/08) that is hereby incorporated by reference.
2. (b) When a previously approved course is to be repeated, the provider shall notify the board in writing of the new date and location at least 30 days before the new course date.
3. (e) Any changes in the content of or instructor(s) for an approved course shall require the submittal of a new course application at least 45 days before the course begins.

While it may be argued that the new fees on CE courses are also designed to cover other costs of administration, the Board study's failure to investigate the manpower required to review the renewal of an approved course that has no changes in content nor instructors may implicate the reasonableness of such fees in relation to the Board's actual costs.

It may also come into question whether the large renewal fees are in fact needed to cover the Board's enforcement activities on CE providers and courses. We do not believe this is the case, since Board Enforcement reports from the past 3 years do not show a history of high provider malfeasance. While an abnormal increase in provider violations was uncovered in a report for Quarter 3 of 2020, it was identified that this was a by-product of a licensee audit and, since these violations are harder to identify, they can occasionally go unnoticed for some time. Even still, the numbers are low enough that a reduced renewal fee—such as what we are proposing here—should be sufficient to cover such enforcement actions. Moreover, enforcement on CE providers was not clarified in the fee study and is yet another reason why the reasonableness of the high renewal fees in relation to the Board's true costs is not clear.

Recommended Solutions

The Board has the authority to revise regulations to clarify that no application is required for the renewal of a previously approved CE course if there is no change to content or curriculum and to set separate fees for such course *renewals* that are lower than the statutory minimum for new approvals.

1. We recommend that renewals are priced on a per-course basis, rather than per CE hour. Comparable accreditation bodies in the industry—such as National Certification Commission for Acupuncture and Oriental Medicine and American Board of Oriental Reproductive Medicine—offer both tiered pricing structures and maximum caps. For example, NCCAOM's tiered pricing starts at \$15 per course and goes down to \$4 per course, with a maximum fee of \$2000 per year. ABORM has a maximum fee of \$1000 per year. Fees along these lines would be affordable to CE providers and would avoid widespread removal of courses for California licensees.
2. The Board also has the authority to revise regulations to set forth a separate process and fees for CE providers who wish to record an approved live CE course and provide the recording on-line to licensees for CE compliance purposes. Specifically, these two delivery formats should be treated as the same course—since the teacher, length, and contents are identical—and should require only one course application and fee.

The above regulatory revisions would comply with Government Code §11342.2 which determines that an administrative regulation is valid if it is (1) consistent and not in conflict with the statute and (2) reasonably necessary to effectuate the purpose of the statute. (*See The Morning Star Co. v. Bd. of Equalization, 125 Cal. Rptr. 3d 511, 515–16 (Ct. App. 2011).*) This proposed new fee structure for renewals would be consistent with the statute because it addresses the legislature's concern of renewing courses after a year but would not be

considered an “application” so would not be tied to the \$10 statutory minimum. It would also be “reasonably necessary to effectuate the purpose of the statute” because it would provide the Board with fees necessary to monitor such courses and fund enforcement actions.

Conclusion

Thank you for taking the time to hear our concerns. We welcome the new fees in general and recognize their necessity for keeping the Board operational. We also understand how close the Board was to insolvency and we commend the members and staff for righting the ship in time.

Our concerns are only related to the subset of issues presented in this letter. While it may seem that we are decrying a worst-case scenario, we are not. All of us have carefully considered the fallout of these fee increases and the effect they will have on California licensees. The Board’s lack of a renewal fee structure discourages keeping larger libraries approved with the Board and discourages carrying educational materials beyond a shortlist of profitable topics.

A number of CE providers have shared with us that they are not making enough money to be able to pay these fees and will need to cease their operations. Many small providers are not even profitable to begin with and do their work to contribute to the profession. The larger providers that are able to continue on will be forced to make significant cuts to the least popular course topics, including rare disease treatments, public safety issues, and ethics violations.

Fees without usual and customary limitations will prevent access to essential educational materials to licensed acupuncturists by creating economic barriers. We believe this is a direct conflict of interest to the Board’s mandate to protect and serve the public through oversight of the acupuncture profession.

We urge the Board to act quickly to adopt a reasonable and customary fee schedule for renewals of previously-approved courses.

Sincerely,



Joanna Zhao
*Five Branches
University*



Donna Chow
*Lotus Institute of
Integrative Medicine*



Todd Luger
*Pacific College of
Health and Science*

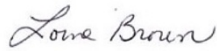


Adam White
*Healthcare
Medicine Institute*



Dylan Stan
*Net of Knowledge
(formerly Eastern
Currents Learning)*

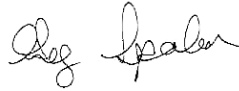
[Signatories Continued on Next Page]



Lorne Brown
Healthy Seminars
(formerly Pro D Seminars)



Joseph Wilde
Blue Poppy
Enterprises



Greg Sperber
Integrative Medicine
Council



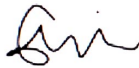
Ravyn Stanfield
Acupuncturists
Without Borders



Kath Berry
Kath Berry
Education



Guy Traiber
TCM Academy



Gillian Marsollier
Pacific Rim College
Online



Jennifer Knapp
TCMzone, LLC



Whitfield Reaves
Hidden Needle
Press



Arnaud Versluys
Institute of
Classics in East
Asian Medicine



Matt Callison
AcuSport Education



Shellie Goldstein
Academy of
Advanced Cosmetic
Facial Acupuncture



Lonny Jarrett
Nourishing Destiny



Andrew Kingoff
So Enlightening
Productions



Jack Daniel
The Whole Circle



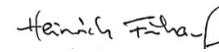
Josephine Spilka
Essence Presence



Neil Gumenick
Institute of Classical
Five-Element
Acupuncture



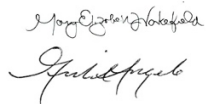
Thea Elijah
Perennial Medicine



Heiner Fruehauf
Classical Chinese
Medicine



Matthew Bauer
Acupuncture Now
Foundation



**Mary Elizabeth
Wakefield &
MichelAngelo**
Chi-Akra Center for
Ageless Aging



Amanda Shayle
AcuRegen



Martha Lucas
Lucas Teachings



Michelle Gellis
Facial
Acupuncture
Classes



Carmen Doerge
People's
Organization of
Community
Acupuncture



Lillian Bridges
Lotus Institute

CC: Board Members
Board Staff
Small Business Liaison
Appropriate Legislators



New Wall License FAQ

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New Wall License FAQ

New provisions of Business and Professions Code section 4961 went into effect January 1, 2021. Below are responses to frequently asked questions received by the Board.

1. How is the new Wall License issued after January 1, 2021 different from the old engraved Wall License that was issued upon initial licensure before January 1, 2021?

The old Wall License does not have a practice location displayed on the license, nor does it have a renewal date, or a unique license number assigned to it. Its purpose is to show that a licensee was issued an acupuncture license by displaying it at a practice location, but does not indicate the licensee's current status, which can only be seen on a licensee's pocket license.

The new Wall License is issued to a specific place of practice, has a unique WL license number, and renewal date to indicate to the public the licensee has properly registered their place of practice with the Board. The new Wall License shall be renewed every two years along with the same renewal date as the licensee's acupuncture license. The new Wall License will display on the Board's license search, providing more consumer awareness and tracking of all licensees' places of practice for public protection.

In addition, if a new Wall License is lost or destroyed, a replacement Wall License will need to be requested, as duplicate licenses are no longer issued.

2. As an acupuncturist licensed prior to January 1, 2021, when do I need to obtain a new Wall License for my place(s) of practice in compliance with the new provisions of Business and Professions Code (BPC) section 4961?

A licensee with an acupuncture license issued prior to January 1, 2021, can wait until their next renewal date of their acupuncture license in the 2021 or 2022 calendar year to apply for a new Wall License for any existing place(s) of practice.

3. What do I do with my old Wall License issued prior to January 1, 2021?

Until the time of your next renewal, you shall continue to display your current Wall License issued to you when you were initially licensed for compliance with BPC section 4961. Once you obtain the new Wall License with the unique WL number and renewal date, you can either take down your old Wall License or continue to display it in addition to your new Wall License.

4. When am I required to register my place(s) of practice and apply for a new Wall License as a new acupuncturist licensed after January 1, 2021?

A new licensee may register their place(s) of practice and apply for a Wall License for each upon applying for an initial license. No Wall License fee is required for the first Wall License when applied at the time of initial licensure.

If a new licensee does not have a place of practice, the licensee shall notify the Board in writing of that fact on the initial license application.

If a place of practice is established after initial licensure, the licensee is required to register each location and apply for a Wall License for each [online](#) or through the [Wall License Location Form](#) within 30 days of that change.

5. What do I do if I change practice locations and open a new place of practice prior to my next renewal date?

If a new place of practice is established prior to a licensee's next renewal date, then the licensee is required to register this new location within 30 days and apply for a new Wall License [online](#) or through the [Wall License Location Form](#).

6. What am I required to do with the new Wall License once it is issued?

Once a licensee receives their new Wall License, they are required to post it in a conspicuous location in each place of practice at all times. The Wall License will have the same expiration date as the licensee's acupuncture (AC) license. If a new Wall License is issued between renewal periods, then the initial licensure period will be less than two years, but shall be renewed every two years thereafter. Any Wall License issued to the licensee, must be renewed with their AC license [online](#) or with the [Wall License Location Form](#), unless a licensee is renewing while on inactive status. Please refer to #10 for additional information on what to do with a Wall License when renewing on inactive status.

7. How much is a Wall License?

The fee for a new Wall License and renewal of a Wall License is \$50.00 per Wall License.

8. What if I close my place of practice or change practice locations?

If a licensee closes a place of practice or moves practice locations, they are required to cancel their Wall License [online](#) or with the [Wall License Location Form](#) within 30 days. The original Wall License must be returned to the Board. Wall Licenses are non-transferrable and cannot be taken from one location to another. If a licensee opens a new place of practice, they are required to apply for a new Wall License issued to that location.

9. What do I do with a Wall License when I request to go inactive?

Active licensees, with a current WL and who intend to apply for an inactive status, may request to cancel their Wall License. Requesting cancellation of any Wall License is an available option [online](#) or through the [Wall License Location Form](#).

10. Am I required to apply for a Wall License or renew a Wall License if I am on inactive status?

Licensees on inactive status are not eligible to practice acupuncture. Thus, inactive licensees are not required to apply, obtain and/or renew their Wall License. Licensees may choose to cancel their WL at the time of the activation of their inactive status. However, without an affirmative cancellation request, the existing Wall License will expire at their designated time or upon a later cancellation request, whichever event occurs first.

Please note that Wall Licenses for inactive licensees will not come up for renewal on its expiration date.

Finally, if an inactive licensee is restored to active status and resumes practice, any place(s) of practice shall be registered and a new WL will be issued at that time.

11. Am I required to obtain a Wall License for out-of-office acupuncture visits at patient's homes, mobile locations, or temporary practice at events or swap meets?

Wall License(s) are only required for permanent or regular places of practice, which may include commercial or residential locations. A place of practice is defined as an acupuncture office where any act of acupuncture is practiced and includes a place of practice in which the applicant holds a proprietary interest of any nature whatsoever or in which the licensee holds any right to participate in the management or control thereof.

A Wall License is not required to be posted when a licensee performs acupuncture treatments outside of the licensee's place of practice, e.g., acupuncture visits at patient's homes, mobile locations, and temporary practice locations at events or swap meets, etc.

Please refer to the Wall License law below where the provisions of Business and Professions Code section 4961 may be read in its entirety.

BPC §4961 Acupuncture: place of practice: wall license.

(a) (1) Every person who is licensed to practice acupuncture in this state shall register, on forms prescribed by the board that may include an application for an initial license or for renewal of a license, each place of practice and apply to the board to obtain a wall license for each place of practice.

(2) A wall license shall be renewed biennially, coinciding with the license renewal date. A licensee with a wall license issued before January 1, 2021, shall not be required to apply for a new wall license until the licensee's next license renewal date.

(3) If the licensee has no place of practice, the licensee shall notify the board of that fact on a form prescribed by the board. A wall license is not required to be posted when a licensee performs acupuncture treatments outside of the licensee's place of practice. However, the licensee shall carry a pocket license during treatments outside of the licensee's place of practice and make the pocket license available upon request.

(4) A licensee shall register each place of practice within 30 days after the date of the licensee being licensed by the board or the establishment of a new place of practice, whichever occurs first.

(b) (1) An acupuncturist licensee shall post a wall license issued by the board to the licensee in a conspicuous location in each place of practice at all times.

(2) If an acupuncturist licensee has more than one place of practice, the licensee shall obtain from the board a separate wall license for each additional location and post the assigned wall license at each location.

(c) A licensed acupuncturist shall not display any acupuncture wall license that is not currently active and valid.

(d) (1) If a licensee changes the location of a place of practice, the licensee shall apply for the change of location within 30 days of changing the licensee's place of practice on forms prescribed by the board.

(2) If a licensee fails to apply for a new wall license with the board due to a change of location within the time prescribed by this subdivision, the board may deny renewal of the license.

(e) (1) A wall license is nontransferable.

(2) Any change to the registered location in connection with the wall license, such as moving, requires a new wall license, and the former wall license shall be returned to the board with a request for cancellation.

(3) The licensee shall apply to the board to obtain a new wall license using the forms prescribed by the board for the new wall license or change of location.

(f) (1) An acupuncturist shall be responsible for the acupuncture, Asian massage services, or any other practice specified under Section 4937 rendered pursuant to the license of the acupuncturist in each place of practice maintained by the acupuncturist.

(2) An acupuncturist maintaining more than one place of practice shall ensure that each place of practice is in compliance with the standards of practice requirements of this chapter.

(g) As used in this section:

(1) "Place of practice" means an acupuncture office where any act of acupuncture is practiced and includes a place of practice in which the applicant holds a proprietary interest of any nature whatsoever or in which the licensee holds any right to participate in the management or control thereof.

(2) "Wall license" means an official document that is issued by the board upon application for a place of practice and has a unique identification number that is specific to the location provided by the licensee in the application.

(h) This section shall become operative on January 1, 2021.

(Repealed (in Sec. 1) and added by Stats. 2019, Ch. 308, Sec. 2. (AB 779) Effective January 1, 2020. Section operative January 1, 2021, by its own provisions.)

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**Establishment Licenses
for Other DCA
Programs**

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| | |
|----------------|--|
| DATE | March 25 – 26, 2021 |
| TO | Board members, Acupuncture Board |
| FROM | Kristine Brothers, Policy Coordinator |
| SUBJECT | Item 19 – Healing Arts Licensees with Practice Location Licenses |

The following is a list of healing arts licensees with additional required licenses for practice locations, including their authorizing statutory and regulatory provisions.

Acupuncture Board

Acupuncturists – Wall License (payments once outside of initial licensure and biennially)

Business and Professions Code (BPC) §4961.

(a) (1) Every person who is licensed to practice acupuncture in this state shall register, on forms prescribed by the board that may include an application for an initial license or for renewal of a license, each place of practice and apply to the board to obtain a wall license for each place of practice.

(2) A wall license shall be renewed biennially, coinciding with the license renewal date. A licensee with a wall license issued before January 1, 2021, shall not be required to apply for a new wall license until the licensee's next license renewal date.

(3) If the licensee has no place of practice, the licensee shall notify the board of that fact on a form prescribed by the board. A wall license is not required to be posted when a licensee performs acupuncture treatments outside of the licensee's place of practice. However, the licensee shall carry a pocket license during treatments outside of the licensee's place of practice and make the pocket license available upon request.

(4) A licensee shall register each place of practice within 30 days after the date of the licensee being licensed by the board or the establishment of a new place of practice, whichever occurs first.

(b) (1) An acupuncturist licensee shall post a wall license issued by the board to the licensee in a conspicuous location in each place of practice at all times.

(2) If an acupuncturist licensee has more than one place of practice, the licensee shall obtain from the board a separate wall license for each additional location and post the assigned wall license at each location.

(c) A licensed acupuncturist shall not display any acupuncture wall license that is not currently active and valid.

(d) (1) If a licensee changes the location of a place of practice, the licensee shall apply for the change of location within 30 days of changing the licensee's place of practice on forms prescribed by the board.

(2) If a licensee fails to apply for a new wall license with the board due to a change of location within the time prescribed by this subdivision, the board may deny renewal of the license.

(e) (1) A wall license is nontransferable.

(2) Any change to the registered location in connection with the wall license, such as moving, requires a new wall license, and the former wall license shall be returned to the board with a request for cancellation.

(3) The licensee shall apply to the board to obtain a new wall license using the forms prescribed by the board for the new wall license or change of location.

(f) (1) An acupuncturist shall be responsible for the acupuncture, Asian massage services, or any other practice specified under Section 4937 rendered pursuant to the license of the acupuncturist in each place of practice maintained by the acupuncturist.

(2) An acupuncturist maintaining more than one place of practice shall ensure that each place of practice is in compliance with the standards of practice requirements of this chapter.

(g) As used in this section:

(1) "Place of practice" means an acupuncture office where any act of acupuncture is practiced and includes a place of practice in which the applicant holds a proprietary interest of any nature whatsoever or in which the licensee holds any right to participate in the management or control thereof.

(2) "Wall license" means an official document that is issued by the board upon application for a place of practice and has a unique identification number that is specific to the location provided by the licensee in the application.

(h) This section shall become operative on January 1, 2021.

(Repealed (in Sec. 1) and added by Stats. 2019, Ch. 308, Sec. 2. (AB 779) Effective January 1, 2020. Section operative January 1, 2021, by its own provisions.)

Board of Chiropractic Examiners

Chiropractor - Satellite License (payments initial and annually)

Title 16, California Code of Regulations (CCR) §308. Display of License.

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

Dental Board of California

Dentists – Additional Office Permit (payments initial and biennially)

BPC §1658.

(a) (1) When a licensee desires to have more than one place of practice, the licensee shall, prior to the opening of the additional office, apply to the board, pay the fee required by this chapter, and receive permission in writing from the board to have the additional place of practice.

(2) "Place of practice" means any dental office where any act of dentistry is practiced as defined by Section 1625, and includes a place of practice in which the applicant holds any proprietary interest of any nature whatsoever, or in which the licensee holds any right to participate in the management or control thereof. A dentist who is the lessor of a dental office shall not be deemed to hold a proprietary interest in that place of practice, unless the dentist is entitled to participate in the management or control of the dentistry practiced there.

(b) This section shall not apply to a licensee who practices dentistry outside the licensee's registered place of practice in any of the following places:

(1) Facilities licensed by the State Department of Public Health.

(2) Licensed health facilities as defined in Section 1250 of the Health and Safety Code.

(3) Clinics that are licensed under subdivision (a) of Section 1204 of, or that are exempt from licensure under subdivision (b), (c), or (h) of Section 1206 of, the Health and Safety Code.

(4) Licensed community care facilities as defined in Section 1502 of the Health and Safety Code.

(5) Schools of any grade level, whether public or private.

(6) Public institutions, including, but not limited to, federal, state, and local penal and correctional facilities.

(7) Mobile units that are operated by a public or governmental agency or a nonprofit or charitable organization and are approved by the board, provided that the mobile units meet all statutory or regulatory requirements.

(8) The home of a nonambulatory patient when a physician or registered nurse has provided a written note that the patient is unable to visit a dental office.

(Amended by Stats. 2019, Ch. 865, Sec. 40. (AB 1519) Effective January 1, 2020.)

Dentists - Mobile Dental Clinic Permit (payments initial and biennially)

Title 16, CCR §1049. Mobile Dental Clinics.

(a) Definition. For purposes of Section 1657 of the code, a "mobile dental clinic" or "mobile dental unit" means any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another.

(b) Application for Permit. A licensed dentist who wishes to operate a mobile dental clinic shall apply to the board for a permit by providing evidence of compliance with the requirements of this section and paying the fee prescribed in Section 1021 for application for an additional office permit.

The board shall inform an applicant for a permit in writing within 7 days whether the application is complete and accepted for filing or is deficient and what specific information is required.

The board shall decide within 60 days after the filing of a completed application whether the applicant meets the requirements of a permit.

(c) Requirements.

(1) The applicant shall certify that:

(A) There is a written procedure for emergency follow-up care for patients treated in the mobile dental clinic and that such procedure includes arrangements for treatment in a dental facility which is permanently established in the area.

(B) The mobile dental clinic has communication facilities which will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency.

(C) The mobile dental clinic conforms to all applicable federal, state and local laws, regulations and ordinances dealing with radiographic equipment, flammability, construction, sanitation and zoning and the applicant possesses all applicable county and city licenses or permits to operate the unit.

(D) The driver of the unit possesses a valid California driver's license.

(2) The applicant shall maintain an official business or mailing address of record which shall be filed with the board. The board shall be notified within 30 days of any change in the address of record. All written or printed documents available from or issued by the mobile dental clinic shall contain the official address of record for the mobile dental clinic.

(3) Each mobile dental clinic shall:

(A) Have ready access to a ramp or lift if services are provided to disabled persons.

(B) Have a properly functioning sterilization system.

(C) Have ready access to an adequate supply of potable water, including hot water.

(D) Have ready access to toilet facilities.

(E) Have a covered galvanized, stainless steel, or other noncorrosive metal container for deposit of refuse and waste materials.

(d) Transferability. A permit to operate a mobile dental clinic is not transferable.

(e) Renewal. A permit to operate a mobile dental clinic expires at the same time as the permit holder's dental license. The permit holder may apply for renewal and shall pay the fee set for renewal of an additional office permit.

Note: Authority cited: Sections 1614 and 1657, Business and Professions Code.
Reference: Section 1657, Business and Professions Code.

Board of Optometry

Optometrists - Branch Office (payments initial and annually)

Title 16, CCR §1550. Branch Offices.

An optometric corporation is subject to the provisions of Section 3077 of the Code. When any optometric corporation duly registered hereunder desires to have a branch office within the meaning of that code section, it shall, prior to the opening of any branch office, make application there for to the Board and receive permission in writing from the Board to have such branch office.

BPC §3077.

As used in this section, "office" means any office or other place for the practice of optometry, including but not limited to vans, trailers, or other mobile equipment.

(a) No person, singly or in combination with others, may have an office unless that person is licensed to practice optometry under this chapter or the registered owner and operator of a nonprofit mobile optometric office as set out in this chapter.

(b) No optometrist, and no two or more optometrists jointly, may have more than 11 offices.

(c) Any failure to comply with the provisions of this section shall result in the suspension of the optometrist license of each optometrist who, individually or with others, has an office. An optometrist license so suspended shall not be restored except upon compliance with those provisions and the payment of the fee prescribed by this chapter for restoration of a license after suspension for failure to comply with this section.

(d) The board shall have the power to adopt, amend, and repeal rules and regulations to carry out the provisions of this section.

(e) Notwithstanding any other provision of this section, neither an optometrist nor an individual practice association shall be deemed to have an additional office solely by reason of the optometrist's participation in an individual practice association or the individual practice association's creation or operation. As used in this subdivision, the term "individual practice association" means an entity that meets all of the following requirements:

(1) Complies with the definition of an optometric corporation in Section 3160.

(2) Operates primarily for the purpose of securing contracts with health care service plans or other third-party payers that make available eye/vision services to enrollees or subscribers through a panel of optometrists.

(3) Contracts with optometrists to serve on the panel of optometrists, but does not obtain an ownership interest in, or otherwise exercise control over, the respective optometric practices of those optometrists on the panel.

(f) For purposes of Section 3070.2, "office" shall include a van, trailer, or mobile equipment owned and operated by a mobile optometric office.

(Amended by Stats. 2020, Ch. 121, Sec. 10. (AB 896) Effective September 24, 2020.)

Veterinary Medical Board

Veterinarians – Veterinary Premise License (payments initial and annually)

BPC § 4853.

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

(Amended by Stats. 1997, Ch. 642, Sec. 21. Effective January 1, 1998.)

BPC § 4853.1.

(a) Each application to register a premise pursuant to Section 4853 shall be made on a form provided by the board. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

(Added by Stats. 1988, Ch. 1007, Sec. 3.)

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20 -CE Ethics

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| | |
|----------------|--|
| DATE | March 25 - 26 2021 |
| TO | Board Members, Acupuncture Board |
| FROM | Jay Herdt, Licensing Manager |
| SUBJECT | Discussion on the Initiation of a Rulemaking to Amend Title 16, California Code of Regulations (CCR) secs. 1399.483 and 1399.489 – Continuing Education Ethics Requirement |

Issue:

Review and discuss proposed changes to the text of 16 CCR secs. 1399.483 and 1399.489, regarding a biennial continuing education (CE) requirement of four (4) hours in law and ethics. The proposed regulation has not been publicly noticed with the Office of Administrative Law (OAL).

Action items for the Board:

Discussion on amending the text of 16 CCR secs. 1399.483 and 1399.489. (Attachment)

History:

For many years, 16 CCR 1399.489.2 allowed licensees to take up to four (4) hours of CEs in practice management or medical ethics to meet their biennial CE requirements for license renewal. However, in December 1999, this regulation was repealed. Historically, the Board's laws and regulations have not required that licensees take a minimum of CE hours in laws and ethics. In 2002, at a Continuing Education Focus Group meeting, there was discussion on the desire to require a minimum number of CE in ethics, at least in the first few years of licensure, but no action was taken. In 2008, in light of the 2002 discussion and other legislative mandates, the Board promulgated CE regulations to address inadequacies, specifically raising the renewal requirement from 30 CE hours, every two (2) years, to 50 CE hours every two years; a minimum CE ethics requirement was not implemented.

At the November 11, 2012 Board Meeting, the Board reviewed text for a new CE ethics requirement and delegated further refinement to the, then, Education Committee. The following text was approved in 2012 (which is not the current text being proposed):

§ 1399.489.2 Continuing Education: Course in Professional Ethics.
An acupuncturist shall take no less than four (4) hours of continuing education in professional ethics every two years to meet his or her continuing education requirements.

At the December 14, 2016 Education Committee (Committee) Meeting, members reviewed the proposed text and requested additional changes to be made by staff and to be brought back to the full Board for consideration and possible approval.

At the October 25, 2018 Board meeting, the Board reviewed proposed text. There was discussion on the issue of whether the ethics requirement was Category 1 or 2. The Board requested the staff to research other examples of ethics requirements, define active and inactive status in Part C of Title 16 CCR 1399.489, and referred this item for further discussion to the Education Committee.

At the March 28, 2019 Education and Research Committee meeting, member Harabedian summarized the ethics requirements discussion which included directing staff to provide a definition of ethics. Chair Harabedian reported that the Committee approved the language and made the recommendation that this item be brought to the full Board.

Discussion:

Previous discussion determined that several other boards have a similar CE Ethics and Law requirement. The Board of Behavioral Sciences requires six hours of laws and ethics, every two years, for all four license types. The Physical Therapy Board of California requires two hours of CEs in ethics, laws, and regulations, per each two-year renewal cycle. The Chiropractic Board requires two hours of CEs in ethics and law, per one-year renewal cycle. The Psychology Board does not have a specific hour requirement for laws and ethics, but licensees are required to self-certify on their renewal application that they have kept abreast of changes to law. None of the boards, referenced above, have specific ethics definitions included in their statutes or regulations.

At the request of the Board, staff has completed additional research into the basis of the definitions of medical ethics. For the American Medical Association (AMA), the nationally accepted codification of medical ethics is the *AMA Code of Medical Ethics*, recognized as the most comprehensive ethics guide for physicians. For Psychologists, the American Psychological Association (APA) offers the *Ethical Principles of Psychologists and Code of Conduct* as a resource of ethical guidance for the profession. The Board of Behavioral Science, Licensed Marriage and Family Therapists, defer to the American Association for Marriage and Family Therapy (AAMFT), which has adopted as part of its bylaws the *Revised AAMFT Code of Ethics*. The American Chiropractic Association also has a Code of Ethics targeted specifically to the Chiropractic profession.

Based on this research, staff recommends that the Board simply set the requirement of four hours in laws and ethics CEs and defer to the profession's definition of ethics.

In relation to the provisions of existing law and regulatory requirements, the Board already provides access to the document entitled, *Laws and Regulations Relating to the Practice of Acupuncture*, on its website. This is readily accessible to licensees, stakeholders, and the public as the *Acupuncture Board's Laws and Regulations* downloadable book. These reference materials serve as the source

materials regarding laws and regulations CE providers use to develop content in CE coursework.

Board staff has recommended additional language that will require licensees that are coming out of inactive status to complete four (4) hours of law and ethics as a condition of returning to active status. Staff feels that this is necessary as this will be required of all licensees as part of their renewal process. Inactive licensees are required to complete 50 continuing education hours as a condition of returning to active status. Since these CE hours can be applied to meet the CE requirement for the renewal cycle, this requirement will bring the return from inactive to active process into compliance with the four (4) hours in law and ethics CE requirement when the licensee returns to active status. This will also ensure that no matter how much time the licensee has been on inactive status, when coming back to active status, they will learn new laws and regulations that may have gone into effect while they were on inactive status.

Proposed Amendments:

Staff proposes to place the requirements into 16 CCR secs. 1399.483 and 1399.489. The new text contains the following additions and changes:

- 16 CCR 1399.483(e): Inclusion of a self-assessment of the ethics and law materials, as requested by the Committee. Placing the text in this Section creates the requirement that all ethics courses, whether online or in person, need to complete a self-assessment test, which tests the understanding of the subject matter. The existing text in subdivision (d) *only requires tests for courses taken for independent or home study*.
- Renumbering of Section 1399.483 subsection (e) to (f) to accommodate the addition of new subsection (e), as described above.
- 16 CCR 1399.483(f): Inclusion of the text, "products as a course requirement" to clarify that licensees are not obligated to purchase any products, and it is not a requirement of the continuing education course.
- 16 CCR 1399.489(a): Clarifies that all licensees in active status shall complete 50 hours of CE hours (CEUs), every two years, as a condition of renewal. This change, requested by the Committee, clarifies that the ethics requirement will be applicable to active licensees, only, and not a licensee on inactive or retired status.
- 16 CCR 1399.489(c): This new subsection creates the requirement of four hours of CEUs in laws and ethics to be taken for every two-year renewal period. This subsection also waives the requirement for licensees who are within their initial renewal period (13 to 23 months) or on inactive or retired status. The Committee discussed better defining the requirement for an ethics course to be distance or in person, but staff feels the existing definitions, as set out in Section 1399.483, subsection (d), is sufficient. Additionally, staff does not recommend requiring the course as either Category 1 or 2, since that will already occur during the course approval process. Finally, the Committee requested adding the words "laws related to the acupuncture profession," in the definition of ethics. Staff believes that this

is not necessary as CE staff conducts analysis and exercises discretion over course approvals to ensure course content relates to the profession of acupuncture when reviewing course applications.

If a CE course application for a laws and ethics course is submitted to the Board that covers laws unrelated to healthcare or acupuncture, then the Board has the authority to deny these courses. Per the request of the Board, a clarification and definition of inactive status within Section 1399.489, subsection (c), was included by adding “pursuant to Section 1399.489.1,” to reference the definition of “inactive status.”

- Renumbering 16 CCR sections 1399.489, subsections (c) to (h), to accommodate the addition of subsection (c), as described above.
- General non-substantive clean up of existing language.

Recommended Motion Language

Option 1: Motion to Approve

Move to approve the proposed regulatory text for Title 16, CCR section 1399.483 and 1399.489, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public.

Option 2: Motion to Approve, as Amended

Move to approve the proposed regulatory text as amended:

Note the amendments

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



Proposed Language

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**CALIFORNIA ACUPUNCTURE BOARD
PROPOSED REGULATION -- CONTINUING EDUCATION ETHICS
REQUIREMENT**

Board changes at the December 14, 2016 Education Committee Meeting are highlighted in **pink** and underlined, and deleted text is highlighted in **pink** and ~~strikethrough~~.

Proposed text reviewed at the October 25, 2018 Board Meeting is highlighted in **yellow** and underlined, and deleted text is highlighted in **yellow** and ~~strikethrough~~.

Proposed text added after the October 25, 2018 Board Meeting is highlighted in **green** and underlined.

Proposed text added after the March 28, 2019 Education and Research Meeting is highlighted in **aqua** and underlined, and deleted text is highlighted in **aqua** and ~~strikethrough~~.

Amend Sections 1399.483 and 1399.489 of Article 8 of Division 13.7 of Title 16 of the California Code of Regulations as follows:

§ 1399.483. Approval of continuing education courses.

(a) Only a provider may obtain approval to offer continuing education courses.

(b) The content of all courses of continuing education submitted for board approval shall be relevant to the practice of acupuncture and Asian medicine and shall fall within the following two (2) categories

(1) Category 1 courses are those courses related to clinical matters or the actual provision of health care to patients. Examples of Category 1 courses include, but are not limited to, the following:

(A) Acupuncture and Asian Medicine

(B) Western biomedicine and biological sciences.

(C) Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine.

(D) Courses concerning law and ethics and health facility standards.

(E) Courses designed to develop a licensee's patient education skills, including, but not limited to, patient education in therapeutic exercise techniques, nutritional counseling, and biomechanical education.

(F) Courses designed to enhance a licensee's ability to communicate effectively with other medical practitioners.

(G) Courses in acupuncture's role in individual and public health, such as emergencies and disasters.

(H) Courses in the behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health.

(I) Research and evidence-based medicine as related to acupuncture and Asian medicine.

(2) Category 2 courses are those courses unrelated to clinical matters or the actual provision of health care to patients. Examples of Category 2 courses include, but are not limited to, the following:

(A) Practice management courses unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, laws and regulations unrelated to clinical medicine, insurance billing and coding, and general business organization and management.

(B) Breathing and other exercises, i.e. qi gong and taiji quan that are for the benefit of the licensee and not the patient.

(c) Each provider shall include, for each course offered, a method by which the course participants evaluate the following:

(1) The extent to which the course met its stated objectives.

(2) The adequacy of the instructor's knowledge of the course subject.

(3) The utilization of appropriate teaching methods.

(4) The applicability or usefulness of the course information.

(5) Other relevant comments.

(d) Courses designed to be completed by an individual on an independent or home study basis shall not exceed 50% of the required continuing education hours.

(1) Courses that require practical or hands on techniques may not be approved for independent or home study.

(2) Courses approved for independent or home study shall include a self-assessment by the licensee upon completion of the course that tests the participants mastery of the course material.

(e) Each course in law and ethics shall include a self-assessment by the licensee, upon completion of the course, that tests the participant's mastery of the course material.

(f)(e) A provider is prohibited from selling, advertising, or promoting any named brand product or service during a course. A provider shall ensure that any discussion of name product or service is objectively selected and presented with favorable and unfavorable information and balanced discussion of prevailing information on the product, competing products, alternative treatments, or services. A provider shall ensure written disclosure to the audience, at the time of the program, of any relationship between any named product(s) or services discussed and the provider or between any such products or service and any individuals' instructor, presenter, panelist, or moderator. However, a provider may offer for sale products or services after the course has been completed as

long as it is made clear to all participants that they are under no obligation whatsoever to stay for the sales presentation or purchase any products **as a course requirement**. Nothing in this subdivision shall be interpreted as restricting a provider from discussing generic products during a course.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4934.2 and 4945, Business and Professions Code.

§ 1399.489. Continuing education compliance

(a) With the exception of those holding an inactive **or retired license**, when renewing an initial license that has been issued for less than two **(2)** years, licensees shall complete the following hours of board-approved continuing education:

| Period of Initial Licensure | Requiring Continuing Education Hours |
|-----------------------------|--------------------------------------|
| 13-16 Months | 35 |
| 17-20 Months | 40 |
| 21-23 Months | 45 |

Thereafter, all licensees shall complete 50 hours every two **(2)** years as a condition of renewal **in-on active status**. No more than five (5) hours of continuing education in each two **(2)** year period may be obtained in Category 2.

(b) Licensees are limited to fifty percent (50%) of the required continuing education hours every two **(2)** years for independent or home study courses.

(c) For each two (2) year period, a licensee's continuing education courses must include a minimum of four (4) hours in law and ethics. This requirement is waived if the licensee is renewing an initial license that has been issued for less than two (2) years, or if the licensee is renewed in an on inactive status, pursuant to Section 1399.489.1.

(d)(e) Each licensee, at the time of license renewal, shall sign a statement under penalty of perjury that **he or she the licensee** has or has not complied with the continuing education requirements. It shall constitute unprofessional conduct for any licensee to misrepresent completion of the required continuing education.

(e)(d) The board may audit a random sample of licensees who have reported compliance with the continuing education requirement.

(f)(e) Any licensee selected for audit shall **be required to** submit documentation or records of continuing education coursework that **he or she the licensee** has taken and completed.

(g)(f) Each licensee shall retain, for a minimum of four (4) years, records of all continuing education programs that ~~he or she~~ the licensee has attended that indicate the provider's name, title of the course or program, date(s) and location of course, and number of continuing education hours awarded.

(h)(g) Instructors of approved continuing education courses may receive one (1) hour of continuing education credit for each classroom hour completed as an instructor, up to a maximum of six (6) hours of continuing education per year, regardless of how many hours or courses are taught. Participation as a member of a panel presentation for an approved course shall entitle the participant to earn continuing education hours equal to the actual panel presentation time within the appropriate category of the course.

(i)(h) Any licensee who participates in the development of an occupational analysis, an examination development session, item review session, and/or a passing score workshop shall receive one (1) hour of continuing education for every two (2) hours of participation.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4938, 4945 and 4955, Business and Professions Code.



21 -Telehealth

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| | |
|----------------|--|
| DATE | March 25 – 26, 2021 |
| TO | Board members, Acupuncture Board |
| FROM | Jay Herdt, Licensing Manager |
| SUBJECT | Discussion and possible recommendation to the Board on Regulatory Language for Licensed Acupuncturist Practice of Telehealth |

Background

In response to the COVID-19 pandemic, Governor Newsom's [Executive Order N-43-20](#) provided that clinics, hospitals, other health care facilities, and health care providers maximize the number of capable health care workers through the use of telehealth services to ensure that Californians impacted by COVID-19 are able to access medical treatment as necessary. Additionally, the Governor's Order N-43-20 aimed to reduce the spread of COVID-19, and protect health care workers, including the use of telehealth services, where possible, for any reason and not limited to the diagnosis and treatment of COVID-19 or related conditions. This order has allowed healthcare providers, including Licensed Acupuncturists, to provide medical care and advice remotely to patients employing the practice of telehealth.

Earlier this year, the Acupuncture Board (Board) received many questions from licensees and the public as to whether the acupuncture profession could provide its services via electronic means. Due to the sudden need and in the absence of regulatory authority the Board issued a Telehealth Statement for Licensed Acupuncturists providing general guidelines for the profession to follow when conducting telehealth.

[Business and Professions \(BPC\) Code section 2290.5](#) provides statutory authority allowing licensed acupuncturists, as well as other Division 2 Healing Arts licensees, to deliver healthcare via telehealth. Based upon that authority, staff has identified that further guidelines and requirements specific to the delivery of acupuncture services provided via telehealth are necessary.

Staff brought proposed regulatory language for discussion to the Licensing and Examination Committee (LEC) meeting held December 17, 2020. At the Board meeting held that same day, Board voted for staff to make additional amendments as necessary based on recent Legal review, add telehealth to the 2021 rulemaking calendar, and bring back the amended proposed language to the next Board meeting for consideration.

Proposed Amendments:

Staff is proposing the Board adopt new Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of the California Code of Regulations, titled, '*Standards of Practice for Telehealth Services*'. The provisions of the proposed regulation are as follows:

- Licensees are permitted to provide acupuncture services listed in BPC section 4937 via telehealth subject to specified circumstances. The previous proposed language brought to the December 2020 LEC meeting, cited BPC section 4927. The citation was changed to Section 4937, which is more inclusive of all modalities and services permitted by a licensed acupuncturist.
- Licensees, as used in this section, only include licensed acupuncturists. Previously, the proposed language brought to the December 2020 LEC meeting included acupuncture trainees enrolled in Board approved educational and training programs and Board approved tutorial programs. However, this inclusion had to be removed as there is no authority under BPC sect. 2290.5 to allow for this.
- Telehealth services can only be provided to patients within California.
- Licensees must hold a current and valid license.
- The licensee obtains and documents informed consent from the patients receiving services via telehealth.
- The informed consent covers:
 - Risks to confidentiality and security
 - Data storage policies and procedures
 - Possibility of disruption and/or interruption of service due to technological failure
 - Insurance coverage considerations
 - Other issues involving incompatibility between acupuncture services delivered in person and those delivered via telehealth
- Factors for the licensee to consider when determining the appropriateness of telehealth services. Factors include:
 - Ability to obtain diagnostic information to provide a diagnosis and prescribe treatment
 - Patient's diagnosis, symptoms, and medical history
 - Patient's preference for receipt of telehealth services
 - Benefits, risks, and constraints resulting from their delivery via telehealth and the nature of services provided
- Licensees are competent to deliver services based on knowledge, skills, and abilities relating to delivery of acupuncture services via telehealth
- Licensees are competent to deliver information technology chosen for telehealth services

- Licensees are competent to determine how services might differ from those delivered in person
- Licensees take reasonable steps to ensure electronic data is transmitted securely
- Licensees inform the patient immediately of any known data breach or unauthorized dissemination of data.
- Licensees comply with the Acupuncture Licensure Act, Acupuncture Board regulations, and all other applicable provisions of law and standards of care in California related to the practice of acupuncture.
- Failure to comply with this section constitutes unprofessional conduct.

Recommended Motion Language

Option 1: Motion to Approve

Move to approve the proposed regulatory text for Title 16, CCR section 1399.483 and 1399.489, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public.

Option 2: Motion to Approve, as Amended

Move to approve the proposed regulatory text as amended:

Note the amendments

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

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BPC Section 2290.5

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Business and Professions Code §2290.5

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means any of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(C) A qualified autism service provider or qualified autism service professional certified by a national entity pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to the patient's medical information shall apply to telehealth interactions.

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

(h) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(i) (1) Notwithstanding any other law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2019, Ch. 867, Sec. 1.5. (AB 744) Effective January 1, 2020.)



Proposed Regulation

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Title 16. Acupuncture Board

PROPOSED LANGUAGE

Proposed new language is underlined

Add Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of the California Code of Regulations to read:

§1399.452.1. Standards of Practice for Telehealth Services.

A licensee is permitted to provide acupuncture services listed in section 4937 of the Business and Professions Code, via telehealth, to a patient located in California, subject to the following conditions:

- (a) The licensee shall hold a valid and current license issued by the Board.
- (b) The licensee shall obtain and document informed consent for the provision of acupuncture services via telehealth from the patient. Such consent shall cover concerns unique to the receipt of acupuncture services, via telehealth, including risks to confidentiality and security, data storage policies and procedures specific to telehealth, the possibility of disruption and/or interruption of service due to technological failure, insurance coverage considerations, and other issues that the licensee can reasonably anticipate regarding the incompatibility between acupuncture services delivered in person and those delivered via telehealth.
- (c) The licensee shall determine whether delivery of acupuncture services via telehealth is appropriate after considering at least the following factors:
 - (1) The ability to obtain diagnostic information sufficient to be able to determine a diagnosis and prescribe treatment;
 - (2) The patient's diagnosis, symptoms, and medical history;
 - (3) The patient's preference for receiving acupuncture services via telehealth;
 - (4) The nature of the acupuncture services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth.
 - (5) The licensee's competency to deliver such services based upon whether the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of acupuncture services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (d) The licensee shall take reasonable steps to ensure that electronic data is transmitted securely and shall inform the patient immediately of any known data breach or unauthorized dissemination of data.

(e) The licensee shall comply with all other provisions of the Acupuncture Licensure Act, Acupuncture Board regulations, and all other applicable provisions of law and standards of care in this state related to the practice of acupuncture. Failure to comply with this section constitutes unprofessional conduct.

Authority: 4933 Business and Professions Code

Reference: Business and Profession Code sections 2290.5, 4927, 4937



22 -Align Curriculum Standards

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| | |
|----------------|--|
| DATE | March 25-26, 2021 |
| TO | Board Members, Acupuncture Board |
| FROM | David Bruggeman, Policy Analyst |
| SUBJECT | Discussion on Amending Title 16, California Code of Regulations (CCR) sections 1399.415, 1399.416, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439 (Curriculum Oversight Authority) |

Chapter 397, Statutes of 2014 (SB 1246), extended the sunset date of the Acupuncture Licensure Act and the Acupuncture Board's (Board) operations until January 1, 2017. It also made substantial changes to the Board's education regulation and oversight.

SB 1246 was the subject of a prior regulatory package the Board approved in 2016, and it was implemented into regulations effective May 24, 2017. Following Board approval of that package, subsequent staff and legal review found additional areas requiring clarification, and the Board approved language addressing those changes at the August 2019 Board meeting.

There are two areas requiring further attention by the Board. One, is the overlap between this regulatory package and the proposed package implementing AB 2190. The overlap is in 16 CCR sections 1399.415 and 1399.416. The other is a conflict between the meeting minutes and the meeting recording and transcript over changes to 16 CCR 1399.439, that was approved by the Board at its August 2019 meeting.

The AB 2190 proposed package includes regulatory changes related to the application process for credential evaluation services to obtain Board approval. It also makes other amendments to regulations affecting foreign-trained applicants to ensure the application process and education documentation aligns with the changes imposed by AB 2190. Like SB 1246, it became effective on January 1, 2017. The provisions of each bill affect 16 CCR sections 1399.415 and 1399.416.

Rather than address both sections in each regulatory package, staff recommend handling all the changes to 16 CCR 1399.416 in the regulatory package for AB 2190. It also recommends that the changes to 16 CCR 1399.415 be handled in the regulatory package for SB 1246. Staff is bringing additional amendments with more refinement to this section for the Board's consideration and possible new vote to adopt these more complete amendments. The proposed new amendments are shown in double underline and **yellow highlight**.

When the Board approved changes to 16 CCR 1399.439, the regulatory language, as captured in the approved meeting minutes (page 19), does not reflect the language captured on the meeting recordings. The difference between the two versions involves the word of (**in bold**) in the following text:

“Every approved educational and training program shall be required to submit to the Board at least 90 days before implementation **of** the newly proposed curriculum on the application for board approval of curriculum as defined in §1399.437. The application shall also include a letter...”

On review of the transcript and the recording, staff believe the minutes are incorrect, and that there is a pause where the minutes indicate there is the word 'of'.

We recommend that the Board approve a revision to the minutes of the August 15-16, 2019 Board meeting. This revision would be on Page 19 and would strike the first instance of the word 'of' from the first sentence of quoted text under Option 2.

Recommended Motion #1 regarding Section 1399.439:

Move to direct staff to correct page 19 of the August 15-16, 2019 minutes of the Board. The specific change is to remove the first use of the word 'of' in the quoted text changing 16 CCR 1399.439.

Recommended Motion #2 regarding Section 1399.415:

Option A: Motion to Approve

Move to approve the proposed regulatory text for Title 16, CCR section 1399.415 as part of the SB 1246 Align Curriculum Standards and Approval Related Regulations with Statutory package, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, If a hearing is requested by a member of the public.

Option B: Motion to Approve, as Amended

Move to approve the proposed regulatory text as amended:

Note the amendments

... and to direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, If a hearing is requested by a member of the public.

Recommended Motion #3 regarding Section 1399.416:

Motion to Approve

Move to approve removing the proposed regulatory text for 16 CCR 1399.416, as part of the SB 1246 Align Curriculum Standards and Approval Related Regulations with Statutory package and direct staff to take up any amendments to 16 CCR 1399.416 as part of the AB 2190 package to bring to the Board for consideration.



**August 2019 Meeting
Minutes (excerpt)**

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- Subdivision (c) has been revised for clarity, so it is understood that all student records shall be maintained in English, at minimum. This is a non-substantive change.
- Subdivision (d) has been removed because the process for approved educational and training programs' communication of changes to curriculum have already been addressed under subdivision (a).

EO Bodea and Bojack noted clarity concerns in §1399.439 (a) and suggested edits accordingly after ascertaining what the stated policy goal was.

EO Bodea and Bojack suggested the Board consider the following language, “Every approved educational and training program shall be required to submit to the board at least 90 days before the close of the school’s academic year, the newly proposed curriculum for the following academic year on the board application for approved curriculum as defined in CCR §1399.437...”

EO Bodea then asked members of the public who were associated with schools to address the language.

A public commenter suggested it be changed to “at least 90 days before the implementation of the new curriculum”

The Board agreed to the suggested language.

Motions:

Option 2, as amended:

(a) “Every approved educational and training program shall be required to submit to the Board at least 90 days before implementation of the newly proposed curriculum on the application for board approval of curriculum as defined in §1399.437. The application shall also include a letter...”

Possible Motions for CCR 1399.439

Member Kim motioned to use Option 2 and to approve the suggested changes.

Member Osorio seconded the motion

No Public Comment received

Vote: Matecki - Yes; Chan - Yes; Cimino – Yes; Kim - Yes; Li – Yes; Osorio – Yes.

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Proposed Regulation

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ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in double underline and **yellow highlight** for new text and ~~double strikethrough~~ for deleted text.

(1) Amend Section 1399.415 of Article 2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.415 Documentation of Training.

(a) Each applicant shall have completed the education or tutorial requirements set forth in **Section 1399.434** ~~these regulations~~ as documented by the registrar of each school from which the applicant attended or from the applicant's tutorial supervisor, in the case of a tutorial program.

(b) All applicants for examination shall have completed the coursework and training set forth in Section 1399.434.

~~(c) All applicants applying for examination shall meet the minimum educational or tutorial requirements set forth in these regulations at least thirty (30) days prior to the date of the examination for which the application has been made.~~

Note:

Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4927.5, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

Rationale: The Board no longer has California Code of Regulations section 1399.436 in regulation.