

California Acupuncture Board Meeting

August 26, 2021

WebEx Conference Call



Board Members

John Harabedian, Esq., President

Ruben Osorio, Vice President

Kitman Chan, C.P.A.

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

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

Dr. Shu Dong Li, Ph.D

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



Agenda



ACUPUNCTURE BOARD MEETING AGENDA

Thursday, August 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/j.php?MTID=m6f926136308e5ace8d8c4edda5a971ed>

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:

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Pursuant to the provisions of Governor Newsom's Executive Order N-08-21, dated June 11, 2021, neither a public location nor teleconference locations are provided.

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE FULL BOARD MEETING AGENDA

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Members of the Board

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

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- 1. Call to Order, Roll Call, and Establishment of Quorum
(John Harabedian, Board President)**
- 2. President's Remarks (Harabedian)**
 - Welcoming message and meeting information

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).)

3. **Review and Possible Approval of the June 24 – 25, 2021 Board Meeting Minutes (Harabedian)**
4. **Executive Management Report**
 - (A) Budget Update - Fund Condition
 - (B) Staffing Update
 - (C) Facilities Update
 - (D) Business Modernization Update
 - (E) Licensing Report Q4 Fiscal Year 2020-2021
 - (F) Enforcement Report Q4 Fiscal Year 2020-2021
5. **Committee Assignments (Harabedian)**
6. **Legislative Report and Update of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)**
 - (A) **Bills the Board Currently Has a Watch Position On (Update)**
 - 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) Licensure: veterans and military spouses
 - v. [AB 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions
 - vi. [AB 885](#) (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
 - vi. [AB 1026](#) (Smith) Business licenses: veterans
 - vii. [AB 1236](#) (Ting) Healing Arts: licensees: data collection
 - viii. [AB 1273](#) (Rodriguez) Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer
 - ix. [AB 1468](#) (Cunningham) Prior authorization
 - x. [SB 607](#) (Roth) Professions and vocations
 - xi. [SB 731](#) (Durazo) Criminal records: relief

(B) Bills the Board Currently Has a Support Position On (Update)

xii. [AB 810](#) (Flora) Healing arts: reports: claims against licensees

(C) Bills the Board Currently Has an Oppose Position On (Update)

xiii. [AB 918](#) (Quirk-Silva) Acupuncture: licensure: examination

xiv. [AB 1386](#) (Cunningham) License fees: military partners and spouses

xv. [SB 772](#) (Ochoa-Bogh) Professions and vocations: citations: minor violations

7. Regulations Update (David Bruggeman, Policy Analyst)

(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, 1399.434, 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, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419)

5) Application for Retired Status; Retired Status (Title 16 CCR section 1399.419.3)

6) Continuing Education Requirements (Title 16 CCR sections 1399.483, 1399.489)

7) Standards of Practice for Telehealth Services (Title 16 CCR section 1399.452.1)

8) Repeal of Sponsored Free Health Care Events (Article 1.5 of Division 13.7 of Title 16 CCR sections 1399.407, 1399.407.1, 1

8. Sunset Report Update (Bodea)

9. Discussion and Possible Action to Initiate a Rulemaking and to Adopt Text to Add Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 in Title 16 of the California Code of Regulations: Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service (Brothers)

10. Public Comments Received by the Board (Harabedian)

11. Public Comment on Items Not on the Agenda (Harabedian)

The Board may not discuss or take action on any matter raised during Public Comment

12. Future Agenda Items (Harabedian)

13. Adjournment (Harabedian)

Informational Notes:

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

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

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

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please 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.

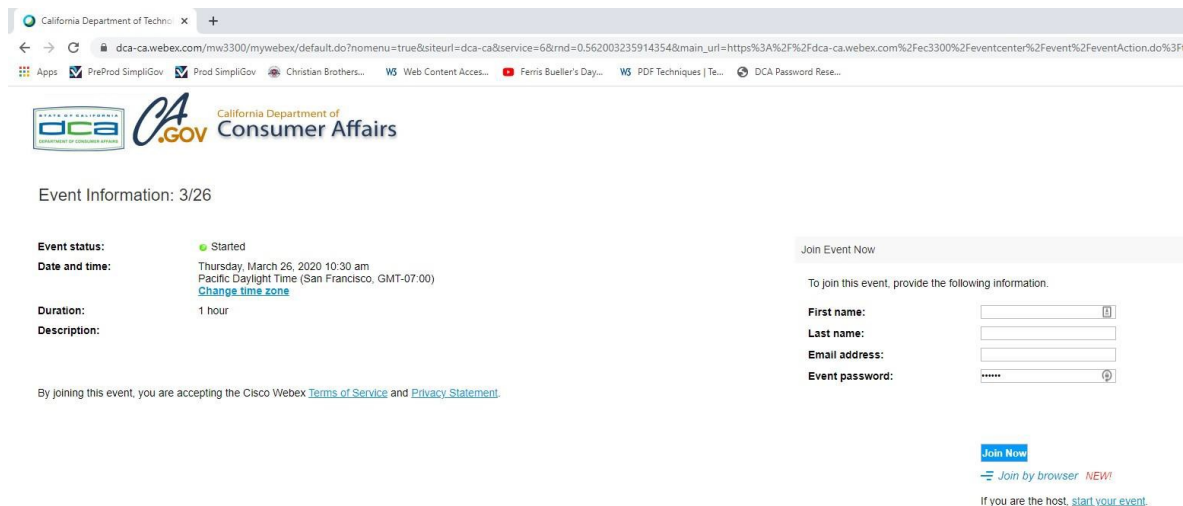
HOW TO – Join – DCA WebEx Event

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

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

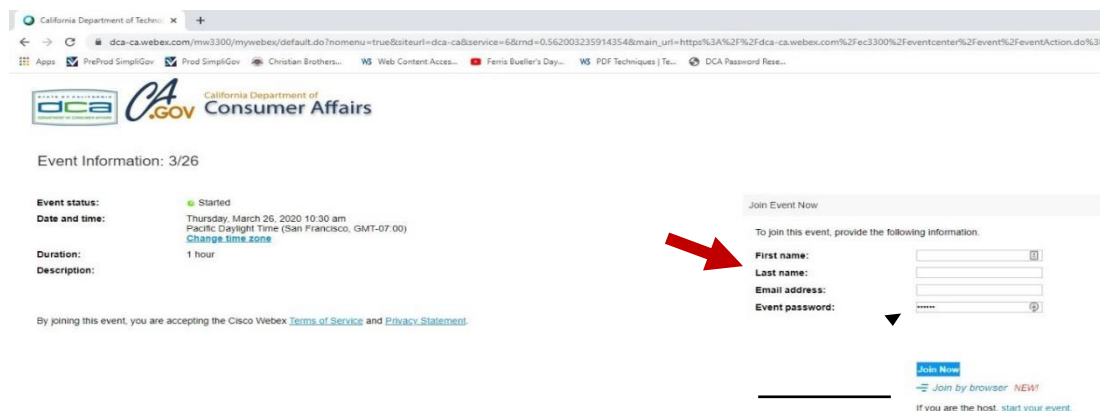
Example link:

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



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.

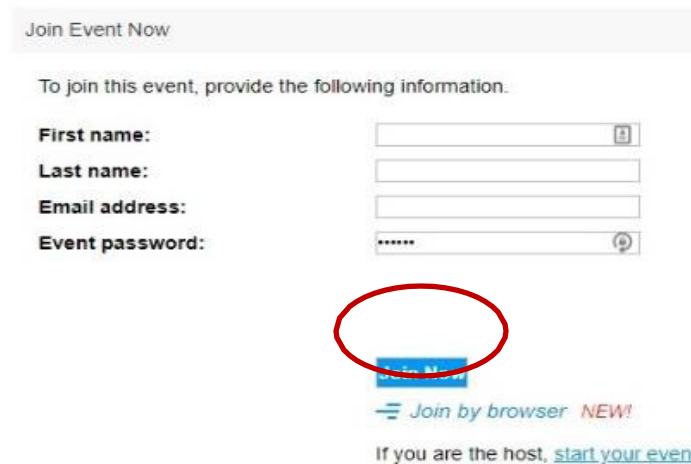
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during 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.



Join Event Now

To join this event, provide the following information.

First name:

Last name:

Email address:

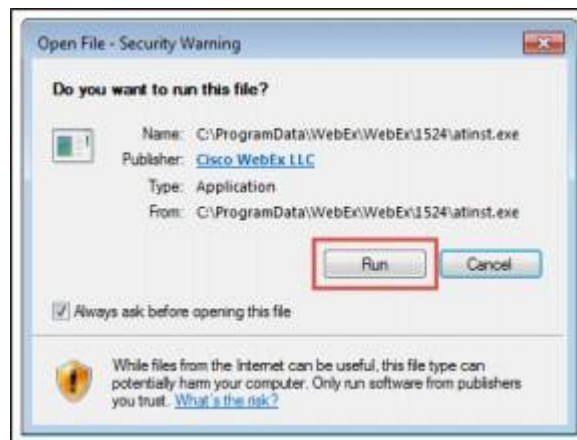
Event password:

Join Now

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

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

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.

HOW TO – Join – DCA WebEx Event

- To bypass step 4, click 'Run a temporary application'.

Starting Webex...



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

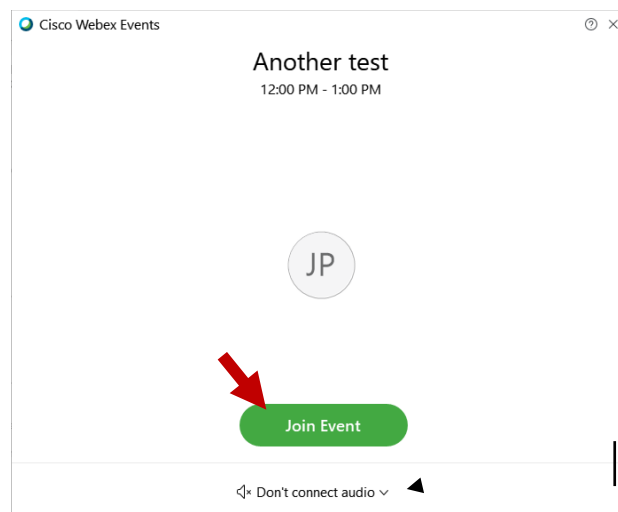
- A dialog box will appear at the bottom of the page, click 'Run'.



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

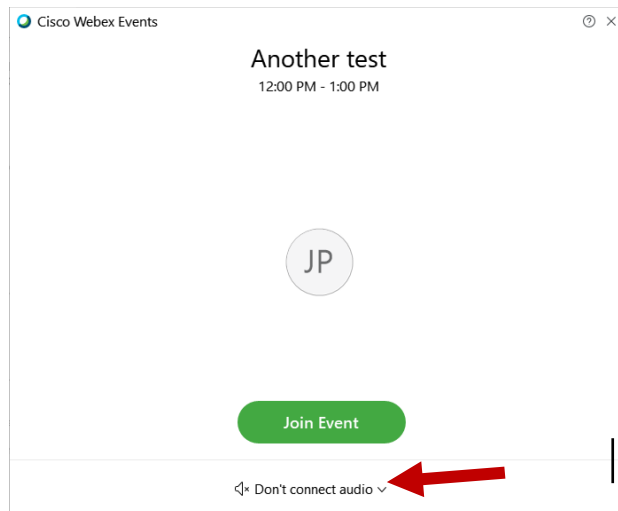
NOTE: The preferred audio connection to our event is via telephone conference or headset. Use of an open microphone and speakers through your computer could result in issue with audio clarity and potential feedback/echo.

- If using a headset plugged into your computer, click the 'Join Event' button.

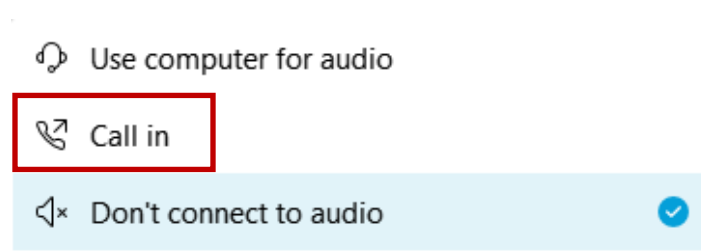


HOW TO – Join – DCA WebEx Event

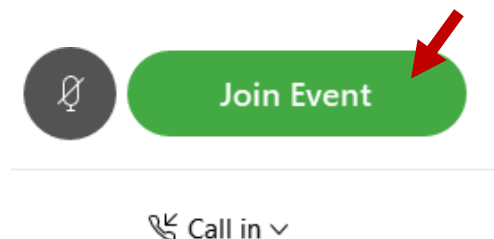
8. If using teleconference via your phone for audio, click the audio menu below the green 'Join Event' button.



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

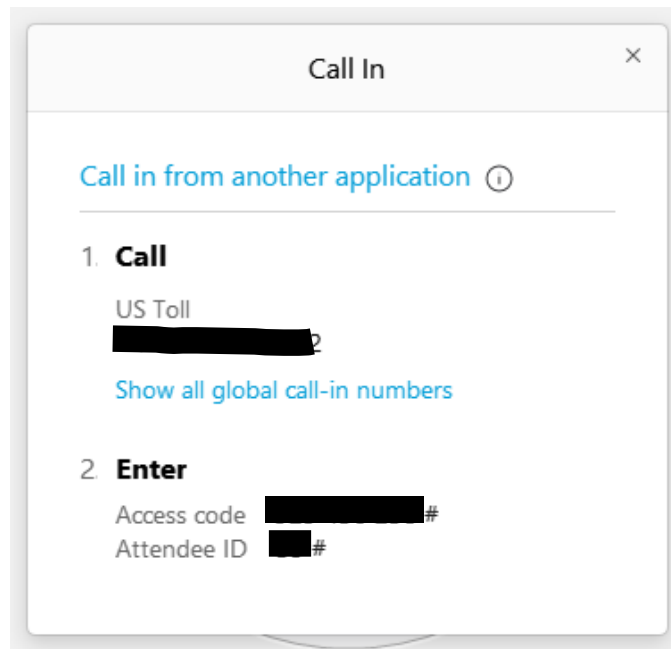


10. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



HOW TO – Join – DCA WebEx Event

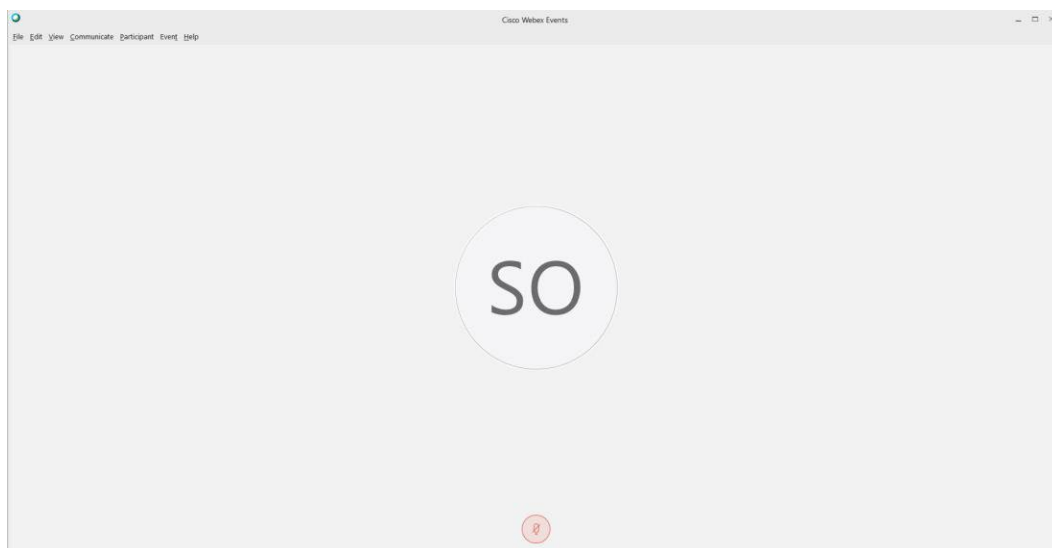
11. Call into the audio conference with the details provided.



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!

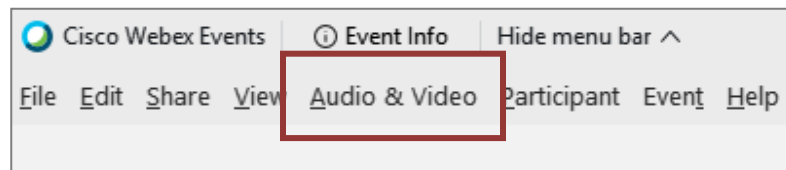


NOTE: Your audio line is muted and can only be unmuted by the event host.

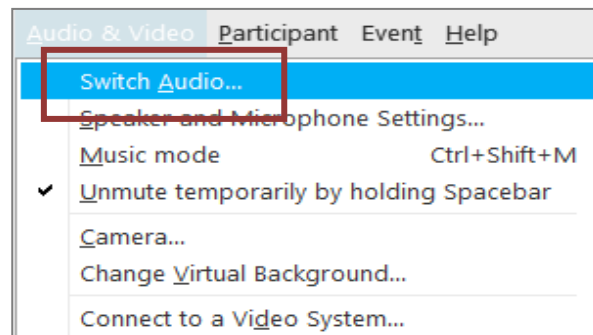
Selecting Audio Connection After Joining

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.

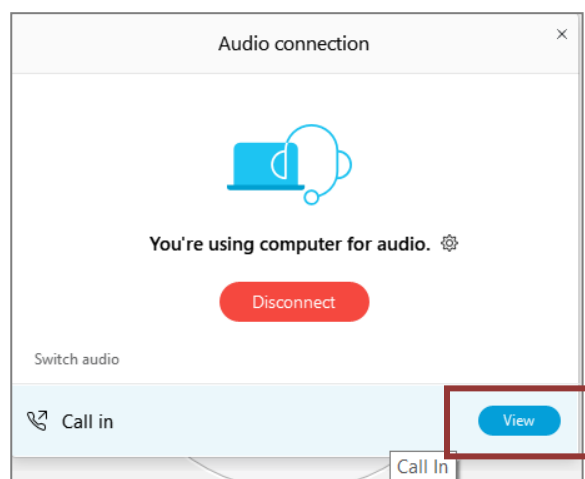
1. Select 'Audio & Video' from the menu bar at the top of your screen.



2. Select "Switch Audio" from the drop-down menu.



3. The 'Call In' information can be displayed by selecting '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.

Using the Question & Answer feature (Q&A):

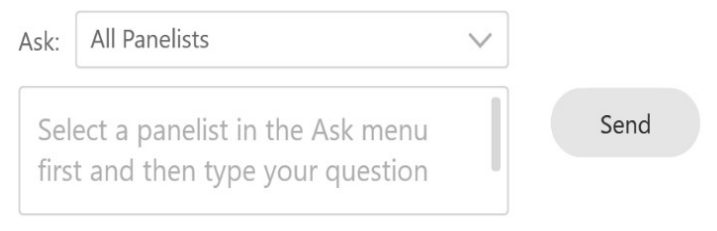
If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



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

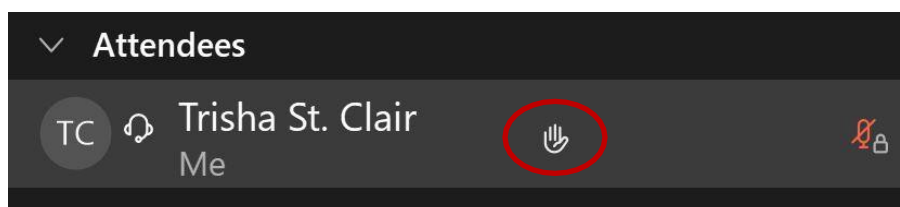
NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

Make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.



Using the hand raise feature:

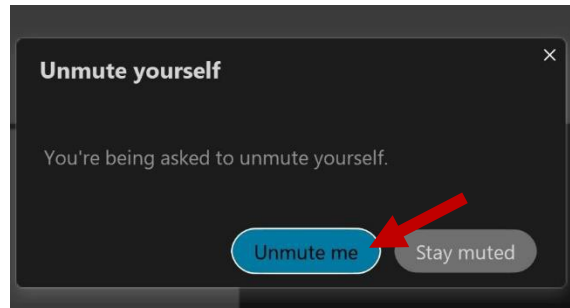
If the program elects to allow use of the hand raise feature and you would like to make a public comment, click on the hand icon next to your name.



Please click on the hand icon again once your comment has been presented to lower your hand.

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

When you are identified as the next commenter, the moderator will unmute your line, sending you a request to unmute yourself. Clicking “unmute me” on the pop-up window will open your microphone. You may then begin providing your public comment.



NOTE: Your line will be muted at the end of the allotted public comment duration. You will be given a warning that your time is about to expire.



**3 - June 2021
Minutes**



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**BOARD MEETING
DRAFT Meeting Minutes
June 24-25, 2021**

LOCATION:

Web Ex Teleconference

Board Members Present

Dr. Amy Matecki
Kitman Chan
John Harabedian (June 25 only)
Dr. Yong Ping Chen, Ph.D.
Hyun “Francisco” Kim
Shu Dong Li, Ph.D.
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
Heather Hoganson, DCA Legal
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager
Cricket Borges, Enforcement Coordinator
Kristine Brothers, Policy Coordinator
David Bruggeman, Policy Analyst

Full Board Meeting – Thursday, June 24

1. Call to Order, Roll Call, and Establishment of Quorum

Board President, Dr. Amy Matecki (President Matecki), called the meeting to order at 12:31 p.m.

Policy Analyst, David Bruggeman (Bruggeman), called the roll.

Members Present

5 Present – Matecki, Chan, Chen, Kim, Li



5-0 Quorum Established

2. President's Remarks

President Matecki thanked members of the public and schools for working closely with the Board in supporting the Occupational Analysis. She also thanked the Board members for their continued work and support. She noted that the report on the Education and Research Committee meeting (Item 14) will be postponed to the August Board meeting due to member availability.

3. Public Comment on Items Not on the Agenda

No public comments were offered at this time.

4. Public Comments Received by the Board

Member Osorio joined the meeting.

Since the last Board meeting, there were three public comments received. All of them concerned AB 918, which is now a 2-year bill. As it is no longer on this year's legislative calendar, those comments were not included with the meeting materials.

5. Review and Possible Approval of the March 2021 Board Meeting Minutes

No discussion or public comment on the minutes.

MOTION

Member Chen motioned to approve the March 2021 Board meeting minutes.

Member Osorio seconded the motion.

Vote

Yes: Matecki; Chan; Chen; Kim; Li; Osorio.

6-0 motion passes

6. Executive Officer's Report

(A) Budget Update – Fund Condition

Ben Bodea (EO Bodea) introduced Nguyet Nguyen from the Department of Consumer Affairs Budget Office, who reviewed the Board's Fund Condition Statement and Expenditure Projection Report (available in the meeting materials). While the office did



not currently see any issues or concerns, they anticipated considering a fee study and fee increase in the future.

(B) Staffing Update

Since the March Board meeting the Central Service Manager position has been filled. A new Enforcement Analyst position will be filled starting July 1.

Staff continues working on the office move, which is currently scheduled for September.

President Matecki asked when a fee study might be considered? EO Bodea notes that would be likely in the 2023-24 timeframe (this would be consistent with the Board's Strategic Plan). Board staff may seek a Budget Change Proposal to ensure sufficient funds for the audit.

Member Chen noted that the move will put the Board staff in a bigger space that costs less. Bodea confirmed that the price per square foot of the new space is less than the current rate.

Member Kim asked how the recent fee changes have affected the financial outlook. EO Bodea noted that the projections in the budget documents incorporate the fee increases except for the continuing education course application fees. Staff does not have enough data to make projections on those CE fees, and the next fee study should be timed to allow for gathering that information.

No public comment.

7. Business Modernization Update

Staff have completed three implementation periods of the business modernization process to date. New online services include payment by credit card, acupuncture license renewal, wall license application/renewal/cancellation, initial license application, and exam applications. Future functions to be implemented are continuing education application processes, license verification, wall license replacement processes and enforcement.

Member Kim asked about various functions available online. Herdt reviewed the list of what is currently available, which includes: license renewal, wall license management, licensing exam applications, initial license applications, exam retake applications. What is under development right now includes dashboards for continuing education providers and licensees, out-of-state license verification, wall license replacement and transitioning between active and inactive status. EO Bodea noted that it is just the



exam applications that can be done online, the licensing exam itself is not available online.

No public comment.

8. Board 2018-2022 Strategic Plan Status Update

EO Bodea reviewed the progress made on the Board's 2018-2022 Strategic Plan (available in the meeting materials). He noted for Goal 3.1 in Education that the Board will not be reviewing regulatory language related to AB 2190 at this (June 2021) meeting. Also, the reference to AB 3333 in Goal 4.6 should be to AB 3330.

Public Comment – Commenter noted that AACOM is going to English-only, which commenter considers in conflict with California standards. They asked what the criteria are for being subject matter experts. Commenter noted that calls for changing standards have persisted with little action. Want to work with Board to be proactive in preventing violations. Feels plan to communicate the practice and regulation of acupuncture to the public is something commonly called for with little action. Commenter is optimistic this time will be different. Noted that there have been consumer guides to acupuncture published by the Board before. Wants this issue on a future agenda.

9. Licensing Report, - Q3, FY 2020-21

Herd started by thanking everyone for participating in the Occupational Analysis. Participation was 2795, 23.6% of active licensees.

Herd reviewed licensing data for Q3 (January-March 2021) of fiscal year 2020-21. Active licensee numbers were relatively flat, a slight decline over the last three years. There are slight increases in inactive, cancelled, and delinquent numbers. Continuing Education numbers continue to be affected by the Governor's Executive Order delaying compliance with continuing education requirements.

Member Kim commented that all continuing education courses are available online. Kim asked if the fee increase affected the numbers for continuing education. Herdt believes it's too early to tell. Many applications are in process, and there have been few comments received to date. Bodea noted there is usually a push at the end of the year (previous quarter) to help promote courses. Chen asks how many courses are offered online. Herdt noted that any approved course is currently allowed to be provided online. There may be some currently offered in person, but Herdt expects the vast majority are available online. Chen offers that some providers may be challenged



by providing courses online. Chen also notes that the pandemic may explain some of the decline in numbers.

EO Bodea updated the Board that the waiver for clinical distance education is currently under review by the Governor's office.

President Matecki observed that in the case of physicians that some early retirements may have been prompted by the pandemic, it's possible this is happening with acupuncturists. Kim echoed this observation. Chen noted that the licensees she interacts with have been very busy. President Matecki noted that the post-pandemic period may be an opportunity to serve the public more.

Public Comment – First commenter, a continuing education provider, noted that they have heard from many providers who have stopped getting California approvals entirely, others are cutting back. They hope the Board continues to monitor this, they believe there will be an overall drop off in offerings, independent of the number of course applications. Still wondering about the Board's response to the fee situation, feels the Board should be involved in finding a way forward.

Second commenter noted that associations are providing continuing education offerings to their members, CalATMA doing a lot of translation of these offerings. Sees this as Californians investing more in CE.

The Board recessed from 1:54-2:15

Roll Call taken at 2:16 p.m.:

Members Present

6 Present: Matecki, Chan, Chen, Kim, Li, Osorio

6-0 Quorum

10. Enforcement Report – Q3, FY 2020-21

Enforcement Coordinator Cricket Borges reviewed the Q3 Enforcement data summarized in the meeting materials. She noted that in areas with few cases, average time to completion can become skewed by a single complex case.

Member Chan wondered why there was a relatively large number of misrepresentation cases. Borges noted that in some circumstances there are members of the public that assume a provider is a doctor. The Board doesn't receive many of these cases. Member Chan asked how the public can distinguish those providers who



are doctors? EO Bodea indicated that the Board cannot investigate without a complaint. Enforcement does not go out actively seeking these matters. Board staff have worked with DCA on notices for the public on this issue, but the different degrees available for acupuncturists can confuse matters. An investigation is completed if there is a complaint and the status of licensees is confirmed at that time.

President Matecki was curious about the fraud cases compared to misrepresentation. Typically, the fraud cases are related to billing. Cases related to unprofessional conduct are usually matters of misrepresentation. If further investigation uncovers fraud related to the misrepresentation, then we can recategorize the matter.

Public Comment – Commenter wanted a committee workshop on enforcement. Committee could answer questions about what constitutes various violations to avoid future charges. Much better to have a meeting with a public and licensee member along with some of the schools. Happy to see decrease in sexual misconduct charges.

11. Legislative Report and Update of 2021 Legislative Bills of Interest to the Board

Policy Coordinator Kristine Brothers (Brothers) reviewed the Legislative Calendar for 2021. Final deadlines for bills to be signed into law this year will be in August and September.

The status of legislation addressed at this meeting reflects changes through May 28th.

The report is in a different format than previous meetings, starting with bills where the Board has taken a Watch position. They are:

AB 2, AB 29, AB 54, AB 107, AB 646, AB 885, and AB 1236.

Brothers reviewed the status of each of these bills, for which staff are not recommending any changes in position. Detailed analyses are available in the meeting materials.

As of May 28th, the amendments to AB 54 are such that it no longer affects the Acupuncture Board.

The Board has taken an oppose position on the next group of bills, which are:

AB 339, AB 918, AB 1386 and SB 772.

Brothers reviewed the status of each of these bills, for which staff are not recommending a change in position.

As of May 28th, the amendments to AB 339 are such that it no longer affects the Board.



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The last group of bills in the review are bills the Board has not reviewed or taken a position on. They are:

AB 810, AB 1026, AB 1273, AB 1468, SB 607 and SB 731.

In a change from past practice, if the Board is taking a Watch position, no vote is required.

AB 810 – Staff recommends a Support position.

No public comment

MOTION

President Matecki moved that the Acupuncture Board take a Support position with respect to AB 810 (Flora) as introduced on 02/16/21 for the reasons discussed by members and staff and as reflected in the staff memo.

Member Kim seconded

Vote

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

6-0 motion passes

AB 1026 – Staff recommends a Watch position.

Member Kim agrees with recommendation. No other Board member comments.

AB 1273 – Staff recommends a Watch position.

Member Kim agrees with position. No other Board member comment.

AB 1468 – Staff recommends a Watch position. Bill does not affect the Board but would affect the profession.

Member Kim agreed with staff recommendation. No other Board member comment.

SB 607 – Staff recommends an Oppose position.

President Matecki and Member Osorio would like the Board to take a Watch position. No other Board members commented or expressed objections to the Watch position.

SB 731 – Staff recommends a Watch position.



Member Kim would like to see what other Boards are doing with respect to this bill, he supports taking a watch position. No other Board member commented.

President Matecki thanked Brothers and Bruggeman for their work on the report.

Public Comment – First commenter, David Quackenbush for CSOMA, which sponsors AB 918. It is a two-year bill, and that CSOMA is having conversations with stakeholders to work on improving the bill.

Second commenter, echoes praise of Brothers on the increasing quality of the legislative report. CalATMA agreed with most everything in the report. Is in support of AB 1468 but understands why Board is taking a Watch position. Agreed with staff on Opposition to SB 607. Commenter has not seen the amendments to AB 918 reported on in Acupuncture Today. Author's office indicated there were no amendments. Those associations who have opposed AB 918 continue to oppose the bill. Might be appropriate to revisit once Occupational Analyses are completed for both CALE and NCCAOM exams.

The Board recessed from 3:51-4:00

Roll Call taken at 4:01 p.m.:

Members Present

6 Present: Matecki, Chan, Chen, Kim, Li, Osorio

6-0 Quorum

12. Regulations Update

Policy Analyst David Bruggeman updated the Board on the status of regulatory packages in process since the March Board meeting. The progress of those packages is summarized in the meeting materials. It was intended for the Board to review regulatory language in connection with AB 2190, but that has been delayed, most likely to the August Board meeting.

Questions were raised by Member Kim about intended filing dates for the regulatory packages on law and ethics requirements for continuing education and on telehealth.

Public Comment – First commenter wanted Board to be aware that ACAOM standards are much less than those of California. They would like CalATMA to work with Board and staff on developing the language for these packages.



Second commenter asked why continuing education course approval fees were not a part of Section 100 process.

Third commenter with California Acupuncturists United Association has had successes with providing continuing education courses online. This technology has allowed for having presenters from outside the state and the seminars have been well received.

EO Bodea notes that there are opportunities for public comment at Board meetings and after Board has approved regulatory language. As regulations go through the approval process there will also be opportunities for public comment, both at a public hearing and during a public comment period. A Section 100 process allows for technical, non-substantive changes. This was used for the fee schedule as the only changes were in the amounts, not in the existence of the fees.

13. Consumer and Professional Association Reports

CSOMA – Nell Smircina, President. AB 918, sponsored by CSOMA, was discussed earlier. CSOMA has seen a 40 percent growth since beginning of shutdown. One school has had all of their students join the organization. Increased engagement around advocacy work. CEs offered monthly as member benefit, will continue through end of year.

CAUA – Continued to describe successes of organization's CE offerings. Working online has allowed for more offerings, and in preserving traditional methods. Interest in system extends to other states and countries. While CAUA is back to offering live seminars, it will continue to have online offerings. Has seen lots of success with using acupuncture and herbs in addressing COVID-19 related matters.

CalATMA – With over 500 members will continue to offer quality CEs at low prices. Working on legislative package for next year in conjunction with other associations. Annual meeting is scheduled for October, will be held online. Three bills in development – Asian massage, lasers, therapeutic bleeding. Having discussions, including with physical therapists, on many bills and topics, including dry needling. Planning several celebrations statewide for October 24 Acupuncture/traditional medicine day. Spring seminar next year scheduled for two days in Napa.

14. Report from Education and Research Committee Chari on June 24, 2021 Committee Meeting and Possible Action on any Recommendations

The Committee meeting scheduled for this date was cancelled. The Committee will address the topics on the agenda for this meeting in the future.



15. Future Agenda Items

President Matecki confirmed the Education Committee next meet before the August Board meeting. Member Kim suggests Board review Western/clinical science and compare those requirements with other DCA Boards. (Legal Counsel Chan-You confirmed that this is a request for a future Committee meeting.)

Public Comment – First commenter echoed suggestion to review western/integrative medicine, possibly included with the discussions intended to take place at this meeting. Wants to discuss doctoral programs and whether they are in the best interests of California consumers.

16. Adjournment of Day One

Meeting Adjourned at 4:40 p.m. PDT.

Day Two, Full Board Meeting, June 25, 2021

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

The meeting was called to order at 9:32 a.m. PDT.

Members Present

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

7-0 Quorum

18. President's Remarks

President Matecki emphasized that the Board remains focused on its highest priority - public protection.

19. Public Comment on Items Not on the Agenda

There were no comments offered on this topic at this point in the meeting.

20. Review of the Consumer Protection Role of the Board

Board Legal Counsel Fred Chan-You (Chan-You) outlined the Board's role in protecting consumers, which is its primary role. The Board protects the public in the following ways: 1) Ensuring that someone meets the minimum statutory requirements



for licensure, 2) Enforcing violations of the Practice Act, 3) Pass relevant regulations related to the Practice Act, 4) Prevent unlicensed activity. Its role is primarily administrative. The Board's mission does not include regulating medical or acupuncture products, addressing amounts to be charged for services, the economic viability of the profession, promotion of the profession or protecting the business interests of acupuncture related industries.

Enforcement is limited to the provisions of the Practice Act. If regulatory or enforcement authority is wanted for something not covered in the Practice Act, legislative authority must be sought. In Chan-You's experience, the Board has been very conscientious in its consumer protection role.

Board comments – Member Harabedian asked what prompted the presentation. Chan-You noted that recent questions at previous meetings concerned the Board's scope and mission, and that it was a good time for a review. EO Bodea noted that herbal task force requests and the fee conversations prompted the staff to ensure that the public understood the Board's role and scope.

Member Kim asked if incorporating recent changes in health care provisions and practices into curriculum review would be within Board's purview. Chan-You confirmed that it is, as the Board has authority over school curriculum.

No Public Comment

21. Review of the Board's Role Concerning Requests for Public Comment

Counsel Chan-You covered the basics of the Open Meeting Act and public comments. Public comments allow the Board to get input as it is making a decision, and they provide the Board additional information they may not have access to. Having this different perspective is an important part of the Board's deliberations.

The public cannot be disruptive and using offensive language is not permitted. Restrictions on time for comment are reasonable. Unlimited amounts of public comment can impact the ability of the Board to function effectively. In Counsel's experience, limits of 2-5 minutes have been common. It is also reasonable to restrict comments if members of the public are repeating previously made points.

The Open Meeting Act does not require the Board to engage in a back-and-forth with the public nor does it obligate the Board to answer questions from the public or provide legal advice or analysis on any given issue. A Board can answer questions from the public during public comment, but it is not required to.



EO Bodea noted that this item was placed on the agenda to inform the public and the Board about its roles. In the last few meetings there have been comments suggesting that questions don't or won't get answered, and this was an opportunity to review the relevant laws and regulations.

Public Comment – First commenter asked about a possible forum for a back and forth with the Board and stakeholders.

EO Bodea noted that the public and stakeholders can address questions to the staff. Staff cannot give legal advice but can point out relevant laws and regulations. Staff are prepared to address questions and direct them to the proper personnel as needed.

22. Presentation on CEU Requirements for Acupuncture Board and other Healing Arts Boards in the Department of Consumer Affairs

Brothers outlined the memo prepared for the meeting materials that compares continuing education requirements of seven healing arts boards and the Acupuncture Board. Boards compared with the Acupuncture Board are: Chiropractic Examiners, Medical Board, Osteopathic Medical Board, Naturopathic Medicine Committee, Physical Therapy Board, Physician Assistant Board, and the Board of Registered Nursing.

The review covered the continuing education requirements with an eye to highlighting areas of agreement and difference with the requirements in acupuncture and also addressed differences in license type. More details are available in the full briefing as part of the meeting materials.

President Matecki asked if some continuing education courses from the Medical Board be used to meet Acupuncture requirements? Bodea noted that the Board could look at accepting credits approved by other Boards. Herdt noted they could be used now if the course provider applies for approval through the Acupuncture Board. Bodea noted that this has been done, having providers for other Boards applying through Acupuncture through approval. But that is different from the Board simply accepting credits approved by another board. Brothers noted that Chiropractic Examiners and Board of Registered Nursing allow licensees to take some courses approved by other boards.

President Matecki stated that if the Board wanted to examine this possibility, it could start at the Committee level. EO Bodea stated his hesitation to allow a wide acceptance of units from other Boards would be a complication from a regulatory



perspective (handling complaints about CE providers or courses approved by other boards).

EO Bodea will direct staff to do further research, noting that some Boards do allow CEs for attending Board meetings. This work on CE requirements is part of the Board's Strategic Plan. Bodea notes that other Board use different terminology when discussing distance education and similar courses. Believes it would be beneficial to clarify our language and bring it in line with language used by other Boards.

President Matecki would like the Board to explore in more detail requirements for in person versus distance learning.

Public Comment – First commenter with CalATMA. Echoed support of reciprocal CEUs with other boards. Five hours too small, feels full 25 hours should be available for using other boards CEs. Suggests that NCCAOM approved courses should be fast-tracked for CE approval with the Board. Would like the Board to consider waiving CE requirements for initial license period. Time required for approving courses that have no significant changes to be reduced to 30 days from current 45.

Second commenter – Believed the pedagogy more important than delivery method. Would encourage a case by case consideration about distance versus in person. Some things that might seem better suited to in person really are fine or preferably in a distance delivery. Commenter is concerned about overmedicalizing offerings, wants to prioritize TCM, herbs, etc.

Third commenter – with Five Branches University. Noted that with good teachers and large crowds, schools do use cameras to provide close-up opportunities. So technique can be shown through distance education.

23. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR §§ 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419; Application Process, Criteria, and procedures for Approval of a Credential Evaluation Service

Bodea indicated that action on this item has been tabled to a future date, most likely the August 2021 Board meeting.

24. Election of Board Officers

President Matecki thanked Board Vice President, Kitman Chan, the Board members, DCA staff, the Governor's office, and EO Bodea for their support during their service as



President the past four years. They will not be running again or seek office of Vice-President. President Matecki nominated Member Harabedian to serve as President. Harabedian accepted, noting that President Matecki deserves a break, and is willing to serve as President through the sunset review process.

EO Bodea asked for additional nominations. None were offered.

Public Comment – The first commenter thanked Dr. Matecki and expressed support for Member Harabedian's nomination. Pleased with how the Board has worked to protect the public under President Matecki's tenure.

The second commenter also thanked Dr. Matecki and the Board. Confident in the future of the Board.

EO Bodea asked for a second. Member Osorio seconds.

MOTION

President Matecki moved that Member Harabedian be elected President of the California Acupuncture Board, effective the end of the June 2021 Board meeting.

Member Osorio seconded

Vote

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

7-0 Harabedian elected

Member Chan nominated Member Osorio to the position of Vice President. Member Harabedian seconded.

Public Comment – Sole commenter expressed strong support for Member Osorio's nomination.

MOTION

Member Chan moved that Member Osorio be elected Vice President of the California Acupuncture Board, effective the end of the June 2021 Board meeting.

Member Harabedian seconded

Vote

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

7-0 Osorio elected



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ACUPUNCTURE
BOARD**

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25. Future Agenda Items

Dr. Matecki wanted the Board to continue its discussion about Continuing Education. There was no public comment on this item.

26. Adjournment of Day Two

President Matecki adjourned the meeting at 11:09 a.m.



4 - Executive Management Report



**4(E)
Licensing
Report**

FY 2020/21 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
Active	12248	12224	12195	12190
Inactive	2286	2299	2331	2309
Delinquent	1106	1160	1197	1211
Cancelled	50	46	82	90
Initial License Applications Approved	64	72	63	97
Initial License Applications Denied	0	0	0	0
License Renewals	1641	1789	1340	1174

Fiscal Year 2020/21 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
New CE Provider Applications Approved	17	33	16	5
CE Provider Applications Denied	0	0	0	0
Course Applications Received	781	921	575	550
Course Applications Approved	718	884	570	548
Course Denials	63	37	5	2
Continuing Education Providers current as of June 2020	590	542	523	498
Providers - Total Provider numbers issued to date	1725			

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	2	1
ABAC - Incomplete	0	0	0	0
ABAC - Approved	2	0	5	0
Loss of Approval	2	0	1	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	4	8
New Program Approvals	1	3	5	7
Programs Completed	1	1	1	6
Programs Terminated, Abandoned	13	1	1	0
Total Approved Programs	34	35	38	39



**4(F)
Enforcement
Report**



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DATE	August 26, 2021
TO	Board Members
FROM	Cricket Borges, Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter (Q4) FY 2020/2021: 4/1/21 – 6/30/21

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Sub-Total	Received
Unprofessional Conduct		6
• <i>Misrepresentation as Doctor (Dr.)</i>	3	
• <i>Misleading Advertising</i>	1	
• <i>Aiding and Abetting a violation</i>	1	
• <i>Conduct in Public</i>	1	
Unlicensed/Unregistered		4
Criminal Charges/Convictions**		7
• <i>Applicants</i>	3	
• <i>Licensees</i>	4	
Sexual Misconduct		3
Fraud		2
Non-jurisdictional		2
Incompetence/Negligence		6
Unsafe/Unsanitary Conditions		0
Other		1
Substance Abuse/Drug & Mental/Physical Impairment		0
Discipline by Another State Agency		0
Total		31

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	6	59	8
Unlicensed/Unregistered	4	26	14
Criminal Charges/Convictions (includes pre-licensure)	7	14	14
Sexual Misconduct	3	9	4
Fraud	2	42	8
Non-jurisdictional	2	3	3
Incompetence/Negligence	6	39	4
Unsafe/Unsanitary Conditions	0	8	0
Other	1	3	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	0	1	1
Total	31	204	56

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

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

Enforcement Statistics Report

Performance Measure (PM) 1 - Volume Convictions/Arrests received

Complaint/Convictions Received	FY 2019/20	Fiscal Year 2020/21					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM1: Total Complaints Received	180	33	28	24	24	109	↓ -39%
PM1: Total Convictions/Arrest Received	53	10	8	4	7	29	↓ -45%
PM1: Total Received	233	43	36	28	31	138	↓ -41%

PM2 - Intake Cycle Time - Avg time to open a complaint during the specified quarter.

Intake Cycle Time (Target: 10 Days)	FY 2019/20	Fiscal Year 2020/21					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM2: Intake/Avg. Days	4.3	5	5	4	4	4.5	↑ 5%

PM3 - Inv. Cycle Time - Avg number of days to complete the process for complaints investigated and not sent to AG for formal discipline (includes intake, investigation, and case outcome or non-AG formal discipline.

Investigation Cycle Time (Target: 200 Days)	FY 2019/20	Fiscal Year 2020/21					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM3: All Investigations Closed	174	49	38	31	56	174	→ 0%
PM3: Average Cycle Time Investigations	189	233	248	423	433	334	↑ 77%

The percentage below reflects the number of investigation cases closed in the respective quarters.

	FY 2019/20	Fiscal Year 2020/21					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	45%	23	21	12	16	40%	↓ -5%
91 - 180 Days	16%	8	0	2	3	7%	↓ -9%
181 Days - 1 Year (364)	15%	5	6	5	9	14%	↓ -1%
1 to 2 Years (365-730)	18%	9	10	9	15	24%	↑ 6%
2 to 3 Years (731- 1092)	5%	6	4	0	10	11%	↑ 6%
Over 3 Years (1093 +)	1%	0	1	5	3	5%	↑ 4%

The avg. time frame below is the total time to process citations that were closed within the respective quarter.

Citations	FY 2019/20	Fiscal Year 2020/21					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Final Citations	33	9	6	2	5	22	↓ -33%
Average Days to Close	240.5	385	532	1062	624	650.8	↑ 171%



5-Committee Assignments



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2021 Acupuncture Board Committee Assignments

Licensing

Chair: Dr. Amy Matecki, MD, L.Ac.
Kitman Chan
Staff Consultant: Jay Herdt

Executive and Legislation

Chair: Dr. Yong Ping Chen, L.Ac., Ph.D.
Dr. Shudong Li, Ph.D.
Staff Consultant: Ben Bodea

Enforcement

Chair: Hyun “Francisco” Kim, L.Ac.
Ruben Osorio
Staff Consultant: Ben Bodea



6 - Legislative Report

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



DATE	August 26, 2021
TO	Board Members, Acupuncture Board
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	2020 - 2021 Pending CA Legislation of Interest as of August 6, 2021

Bills the Board Currently Has a Watch Position On

[Assembly Bill 2](#): Regulations: legislative review: regulatory reform - Fong

Status: Introduced on 12/7/20, Not Amended Since Watch Position Taken

AB 2 is located in the Assembly Committee on Accountability and Administrative Review. It was held under submission by the Assembly Committee on Appropriations.

Existing Law:

- The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law (OAL).
- Requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation.
- Defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency.
- Requires OAL to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days.
- Provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, except in specified instances.
- Requires OAL and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

Summary of Bill:

This bill would require OAL 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.

Board Impact:

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 review 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. However, there is great concern over the tight deadline of a year in which the Board would be required to promulgate a number of regulatory packages mandated by the proposed law. In order to meet the statutory deadline of January 1, 2023, the Board will have to put other regular rulemaking items aside to prioritize the regulations affected by AB 2.

Compliance with this law as proposed would add additional workload, requiring additional staff resources, Board meeting time, and take precedence over other Board business and currently pending regulatory packages.

Fiscal Impact:

Staff estimates that it would take a total of 40 hours of AGPA time to review all regulations within the Board's Act to research authority sections and policy to determine what is outdated, duplicative, or inconsistent. It is estimated there could be as much as six regulatory packages that would need to be addressed under the provisions of this bill which is estimated to be 180 hours (30 hours X 6 rulemaking packages) of AGPA time. Overall, this could amount to a total of 220 hours of AGPA time.

Board Position:

Watch

~~~

**[Assembly Bill 29](#): State Bodies – Cooper**

**Status: Introduced on 12/7/2020, Not Amended Since Watch Position Taken**

**Existing Law:**

- Requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act.
- Requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

**Summary of Bill:**

The bill would require that a state body providing written notice to someone who requests it must include in that notice all writings or materials provided for the meeting to a member of the state body.

These writings or materials must be made available on the state body's website and to anyone who requests them on the same day that they are provided to members of the body or at least 72 hours in advance, whichever is earlier.

If the state body does not comply with the above provisions, it cannot discuss those materials or act on an item pertaining to these materials at a meeting of that body.

**Board Impact:**

Current Board staff practice is, materials are posted between 10 days and 72 hours prior to the meeting. However, there can be exceptions with materials (especially public comments) that come in close enough to the meeting to make posting them online in a timely fashion difficult.

**Fiscal Impact:**

The fiscal impact of this bill would be, occasionally add to staff burden in producing meeting material in compliance with posting deadlines. Staff estimates an increase in workload of 4-6 hours of AGPA time annually. Since these are last minute requests, it may require the Board to issue overtime to staff to accommodate such requests. The Board defers to OIS for their IT impact related to AB 29.

**Board Position:**

Watch

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[Assembly Bill 54](#): COVID-19 emergency order violation: license revocation - Kiley

Status: Last Amended on 4/5/21, Not Amended Since Watch Position Taken

The bill no longer effects the Board due to amendments on 4/5/21 that excluded healing arts boards and licensees. AB 54 failed to be passed out of Assembly Committee on Business and Professions.

Existing Law:

- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.
- The Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

Summary of Bill:

This bill previously prohibited 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 previously declared that it is to take effect immediately as an urgency statute.

The amendments kept the same provisions but excluded healing arts boards.

Board Impact:

No impact.

Fiscal Impact:

No impact.

Board Position:

Watch

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**[Assembly Bill 107](#): Licensure: veterans and military spouses - Salas**

**Status: Last Amended on 7/15/21**

Re-referred to Senate Committee on Appropriations

**Existing Law:**

- Requires an applicant seeking a license from a board within the department (DCA) to meet specified requirements and to pay certain licensing fees.
- Requires a board within DCA to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including the applicant 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 who is assigned to a duty station in California and the applicant submits an application attesting to the fact that the applicant meets all of the requirements for a temporary license.
- Authorizes a board to adopt regulations necessary to administer these provisions.
- Provides that these temporary licenses shall expire 12 months after issuance, upon issuance of an expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first.

**Summary of Bill:**

The provisions of Assembly Bill (AB) 107 would require all licensing boards under DCA to issue temporary licenses to applicants within 30 days 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 and are not grounds for denial based on the results of a criminal background check.

Amendments on June 21, 2021, added the requirement that an applicant for a temporary license shall provide to the board documentation that the applicant has passed a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

Amendments on July 15, 2021, added the requirement that boards request the Department of Justice conduct the criminal background check and furnish the criminal background information in accordance with specified requirements. These amendments would also require the Department and each Board to post on their website(s) information on licensing rules, processes, and options for military spouses.

This bill would provide that these temporary licenses shall expire 12 months after issuance, upon issuance of a standard license, upon issuance of a license by endorsement, or upon issuance of an expedited license, whichever occurs first. The bill would exempt a board from the bill's provisions that already has a process in place by which an out-of-state licensed applicant in good standing who 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 is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements superseding those for a temporary license.

The bill would require, if necessary, a board to submit to DCA for approval draft regulations necessary to administer the provisions of the bill by June 15, 2022. AB 107 would require DCA to

prepare an annual report to the Legislature containing specified information relating to the professional licensure of veterans, service members, and their spouses.

**Board Impact:**

The temporary license provisions in AB 107 apply to the Board and is a new area of licensure for this program. The Board does not currently accept reciprocity with other states to grant an acupuncture license. Staff would need to develop procedures for processing temporary licenses, and licenses based on reciprocity, adopt computer systems, and obtain Board approval.

The Board tests licensing applicants on laws and ethics as they pertain to California in the California Acupuncture Licensing Exam (CALE), which is required of all applicants for licensure. Without taking that exam, a recipient of a temporary license would likely have a gap in their understanding of the practice of acupuncture in California, unless they have previously taken the CALE. Allowing an applicant to have a license to practice without addressing this gap in knowledge is a risk to the public.

The bill allows for temporary applicants to, "pass a California law and ethics examination if otherwise required by the Board for the profession or vocation for which the applicant seeks licensure" (Section 1, subsection (d)). The exam required by the Board tests on more than California law and ethics, and as such, an exam strictly on law and ethics is not offered by the Board. The Board would need clarity on this requirement as it is unclear if the CALE would satisfy this requirement, since it tests more than just laws and ethics. While the Board could develop a standalone laws and ethics examination, the bill language does not address what would happen in the time prior to the standalone exam being available.

Certain treatments or modalities permitted under California's scope of practice for acupuncture may not be allowed in other states and vice versa. To properly fulfill the Board's mandate to protect the public, it is important to ensure all applicants for licensure can demonstrate the ability to perform the practices of acupuncture as permitted in California law and regulations. The Board asserts that this would require all applicants take and pass the full licensing exam, not just the portions covering laws and ethics.

It is difficult to be certain how many applicants might apply under these new provisions, but the number is likely low. For context, the Board received two applications for licensure in 2018-19 and two in 2019-20 under Business and Professions Code 115.5, which requires boards to expedite licensure for partners of an active duty member of the military. With AB 107 affecting the same population, it is expected that the pool of applicants who may seek temporary licensure under AB 107 will be approximately the same.

Given the knowledge gap for temporary licensees described above, it is reasonable to anticipate some increased need for enforcement to address potential consumer complaints and/or violations by temporary licensees not familiar with California practices, laws, and regulations. A test of California laws and ethics can begin to address this gap, but anything short of the CALE won't close it.

**Fiscal Impact:**

Additional staff time would be required to develop a process for issuing temporary licenses, adapt existing information technology systems, and obtain Board approval. Staff would also need to establish guidelines for enforcement of AB 107 provisions. It is estimated this will take at least 15 hours for 1 OT, 15 hours for 1 SSA and 15 hours each for 2 AGPAs (total for all staff – 60 hours), with an additional 7 hours for Board review at a public meeting.

If the CALE satisfies the law and ethics test requirements, this will require no additional staff time. If the bill requires the administration of just the law and ethics portion of the CALE, the Board would need to contract with the Office of Professional Examination Services (OPES) to develop a standalone law and ethics exam; a cost that is unknown at this time.

The criminal background check requirement would be consistent with what is required for licensees seeking initial license, so it is anticipated the time required to comply with this requirement would be part of the total processing time required for any increase in applicants resulting from this bill becoming law.

The website posting requirements would require a one-time effort to draft the necessary language and links and provide it to the DCA Internet team for posting. Staff anticipates this would require no more than 2 hours from one AGPA to develop the language and the time required by OIS to make a website change.

With the relatively small number of applicants expected under AB 107 and the potential gap in knowledge of California laws and regulations, there may be one additional complaint and/or investigation each year. On average that would require 13 hours of an Enforcement Analyst (AGPA) and 40 hours of the Division of Investigation's staff to handle the complaint and any necessary investigation. Should this result in formal discipline, additional Attorney General costs would be incurred.

Section 2 of the bill would add data reporting requirements. The Board would need roughly one hour of Technician time to gather the necessary information.

The Board defers to the DCA's Office of Information Services for the fiscal impact of the information technology needed to implement AB 107. Staff estimates there would be an impact to information technology given the requirement to develop the IT infrastructure to process and issue a temporary license in the Board's licensing database.

**Board Position:**

Watch

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[Assembly Bill 646](#): Department of Consumer Affairs: boards: expunged convictions - Low

Status: Last Amended on 4/14/21, Not Amended Since Watch Position Taken

This bill was passed out of Assembly Committee on Business and Professions and re-referred to the Assembly Committee on Appropriations. This is a two-year bill.

Existing Law:

- Establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- The Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions.
- Requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

Summary of Bill:

This bill is almost 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 fee not to exceed the cost of administering the bill's provisions.

Board Impact:

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 from or the expungement posted on the Board's website. 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 history details 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. Under the provisions of this bill, the disciplinary documents are removed when a person is not seeking re-licensure or is not currently licensed. However, this person may possess a license in another state or another profession within the state. In this case, a consumer will not have access to this person's complete licensure history to make an informed decision. Based upon this, staff has concern regarding public protection with this specific provision of the bill. If the only mandate was to have each board post the expungement notification in addition to the licensee's disciplinary documents, then public protection via full disclosure is still achieved.

Fiscal Impact:

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. At this time, it is unquantifiable how many current revoked licensees would apply for expungement. Based upon annual petitions for reinstatement received, the Board may receive around four (4) requests a year. Additionally, the board would need to establish a fee amount to offset the increase in licensing and enforcement workload.

The web posting and removal of documents would fall under the Board's regular pro rata towards DCA - Office of Information Services – services. There will likely be additional time (approximately four hours per request) by Enforcement staff spent reviewing the expungement

order and verifying the authenticity of the court documents. This would include costs to obtain certified records, which can vary in amount by jurisdiction.

Staff would need to develop a form within regulation for purposes of the applicant submitting the expungement record and prescribed fee to the Board in a standardized manner. This would add to the Board's rulemaking workload.

Board Position:

Watch

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**[Assembly Bill 885](#): Bagley-Keene Open Meeting Act: teleconferencing - Quirk**

**Status: Last Amended on 3/24/21, Not Amended Since Watch Position Taken**

With the Assembly Committee on Governmental Operations.

**Existing Law:**

- The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public, and all persons be permitted to attend any meeting of a state body, except as provided.
- Requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting.
- Requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public.
- Authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided.
- Requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting.
- Requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

**Summary of Bill:**

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. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. 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.

**Board Impact:**

The intention of this 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. Furthermore, the Board has been holding all its public meetings via teleconference through WebEx since June 2020. 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 impacts of this bill are related to fiscals.

**Fiscal Impact:**

The fiscal impact of AB 885 on the Acupuncture Board is expected to be in the areas of equipment and training expenses for the Board members. Expenses related to meeting notices and additional bandwidth are expected to be covered within already existing meeting expenditures.

AB 885 would require Board members who participate remotely to be both audibly and visually observable. For Board members to be visually observable, staff will need to provide them with computing devices with necessary software licenses and cameras so that members can be observed while participating remotely. Staff anticipates spending \$17,500 for this equipment (\$2,500 per device for 7 Board members). The members would need to be trained in DCA and State of California information security practices. This would be a total of 14 hours of Board member time (2 hours per Board member) plus expenses. The average expenses would be \$500 airfare, \$30 airport parking, \$50 round trip ground transportation, \$41 meals, and \$100 per diem for a total of \$721 per member, or \$5,047 for the seven Board members.

**Board Position:**

Watch

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[Assembly Bill 1026](#): Business licenses: veterans - Smith

Status: Introduced on 2/18/21, Not Amended Since Watch Position Taken

Held under submission by the Assembly Committee on Appropriations.

Existing Law:

- Requires an applicant seeking a license from a board to meet specified requirements and to pay certain licensing fees.
- requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.
- Authorizes a board to adopt regulations necessary to administer those provisions.

Summary of Bill:

This bill would require the DCA and any board within the department to grant a 50% fee reduction for an initial license to an applicant who provides satisfactory evidence, as defined,

the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged. This bill would authorize a board to adopt regulations necessary to administer these provisions.

Board Impact:

This bill is similar to AB 1386 in its approach to providing more ease and convenience for military families when relocations occur for the retainment of one's career. The Board receives very few license applications from the military community, military spouses specifically. Last year (2020) the Board received two (2) applications. The previous year (2019) the Board received one (1) application. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek reduction in licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

Fiscal Impact:

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$2,450 annually if the provisions of AB 1026 are enacted into law.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for an initial fee reduction under Business and Professions Code (BPC) 115.4. This will allow for easy statistical reporting on this in the future. The exact IT impact related to AB 1026 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the reduction of initial license fees for military spouses through the Board's initial license application.

Board Position:

Watch

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**[Assembly Bill 1236](#): Healing arts: licensees: data collection - Ting**

**Status: Last Amended on 4/29/21, Not Amended Since Watch Position Taken**

Ordered to inactive file at the request of Assembly Member Ting.

**Existing Law:**

- Requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development.
- Requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license.
- Authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

**Summary of Bill:**



This bill would repeal the existing provisions requiring boards to collect and report specific demographic information 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.

**Board Impact:**

The Board currently does not collect workforce data as specified in the proposed provisions of the bill. However, at the time of initial licensure and biennial renewal, applicants and licensees are required to register their place of practice address for the issuance of a wall license, which does include the licensee's city, county, and zip code of practice as required by the bill. In addition, the demographic information to be collected include workforce data, gender or gender identity, race or ethnicity, educational background, disability status, and job satisfaction. Having this kind of demographic information for each profession may, overtime, highlight trends and provide more of an understanding of each unique licensee population.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated with capturing the demographic data as part of the license record. The online interface for Connect for initial license and renewal applications will require IT developers to add the demographic questions. At this time, the IT impacts of AB 1236 are undetermined.

**Fiscal Impact:**

Staff estimates that either an SSA or AGPA from existing staff will need to create a query of the Board's database systems to report the demographic data biennially. It's estimated this will take approximately four (4) hours for the initial creation of the query. Thereafter, running the report, formatting/validating the data, and submitting data to the Internet Team for posting biennially will take approximately four (4) hours of SSA or AGPA staff time. The costs associated with posting the data on the Board's website is covered in the Board's pro rata costs.

Starting July 1, 2022, Board staff at an AGPA level will need to run the report, format/validate data, and prepare a report of the workforce data for submission to the Office of Statewide Health Planning and Development, which is estimated to take approximately five (5) hours annually. While the expectation is that applicants and licensees will use the Board's new online application and renewal service, CONNECT, additional time may be required if staff have to review paper applications wherein this information would be collected and logged manually.

Staff also estimates that regulations will need to be passed to incorporate the collection of the demographic information through the Board's initial license application and renewal application. The required regulations amount to approximately 30 hours of AGPA time.

**Board Position:**

Watch

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[Assembly Bill 1273](#): Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer - Rodriguez

Status: Amended on 6/28/21

From Senate Committee on Health, ordered to second reading pursuant to Senate Rule 28.8. The amendments were not significant and only changed the reference from the licensing and certification of health facilities to professions within Health and Safety Code section 131088.

Existing Law:

- Provides for apprenticeship programs within the Division of Apprenticeship Standards within the Department of Industrial Relations, sponsored by specific entities and employers, and requires the Chief of the Division of Apprenticeship Standards to perform various functions with respect to apprenticeship programs and the welfare of apprentices.
- The Director of Industrial Relations is the Administrator of Apprenticeship and is authorized to appoint assistants necessary to effectuate the purposes of state law governing apprenticeships.
- Establishes the Interagency Advisory Committee on Apprenticeship within the Division of Apprenticeship Standards.
- Requires the committee to provide advice and guidance to the Administrator of Apprenticeship and the Chief of the Division of Apprenticeship Standards on apprenticeship programs, standards, and agreements, as well as preapprenticeship, certification, and on-the-job training and retraining programs, in nonbuilding trades industries.
- Prescribes the composition of the committee, which includes specified officials or their designees, serving as ex officio members, and 6 persons appointed by the Secretary of Labor and Workforce Development who are familiar with certain apprenticeable occupations, as specified.
- Requires the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, to identify opportunities for “earn and learn” job training opportunities that meet the industry’s workforce demands and that are in high-wage, high-demand jobs.
- Defines “earn and learn” to include programs that combine applied learning in a workplace setting with compensation allowing workers or students to gain work experience and secure a wage as they develop skills and competencies directly relevant to the occupation or career for which they are preparing, and programs that bring together classroom instruction with on-the-job training to combine both formal instruction and actual paid work experience.

Summary of Bill:

This bill would amend the BPC and the Health and Safety Code with respect to so-called ‘earn and learn’ programs. It would also amend the Labor Code to add the Director of Consumer Affairs and the Public Health Officer to the Interagency Advisory Committee on Apprenticeship.

The bill seeks to remove barriers to ‘earn and learn’ programs, which are a combination of work experience and education to permit a student to earn a wage as they are learning. Examples of ‘earn and learn’ programs include apprenticeships, internships, and other programs described in Labor Code Section 14005 (q)(1) and (q)(2).

Board Impact:

DCA Boards would be prohibited from approving or denying an accreditation program that prohibits ‘earn and learn’ programs. It would be required to use licensing and certification

standards that authorize 'earn and learn' programs. The Department of Public Health would face similar constraints about 'earn and learn' programs when licensing or certifying health facilities.

The Board allows for 'earn and learn' programs with the tutorial program pathway to licensure and will be able to comply with the bill.

Fiscal Impact:

The Board may need to implement regulations to ensure compliance with the bill, and the estimated costs of implementing those regulations would be the primary fiscal impact of the bill.

Board Position:

Watch

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**[Assembly Bill 1468](#): Prior authorization - Cunningham**

**Status: Last Amended on 4/29/21, Not Amended Since Watch Position Taken**

Held under submission by Assembly Committee on Appropriations.

**Existing Law:**

- The Knox-Keene Health Care Service Plan Act of 1975 provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and, makes a willful violation of the act a crime.
- Provides for the regulation of health insurers by the Department of Insurance.
- Authorizes a health care service plan or health insurer to use prior authorization and other utilization review or utilization management functions, under which a licensed physician or a licensed health care professional who is competent to evaluate specific clinical issues may approve, modify, delay, or deny requests for health care services based on medical necessity.
- Requires a health care service plan or health insurer, including those plans or insurers that delegate utilization review or utilization management functions to medical groups, independent practice associations, or other contracting providers, to comply with specified requirements and limitations on their utilization review or utilization management processes.

**Summary of Bill:**

This bill would amend sections of the Insurance Code and the Health and Safety Code concerning automated systems that make care decisions involving, among other fields, acupuncture and traditional medicine. While the Board and its obligations would not be affected by the passage of the bill as written, the bill certainly would affect members of the profession who seek insurance coverage for their services.

The bill was approved as amended by Assembly Health on April 27. The amendments replaced all instances of the phrase Asian medicine with acupuncture and traditional medicine.

The expressed intent of the legislation is to address practices that, intentionally or not, limit the availability of treatments including chiropractic services, physical therapy, occupational therapy, acupuncture and traditional medicine, speech language pathology, and auditory therapies. These limitations mean that these treatments have been authorized at levels

'significantly below' what is authorized in patients' "Evidence of Coverage" documents. (Section 1(d)).

The legislation would require any health service plan to limit who can deny or modify requests for authorization of health care services for reasons of medical necessity. Such decisions must be made by a licensed physician or a licensed health care professional competent to evaluate the specific clinical issues involved in the requested health care services.

Additionally, if an automated prior authorization system is implemented by a health care service plan or an insurer, it shall use evidence-based clinical guidelines to program that system. The algorithms and related research and references shall be made available for download on the plan or insurer's website. Such an automated system shall ensure that any decisions to deny or modify requests for authorization of health care services for reasons of medical necessity are made by a licensed physician or licensed health care professional competent to evaluate the specific clinical issues involved.

**Board Impact:**

The impact of AB 1468 would be limited to the provision of medical services and reimbursement by insurance and/or managed care companies. As such, it does not affect the operations of the Board, nor does it change the obligations of the Board.

**Fiscal Impact:**

No impact.

**Board Position:**

Watch

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[Senate Bill 607: Professions and vocations - Roth](#)

Status: Amended on 7/13/21

Re-referred to Assembly Committee on Appropriations.

Existing Law:

- Provides for the issuance of temporary licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified.
- Requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being 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 under official active duty military orders.

Summary of Bill:

Previous to the July 6, 2021 amendments, this bill required a board to waive all fees associated with the application and initial license for an applicant who meets these expedited licensing requirements. The only section of SB 607 that affects the Board is the proposed amendments to Business and Professions Code (BPC) section 115.5. These provisions are very similar to those of AB 1386. The July 6, 2021 amendments now require a board to waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets the expedited licensing requirements under BPC section 115.5. Additionally, the amendments set a

repeal date of the existing BPC section 115.5 and an operative date of July 1, 2022 for the new provisions.

The remaining provisions of the bill affect the Dental Practice Act, Architects Practice Act, Contractors State License Law, and Private Security Services Act. The latest amendments on July 13, 2021 did not affect any sections of law pertaining to the Board.

Board Impact:

The Board receives very few license applications from the military community, military spouses specifically. The Board received two applications for licensure in 2018-19 and two in 2019-20 under BPC section 115.5, which requires Boards to expedite licensure for partners of an active duty member of the military. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek being pardoned from licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

Fiscal Impact:

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$4,900 annually if the provisions of SB 607 are enacted into law, assuming the licensure application fee includes the examination and possible re-examination fees. SB 607 does not explicitly call out the examination fee to be waived as the similar AB 1386 does. More specificity would be helpful to DCA programs when administering the provisions of this bill and processing incoming applications.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for a license application and initial fee waiver under BPC 115.5. This will allow for easy statistical reporting on this in the future. The exact IT impact related to SB 607 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the waiver of initial license fees for military spouses through the Board's initial license application and possibly the exam and re-exam applications.

Board Position:

Watch

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**[Senate Bill 731](#): Criminal records: relief - Durazo**

**Status: Last Amended on 6/23/21**

Re-referred to Assembly Committee on Appropriations.

**Existing Law:**

- Authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence, as specified.
- Requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.
- A person is eligible for arrest record relief if they were arrested on or after January 1, 2021, and the arrest was for a misdemeanor and the charge was dismissed or criminal

proceedings have not been initiated within one year after the arrest, or the arrest was for a felony punishable in the county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest.

- A person is eligible for automatic conviction record relief if, on or after January 1, 2021, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met.

### **Summary of Bill:**

SB 731 would do the following:

- Amend the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for a felony, provided that criminal proceedings have not been initiated, and at least 3 calendar years have elapsed since the date of arrest and no conviction occurred, or there was an acquittal from the charges.
- Amend the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for an offense punishable by imprisonment in state prison or county jail for 8 years or more, there is no indication that criminal proceedings have been initiated, at least 6 years have elapsed since the arrest, and no conviction occurred, or the person was acquitted.
- Allows a court to permit defendants who were convicted of any felony to, after a specified period after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities.
- The exclusion of records of arrest and conviction that were granted relief from state summary criminal history information above does not apply to records for which the recordholder is required to register as a sex offender, has an active record in the Supervised Release File, or if based on information available in the department's record, it appears the person is currently serving a sentence or if there is an indication of pending criminal charges.

The exclusion of records also does not apply if the records are required to be disseminated by federal law.

- Make conviction record relief available for a defendant convicted, on or after January 1, 2005, of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, post release supervision, and parole, and a period of four years has elapsed during which the defendant was not convicted of a new offense.

Conviction record relief does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

- Deletes the prohibition on granting relief if the person was incarcerated in the state prison.
- Provides, in addition, that relief granted does not release the defendant from the terms and conditions of any unexpired criminal protective orders.

Most recent amendments to the bill on 6/23/21 added a subsection of PC section 1203.41 that clarifies relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to specified sections of law. It also states these protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

### **Board Impact:**

Under current law, defendants with infractions and misdemeanors who meet the specified criteria are eligible for automatic conviction record relief. Under this bill, the automatic conviction record relief is expanded to all felony convictions, excluding serious or violent felonies or felonies requiring sex offender registration. This means the records of these expunged convictions are sealed. Further, all of these convictions will not appear on the applicant's criminal history record the Board receives from Department of Justice.

The Board requires that all applicants be fingerprinted to perform a background check. The information available to Board staff is limited to the criminal history information that is released on the state and federal summary. Therefore, if the arrest or conviction information that was granted relief does not show up on the applicant's criminal history record, the Board is essentially blind to what occurred in their past.

Currently, it is difficult to ascertain how many license applicants the Board has evaluated who meet the criteria set by the courts to have a felony conviction expunged or charges and arrest set aside. The majority of convictions staff evaluates for applicants are misdemeanors, which are already withheld from disclosure if they meet the criteria for automatic arrest relief and conviction expungement. It is estimated the Board receives a low volume of felony convictions to investigate on criminal history records of applicants. This would mean SB 731 would not have a substantial impact on the Board. However, any time the Board does not have access to an applicant's record to determine pattern of behavior and crimes, moral character, and fitness for licensure, there is concern for compromised public protection.

Another note of concern is that Business and Professions Code section 480 (c), which is the Board's authority to deny licenses, specifically prohibits the Board from denying a license on the basis of a conviction dismissed under Penal Code section 1203.425. Therefore, even if the Board were to somehow find out about a prior felony conviction that was dismissed, the Board would not have authority to issue a denial of license for this conviction.

This bill does not promote public protection to the extent it reduces the Board's access to information about criminal convictions and impacts the Board's ability to exercise its discretion to deny, discipline, or revoke a license based on an applicant's criminal history.

This bill does provide greater opportunity for applicants who have arrests or convictions that do not affect their ability to provide safe services if they were to be licensed.

### **Fiscal Impact:**

If the Board has access to an applicant's criminal history record and affected felony convictions are disclosed, staff can determine with greater certainty on one's fitness for licensure. If the applicant's record is considered substantially related, the applicant can be issued a denial of licensure. At this point, the applicant may request a hearing to contest the denial, but the burden of establishing if they qualify for licensure and are rehabilitated falls on the applicant. In addition, some of the time applicants will not request a hearing so the Board incurs no Attorney General costs. Investigation costs are generally low as they are usually limited to the cost of procuring the criminal records and statements from the applicant.

Under SB 731, if a license is issued to an applicant with multiple crimes, including felonies that have all been expunged, the likelihood for recidivism is increased. This means a conviction could occur after licensure, which makes it more difficult for the Board to seek discipline or revocation of license. The burden of proof is shifted to the Board for establishing a case that a licensee is not safe to practice. The enforcement costs are generally higher for investigations of licensees, the Attorney General costs will likely be higher given the increased likelihood of going to hearing, and the hearing may draw out longer thereby increasing costs for the Board.

The impact of SB 731 may be delayed in its effects on the Board's enforcement costs when an applicant is issued a license without the relevant criminal history information and they re-offend causing the Board to incur more costs to sufficiently protect the public. At this time, the increase in enforcement costs are unquantifiable.

**Board Position:**

Watch

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Bills the Board Currently Has a Support Position On

[Assembly Bill 810](#): Healing arts: reports: claims against licensees - Flora

Status: Introduced on 2/16/21, Not Amended Since Support Position Taken

With Assembly Committee on Business and Professions.

Existing Law:

- Makes failure of a licensee of 18 healing arts boards, including the Acupuncture Board, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from one of those boards, who does not possess professional liability insurance as to the claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 or more than \$500, as specified.
- Makes failure of a marriage and family therapist, clinical social worker, professional clinical counselor, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor who does not possess professional liability insurance as to that claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 nor more than \$500, as specified.

Summary of Bill:

The relevant portion of the bill affecting the Board raises the minimum fine from \$50 to \$100 for the failure of a licensee, claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, within 30 days to the Board.

Board Impact:

The Board regularly receives reports of settlements, judgments, and arbitration awards over \$3,000 of malpractice claims for licensees who possess professional liability insurance under BPC section 801. These reports either come directly from the insurance companies or from the National Practitioner Data Bank. Therefore, there are fail-safes in place to obtain such reports. However, BPC Section 802 requires self-reporting from a licensee, claimant, or the claimant's counsel when a practitioner is not insured. The Board has rarely received such kinds of reports in the past. There is no other resource for the Board to rely upon that such information is sufficiently reported to the Board. Raising the minimum fine may provide some additional incentive to comply with the provisions of BPC section 802. This bill can be looked at as providing more public protection.

Fiscal Impact:

Other sections of law within the same article identify that the failure to report is a public offense which would not authorize the Board to fine such parties for the violation, other than a licensee.

Violation of BPC section 802 would be considered unprofessional conduct by the licensee and permits the Board to take disciplinary action or issue a citation and fine. Since the fine assessment is set in law, it would be looked to as an authorizing statute setting the Board's authority to issue a fine at a minimum of \$100 for unprofessional conduct for the failure to report qualifying items. By AB 810 increasing the minimum fine from \$50 to \$100, the Board could recover slightly more in enforcement costs or receive more revenue through the issuance of citations and fines. The actual increase in revenue cannot be determined since there is no data demonstrating that the Board has had a case involving a violation of BPC section 802 in the past.

Board Position:

Support

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**Bills the Board Currently Has an Oppose Position On**

**[Assembly Bill 918: Acupuncture: licensure: examination - Quirk-Silva](#)**

**Status: Introduced 2/17/21, Not Amended Since Support Position Taken**

Located in the Assembly Committee on Business and Professions. This is a two-year bill.

**Existing Law:**

- Requires an applicant for a license to pass a written examination that tests the applicant's ability, competence, and knowledge in the practice of acupuncture.
- Requires the examination to be administered by the board and developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

**Summary of Bill:**

This bill would 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.

**Board Impact:**

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 JSA 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 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.

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.

**Fiscal Impact:**

Board staff estimates an increase in complaints related to the insufficient testing of entry level competencies, specifically California laws, regulations, practice, and standards, of the incoming applicants for licensure starting in 2022 with the effective date of this legislation if

passed. From Board's staff estimation, this could result in at least a 5% increase in complaints received.

Currently, the ratio of consumer complaints to the California acupuncture licensee population is approximately .015%. If AB 918 brings in more complaints at a 5% increase, this could also result in an approximate 48% increase in discipline by the close of 2023. This is based upon the assertion that the lack of quality in testing specific to California laws will directly increase complaints.

With additional complaints, the workload of the Board's enforcement staff will increase. A 5% increase in complaints will result in an additional 130 hours of AGPA time at the complaint/investigation phase and 400 hours of Divisions of Investigation (DOI) time annually. DOI's hourly rate changes year to year, but based upon an average hourly rate of \$277, the annual total DOI costs would increase by \$110,800.

There would be additional AGPA hours for cases that go on for formal discipline as well. A 48% increase in discipline would result in 30 additional hours of AGPA time. In addition, the majority of discipline cases result in probation, also increasing AGPA time spent on these cases over a course of two to five years. Annually, this would increase AGPA time by approximately 120 hours. In total, with all additional AGPA time accounted for due to the changes of AB 918, could result in an increase of 280 hours annually.

With additional cases being sent to the Office of the Attorney General (AG) for discipline, the Board could see an increase in AG costs of approximately \$65,000 annually. Some of these cases require subject matter expert (SME) reviews. These SME costs could increase by \$4,500 as a result of AB 918 passing.

**Board Position:**

Oppose

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[Assembly Bill 1386](#): License fees: military partners and spouses - Cunningham

Status: Last amended on 4/28/21, Not Amended Since Oppose Position Taken

Held under submission on 5/20/21 by Assembly Committee on Appropriations.

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.

Summary of Bill:

This bill would prohibit a board from charging an initial application fee or an initial license issuance fee to an applicant who meets these expedited licensing requirements. This bill would also prohibit a board from charging an initial examination fee to an applicant who meets the expedited licensing requirements if the examination is administered by the board.

Board Impact:

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. The Board receives very few license applications from the military community, military spouses specifically. The Board

received two applications for licensure in 2018-19 and two in 2019-20 under BPC section 115.5, which requires Boards to expedite licensure for partners of an active duty member of the military. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek being pardoned from licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

Fiscal Impact:

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$4,900 annually if the provisions of AB 1386 are enacted into law.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for an initial fee waiver under Business and Professions Code (BPC) 115.5. This will allow for easy statistical reporting on this in the future. The exact IT impact related to AB 1386 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the waiver of initial license fees for military spouses through the Board's initial license application.

Board Position:

Oppose

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**Senate Bill 772: Professions and vocations: citations: minor violations - Ochoa Bogh**

**Status: Introduced on 2/19/21, Not Amended Since Oppose Position Taken**

Second hearing set for 4/19/21 canceled at the request of author. Currently located in the Senate Committee on Business, Professions and Economic Development. This is a two-year bill.

**Existing Law:**

- Authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

**Summary of Bill:**

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.

**Board Impact:**

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 Board already takes a progressive approach with addressing licensee violations. The Board does not have authority to issue notices of violations and require action to correct violations, therefore, letters of education are issued as the first step in addressing minor violations that are first offenses and are not done with a willful disregard for the law. The next step would be to issue a citation and fine, especially if there are actions required by the licensee to correct their violation(s). Finally, repeat minor offenses are addressed through formal disciplinary action.

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.

California Code of Regulations section 1399.464 already identifies types of violations that shall be excluded from the issuance of a citation to address.

The Board does not systematically provide 30 days to address a violation through its citation and dismiss fines if complied. Each case warrants its own number of days to correct violations. In addition, the Board may dismiss a fine or reduce a fine if the licensee complies, however, this is dealt with on a case-by-case basis depending on the mitigating evidence provided by the licensee when contesting a citation. If the provisions of SB 772 go into law, the Board's flexibility and discretion in addressing violations based on the merits of the case through citation and fine are removed.

**Fiscal Impact:**

Removing the Board's fine authority for minor violations of its laws and regulations would create a loss in revenue.

Over the last three fiscal years (2017-18 – 2019-20), there were an average of 41 violations per year, with an average of \$27,010 in total fines for citations per year. The majority of these cases would qualify as minor violations under SB 772. However, after deducting the cases that would not meet the bill's minor violation criteria (probation violations and unlicensed practice) equal to approximately four (4) cases, the overall potential loss in revenue is approximately \$9,033 in fines annually.

SB 772 requires time from enforcement staff to identify minor violations. Staff time would also be required to monitor for correction of the minor violations and systematically dismiss fines of those cases in which the licensee complied within 30 days. It is estimated that it would take one hour of Enforcement Analyst (AGPA) time during the deliberation process at the completion of an investigation to determine whether the case falls under SB 772. For cases that are minor violations, the analyst would need one hour for each case to determine if it was corrected. That is a total of 74 hours (37 average citations per year) of AGPA time.

This increase in hours would be time in addition to the required analysis of enforcement staff since the same work is still required in writing up and issuing citations based upon the Board not having authority to issue notices of violation. Based upon the Board's citation data, on average 70 percent of the cited individuals comply with their order of abatement and correct the violation. Assuming 70 percent of the 37 minor violations are corrected on average, there would be 26 cases requiring additional AGPA time for making that determination and dismissing the fine and/or citation altogether.

It is estimated that Section 1399.464 of the California Code of Regulations would need to be amended to comply with SB 772. That would take approximately 30 hours of AGPA time in addition to time and resources during a full Board meeting to approve the regulations, then go through the regulatory process.

**Board Position:**

Oppose



**7 -  
Regulatory  
Update**



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|                |                                 |
|----------------|---------------------------------|
| <b>DATE</b>    | August 26, 2021                 |
| <b>TO</b>      | Acupuncture Board Members       |
| <b>FROM</b>    | David Bruggeman, Policy Analyst |
| <b>SUBJECT</b> | Regulatory Update August 2021   |

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

**1. 16 CCR sections 1399.469.4, 1399.469.5, 1399.469.6 – AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 1/11/2019                 | N/A                            | 3/28/2019                      | 3/28/2019                           | 1/31/2020                     | 4/30/2020                   |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
| 4/30/2020                    | 6/26/2020                 | 11/24/2020                     | 2/17/2021                      | 4/2/2021                            |                               |                             |

This package adds regulations outlining what substantially related means, and what constitutes rehabilitation, for the purposes of denying, suspending, or revoking a license. These regulations address changes in the Business and Professions Code enacted by AB 2138 (Chiu, Chapter 995, Statutes of 2018). The changes affect the Board's ability to discipline licensees and to deny applicants based on a criminal conviction or the underlying acts. Such acts now require a substantial relationship to the qualifications, functions or duties of the profession, and the board must evaluate evidence of the person's rehabilitation.

The final rulemaking package was completed following the December 2020 Board meeting. The package is currently with the Office of Administrative Law (OAL) and the Department of Finance (DOF) for review.

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

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 2012                      | N/A                            | 3/28/19                        | 6/2019                              |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package reflects updates to the Board's Disciplinary Guidelines, which include incorporating relevant portions of the Uniform Standards Regarding Substance-Abusing

Healing Arts Licensees. It brings Board regulations in line with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) which required the development of the Uniform Standards.

The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. The Initial draft of the Initial Statement of Reasons (ISOR) is with Legal Affairs for review. Anticipated filing date is October 2021.

**3. Disclosure of Probation Status to Patients – SB 1448**

**(Implemented through Disciplinary Guidelines Package – See #2)**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 2/2019                    | N/A                            | 3/28/19                        | 6/2019                              |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

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

The initial draft of the ISOR is with Legal Affairs for review. Anticipated filing date is October 2021.

**4. 16 CCR 1399.415, 1399.434, 1399.435, 1399.437, 1399.238, 1399.439, Article 3.5: Align Curriculum Standards and Approval Related Regulations with Statute:**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 2/11/19                      | 2/11/19                   | 6/13/19                        | 8/15/19;<br>3/26/21            | 1/21/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

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

The Board approved additional regulatory language at the March 2021 Board meeting. Regulatory package is currently under staff development.

5. **16 CCR 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, 1399.419: Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service:**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/18                     | 2018/2019                 | 3/25/21                        |                                |                                     |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

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

The Board reviewed regulatory language at the March 2021 Board meeting. The regulatory package is currently being developed by staff. Additional language is before the Board for discussion and possible approval during the August 2021 Board meeting.

6. **16 CCR 13999.419.3: Application for Retired Status; Retired Status; Restoration**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/2020                       | 4/2019                    | 6/13/19                        | 8/16/19                        | 1/07/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

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

The Board approved regulatory language in August 2019, and the package is currently under development by staff and legal counsel.

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

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/2020                       | 3/2019                    | 3/29/19                        | 3/26/21                        | 3/26/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package will set requirements for continuing education in law and ethics for licensees (both in terms of credits and in test requirements) and clean up existing language. While the



Board has previously required law and ethics courses in continuing education for licensees, this has not been the case since 1999.

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff.

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

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/1/21                       | 12/20                     | 12/17/20                       | 3/26/21                        | 3/26/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

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

The Board approved regulatory language at the March 2021 Board meeting and the regulatory package is currently under development with staff.

**9. Division 13.7, Article 1.5 16 CCR 1399.407, 1399.407.1, 1399.407.2, 1399.407.3: Repeal of Free and Sponsored Health Care Events**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Submit to OAL | OAL Determination |
|------------------------------|---------------------------|-----------------------------|----------------|-------------------------------------|---------------|-------------------|
| n/a                          | n/a                       | n/a                         | n/a            | 06/23/20                            | 06/24/21      | 08/06/21          |
| Effective Date               |                           |                             |                |                                     |               |                   |
| 08/06/21                     |                           |                             |                |                                     |               |                   |

The proposed changes would remove language in the Code of California Regulations for which the underlying authority has been repealed. On consultation with legal counsel, the Board was notified of the package, but no formal vote was deemed necessary. The regulatory package was filed with the Office of Administrative Law in June 2021.



**9 - AB 2190**  
**Proposed**  
**Regulations**



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|                |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | August 26, 2021                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>TO</b>      | Board Members, Acupuncture Board                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>SUBJECT</b> | Discussion and Possible Action to Initiate a Rulemaking and to Adopt Text to Add Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 in Title 16 of the California Code of Regulations: Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service |

## 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 for 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.

Staff brought proposed language implementing the requirements and authority from BPC section 4939 and other amendments for general cleanup of the examination and application sections within Article 2 at the Committee and Board level at the public March 2021 meeting. After the Board's consideration of that version of the proposed language, staff met with the Regulatory Unit of Legal Affairs and developed more clear and complete amendments to more sufficiently implement the requirements of BPC section 4939 and meet the rulemaking requirements of the Administrative Procedure Act.

Staff has brought these additional amendments of the proposed language for the Board's review, discussion, and consideration of authorizing staff to initiate and possibly complete a rulemaking.

### **Summary of Amendments**

The proposed regulatory language being brought to the Board 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 information needed to process these applications is included in regulation.

Throughout the proposed language, reference and authority sections have been updated. Staff has also addressed general clean-up, such as grammatical corrections, reorganization, and edits for clarity.

Below is a summary of each regulation section and the amendments staff is proposing:

#### **1399.409. Definitions.**

- Provides definitions of commonly used terms within the entire article, including:
  1. Foreign-trained applicant
  2. Credential evaluation
  3. Credential evaluation service
  4. Transcript

#### **1399.411. Certification of documentation.**

- Breaks out the documentation and submission requirements by the education completed by the applicant: domestic versus foreign trained.
- Requires submission of domestic transcripts via mail as specified or via secure electronic submission as specified.
- Requires submission of foreign transcripts come to the Board directly from the credential evaluation service.

#### **1399.413. Application for Licensing Examination.**

- Amends section title to better describe its purpose.
- Identifies the requirements of an application for the licensing examination.
- Establishes new application requirements for all applicants.
- Identifies the requirements of an application for re-examination.
- Establishes new re-examination requirements for all applicants who request to re-take the examination.

#### **1399.414. Request for re-evaluation of denial of application to take licensing exam; Approval to Test.**

- Amends section title to better describe its purpose.
- Identifies the Board's response time to an applicant's request for denial to take the licensing examination.
- Identifies the qualifications for licensure an applicant is required to complete to be approved to take the examination.

#### **1399.416. Equivalent Training and Clinical Experience Qualifying for Licensure.**

- Sets forth the specific requirements how an applicant documents they have met the curriculum requirements and qualifies for licensure under BPC section 4938.
- Requires foreign-trained applicants to submit documentation of their education and clinical experience to a Board approved credential evaluation service for a course-by-course evaluation.
- Specifies that all foreign-trained applicants must have successfully completed equivalent coursework to the coursework required of applicants from board-approved educational and training programs in section 1399.434.

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

- Section title has been expanded to better describe its purpose.
- Establishes the Board's procedures for reviewing the results of a credential evaluation once received from a credential evaluation service for the evaluation of a foreign-trained applicant.
- Establishes the Board's procedures and process for a foreign-trained applicant if their education is determined to not meet the curriculum requirements set forth in Title 16, California Code of Regulations (CCR) section 1399.434.

- Establishes the requirements and procedures for a foreign-applicant to complete missing courses for the completion of their education and training.

**1399.416.3 Credential Evaluations by Evaluation Services of Foreign Education Requirements.**

- Sets forth the requirements for an evaluation provided to the Board by a Board-approved credential evaluation service.

**1399.416.4 Requirements for Approval and Renewal of Credential Evaluation Services of Foreign Education; Process for Denial or Revocation of Service Approvals; Appeal Procedures.**

- Section title has been changed and expanded to better describe its purpose.
- Establishes the requirements and documentation for an application to become a Board approved credential evaluation service.
- Requires a written affirmation from the credential evaluation service at the time of application that they meet the specified qualifications of a Board approved credential evaluation service.
- Removes organizational qualifications previously brought to the Board for consideration due to a lack of necessity.
- Sets forth the term of approval for a credential evaluation service and establishes a renewal process.
- Requires all Board-approved credential evaluation services to respond within 30 days of receipt of a Board inquiry or investigation to retain Board approval.
- Establishes grounds for revocation of Board approval of a credential evaluation service.
- Establishes the Board's notice requirements when the approval of a credential evaluation service is denied or revoked.
- Establishes the appeal process for credential evaluation services when a Board provides notice of revocation or denial of approval.

**1399.417. Abandonment of Applications.**

- Provides technical clean-up of references to "he or she" and replaces those terms with neutral terms such as "their" in this existing section that identifies the circumstances in which the Board considers an applicant's application for the examination abandoned and indicates that an application submitted after the abandonment period shall be treated as a new application for examination.
- Existing section would be amended to identify the procedure in which an applicant can request their eligibility for re-examination be extended for one year (reduced from two years) upon "good cause" after the failure of an examination.
- Existing section would be amended to allow extension of exam eligibility for an additional year (reduced from two years) upon written explanation to the Board when an applicant who passes the examination fails to apply for licensure.
- Identifies that an application submitted after the abandonment of an application for licensure shall be treated as a new application and they will be required to qualify for, take and pass the examination.

- Establishes the criteria and documentation requirements for establishing what constitutes "good cause" when an applicant requests the extension of their re-examination eligibility.

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

- Amends section title to better describe its purpose.
- Removed the requirement that the board will only evaluate applications for eligibility from applicants who have completed their education and training because the Board is required to process and evaluate all applications received regardless if they are complete or not.
- Existing section identifies the timeframe in which the Board notifies applicants if their application for examination is complete and are eligible to take the exam examination (within 45 days of receipt of an application or completed application). This proposal would specify the timeframe for notice for domestic trained applicants and provide technical clean-up of these provisions for better readability.
- This proposal would establish a new timeframe in which the Board notifies foreign-trained applicants of their examination eligibility, which is within 90 days of receipt of a completed application.
- Establishes the timeframe in which the Board officially notifies applicants of their results of the examination.
- Sets forth the remaining licensure requirements an applicant is required to meet to obtain an acupuncture license after passing the examination.
- Removes minimum, median, and maximum notification timeframes for notification of examination results as those process times have been discontinued with the onset of computer-based testing.
- Existing authority allowing the Board to deny applications for applicants deemed not physically or mentally fit to safely practice acupuncture has been edited slightly for clarity.

**Recommended Motion Language**

Attachment 1 is the proposed language with all of the changes since March 2021 in yellow highlight.

Attachment 2 is a clean copy of the proposed language with all underline and strikethrough to indicate all proposed amendments and deletions of existing language. Attachment 2 is the proposed language the Board may consider approving and authorizing the Executive Officer to adopt if no adverse comments are received during the public comment period.

Option 1: Motion to Approve

Approve the proposed regulatory text for Section(s) 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the

package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 as noticed.

Option 2: Motion to Approve, as Amended

Move to approve the proposed regulatory text as amended:

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Note the amendments

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... and direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 as noticed.





# **Proposed Regulations**

## ACUPUNCTURE BOARD

### Proposed Language Concerning Applications and Credential Evaluation Services

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

[Changes from the March 25-26, 2021 Text are **highlighted**.

Notes are bold, centered, and bracketed.]

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

#### **§ 1399.409. Definitions.**

[NOTE: Text was previously in 1399.416.2(a)(1) and (2).]

**For purposes of the regulations contained in this Article, the terms:**

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

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

**§ 1399.411. Certification of documentation.**

(a) **Domestic Transcripts.** Documentation of transcripts or completion of an approved educational and training program ("program") as required by section 1399.416(a), or of supervised clinical hours, submitted by or on behalf of the applicant, shall be originals, and certified by the appropriate official responsible for the records such as the registrar, or by governmental seal or other authority. Such documentation shall be mailed or sent directly from the program to the board in an unopened, sealed envelope. Documentation may also be sent by secure electronic submission directly from the program or from a transcript service which contracts with the program. The board in its discretion may waive this certification requirement when it is determined that it cannot be obtained through the exercise of due diligence, including the closure of the program or if the program does not maintain such records.

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

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

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

**§ 1399.413. Application for Licensing Examination deadline.**

(a) All new applications for examination shall be complete and shall be submitted on the form provided by to the board, accompanied by such statements and documents as required by this subsection. All such applications shall be received in the board's Sacramento office at least 120 calendar days prior to the date of the examination for which the application is made. A completed application for examination shall include the application fee required by Section 1399.460 and all of the following information:

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)).

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

(3) Applicant's physical address.

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

- (5) Email address, if any.
- (6) Applicant's telephone number.
- (7) Applicant's Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.
- (8) Applicant's birthdate (month, day, and year).
- (9) Examination language preference.
- (10) Color copy of a U.S. state or federal government issued picture identification.
- (11) For applicants who have completed an approved educational and training program(s) as defined in Section 4927.5 of the Code, provide:
- (A) the name and location of each school or college where acupuncture education and training was obtained, including any higher education, undergraduate education, and education for which transfer credit was later awarded by another acupuncture school or college, if applicable.
  - (B) the dates of attendance for each approved educational and training program; and,
  - (C) the documentation required by section 1399.416(a), provided to the board in the manner prescribed by section 1399.411.
- (12) For applicants who have completed education outside of the United States (foreign-trained applicants), provide:
- (A) a list of the name(s) and address(es) of schools where acupuncture or Asian medicine education was obtained.
  - (B) the dates of attendance for each school.
  - (C) certified transcripts from each school for each educational program completed and provided to the board in the manner prescribed by section 1399.411; and,
  - (D) the results of an evaluation of the applicant's education from a credential evaluation service provided directly to the board by the service as prescribed by Section 1399.416.3.

- (13) For applicants who completed a tutorial program in the practice of an acupuncturist that is approved by the board pursuant to section 1399.425, provide tutorial program start and completion date(s).
- (14) A list of any other acupuncture or healing arts license or certification in any jurisdiction, including any state, agency of the federal government or country, and providing the type of license, license number, date of issuance, and dates of practice.
- (15) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.
- (b) All applications for re-examination shall be complete and submitted on a form provided by the board (“Application Update for Examination/Licensure”, revised 3/96), accompanied by such statements and documents as required by subsection (c). All such applications shall be received in the board's office at least 30 calendar days prior to the date of the examination for which the application is made.
- (c) A completed application for re-examination includes the fee required by section 1399.460 and all of the following information:
- (1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),
  - (2) Applicant's Examination ID Number,
  - (3) Applicant's current mailing address, if different than previously supplied,
  - (4) Applicant's email address, if any,
  - (5) Applicant's telephone number,
  - (6) Examination language preference; and,
  - (7) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.
- (e) All transcripts and supporting documents from qualifying educational institutions or tutorial supervisors shall be received in the board's office at least 30 calendar days prior to the date of examination for which an application was made.
- (d) The board may waive the foregoing filing dates if there are difficulties with the administration of the examination or other circumstances warrant.

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

Reference: Sections 21, 27, 29.5, 30, 31, 325, 326, 494.5, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

**§ 1399.414. Request for re-evaluation of Denial of applications to take licensing exam; Approval to Test.**

- (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. 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 to take for the examination.
- (c) Nothing in this section shall ~~be constructed to deprive~~ be construed to 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 f~~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 educational and 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, including certified transcripts, and certificates of completion of a course in cardiopulmonary resuscitation (CPR) pursuant to Section 1399.434(f)(3) or clean needle technique (CNT) pursuant to Section 1399.434(b)(2)(K), if not specified in the transcript.
- (b) All foreign-trained applicants shall submit documentation of their his or her education and clinical experience to a credentials evaluation service approved by the board, that is a member of the National Association of Credentials Evaluation Services, Inc. pursuant to Section 1399.416.4 for review and a report to the board a course-by-course evaluation. This report shall be filed by the applicant

with his or her application for examination. All foreign-trained applicants must have successfully completed equivalent coursework to the coursework set forth under section 1399.434.

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

**[NOTE: 1399.416.1 TEXT MOVED TO 1399.416.4]**

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

- (a) Once the board has received the foreign-trained applicant's credential evaluation, the board shall examine the results of the evaluation to determine if the foreign-trained applicant is eligible to take the licensing examination and notify the applicant in writing if they have met the experience requirements. If the foreign-trained applicant does not meet the educational requirements set forth in section 1399.434, the board will notify the foreign-trained applicant in writing that the foreign-trained applicant is missing courses or training and that they may submit new or additional courses or training for consideration by the board within 180 days of the date of the written notice to allow the foreign-trained applicant to qualify for the licensing examination.
- (b) The missing courses or training, if applicable, must be taken at the following:
- (1) An educational institution with a board-approved acupuncture educational and training program, as defined by section 4927.5 of the Code and meeting the curriculum requirements of section 1399.434. The approved educational and training program shall not require the foreign-trained applicant to complete any coursework beyond what has been identified by the list of missing courses provided by the board; 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 for Private Postsecondary Education; or
  - (3) A public institution of higher education, as defined by "public higher education" in Education Code section 66010.
- (c) Upon submission of certified transcripts sent directly to the board as required by section 1399.411 showing completion of the missing courses, the foreign-trained applicant shall be approved to take the examination.

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

**§ 1399.416.3 Credential Evaluations by Evaluation Services of Foreign Education Requirements.**

***[NOTE: THIS TEXT WAS PREVIOUSLY IN 1399.416(c)]***

Each evaluation provided by a board-approved Service shall:

- (a) Be originals furnished directly to the board in English and delivered or sent by United States mail either by first class or priority mail;
- (b) Affirm, in a written statement, that the evaluation is based only upon verified authenticated, original transcripts and degrees;
- (c) Include the specific method or methods of authentication for the transcripts, certification, degrees, and other education evaluated for the purposes of the report;
- (d) Include a report of each degree held by the applicant, along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;
- (e) Include an English translation of the course titles, and the semester unit equivalence for each course;
- (f) Provide the total number of units completed and evaluated by the Service;
- (g) Include certified copies of all original documents submitted by the applicant;
- (h) 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; and,
- (i) Include the following disclaimer: "This evaluation service is not authorized by the California Acupuncture Board to include in this evaluation any opinion as to whether certain courses will be accepted by the board as meeting the board's requirements or whether the applicant meets the board's requirements for taking the licensing exam or for licensure."

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



**§ 1399.416.4 Requirements for Approval and Renewal of Credential Evaluation Services of Foreign Education; Process for Denial or Revocation of Service Approvals; Appeal Procedures.**

(a) To receive and to maintain board approval, a Service shall submit a completed application to the board containing the information and documents required by this section.

(b) The application for a Service to apply for board approval shall contain the following:

(1) Applicant identifying and contact information that includes all of the following:

(A) Legal Name of applicant and type of entity (agency or organization).

(B) Applicant's physical address.

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

(D) Applicant's phone number.

(E) Applicant's fax number, if any.

(F) Applicant's Internet web site address, if any.

(G) Applicant's email address, if any.

(H) The name and title of the individual who will be the applicant's primary contact ("primary contact") for the board.

(I) The primary contact's phone number; and.

(J) The primary contact's email address, if any.

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

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

(4) A written statement affirming that the applicant bases its evaluations only upon verified authentic, official transcripts and providing a detailed description of the specific methods utilized for credential authentication by the Service.

(5) A list of at least three colleges and universities accredited by an association recognized by the Secretary of the United States Department of Education or

other licensing agencies currently using its services, along with a contact person at each institution,

(6) **Résumés** or curriculum vitae for each evaluator and translator, including years as a translator, a list of languages spoken, and places worked,

(7) Three sample evaluations that **comply** with the requirements of Section 1399.416.3; and,

(8) **A written statement affirming all of the following:**

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

(B) The Service maintains a complete set of reference materials. **“Complete” means that the materials include all necessary information to prepare complete, accurate evaluations and are the most current editions available; and,**

(C) The Service has, or agrees to establish **and maintain,** within thirty (30) days of board approval, a minimum six-year document retention policy.

(c) **In addition to the information required in subsection (b), the applicant shall also furnish the following information as part of the application:**

(1) A copy of the Service’s current written procedure for identifying fraudulent transcripts, and a statement certifying to the Service’s compliance with that procedure;

(2) A copy of the Service’s appeal procedure for applicants, and **a statement certifying** that the Service is in compliance with that procedure;

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

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

(d) The Service shall report to the board in writing **any change to the information previously provided to the board pursuant to this section within 60 days of the date of such change.**

(e) Approval issued under this section shall expire five (5) years after the date of issuance. **As a condition of renewal, the Service shall successfully undergo re-**

evaluation by the board by submitting the application and information required by subsections (a)-(c) and meeting the requirements of this section.

(f) In order to remain as a board-approved Service, the Service shall respond to any inquiries by the board, submit any documents and provide any information requested by the board, and cooperate in any investigation conducted by the board regarding the Service's compliance with the board's requirements. Failure to respond to the board within thirty (30) days of the date of the board's written inquiry or request for documents or information constitutes grounds for revocation of approval by the board pursuant to subsection (g).

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

(h) The board shall provide the Service with a written notice of the denial or revocation of the Service's approval when the board seeks to deny an application or revoke an approval pursuant to this section. The notice shall include the basis for either the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The Service may submit a written request for reconsideration to the board's designee of either the denial or revocation within fifteen (15) days of the date of the board's written notice of such denial or revocation. The written request shall provide the reasons the Service warrants a reconsideration of the denial or revocation. The Service, by availing itself of this request for reconsideration, does not waive its right to appeal under subsection (i).

(i) Regardless of whether or not the Service requests reconsideration as provided in subsection (h), the Service may appeal the denial or revocation of an approval by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within thirty (30) days of the date of the board's written notice specified in subsection (h).

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

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

### § 1399.417. Abandonment of Applications.

- (a) An application for examination shall be deemed to have been abandoned and the applicant's fee forfeited in any of the following circumstances:
- (1) ~~The applicant fails to complete 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 qualify for take 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.
- (d) For the purposes of this section "good cause" includes:**

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

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

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

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

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

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

Reference: Sections 4933, 4938, and 4944, Business and Professions Code.

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

- (a) 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.
- (b) 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 completed a application 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.~~
- (c) For foreign-trained applicants, 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.
- (~~ed~~) 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 a license to practice acupuncture upon meeting all of the following:

(1) payment of the initial license fee specified fee in section 1399.460,

(2) submission of full and complete fingerprints to the board for use in conducting criminal history record checks through the California Department of Justice and the Federal Bureau of Investigation; and,

(3) the applicant is not subject to denial pursuant to Division 1.5 (commencing with Section 475) 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.~~

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to safely perform as an acupuncturist, ~~safely~~ because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with ~~the~~ this requirement shall render 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 144, 480, 820, 4938, and 4944, Business and Professions Code



## ACUPUNCTURE BOARD

### Proposed Language Concerning Applications and Credential Evaluation Services

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

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

#### **§ 1399.409. Definitions.**

For purposes of the regulations contained in this Article, the terms:

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

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

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

#### **§ 1399.411. Certification of documentation.**

- (a) Domestic Transcripts. Documentation of transcripts or completion of an approved educational and training program ("program") as required by section 1399.416(a), or of supervised clinical hours, submitted by or on behalf of the applicant, shall be originals, and certified by the appropriate official responsible for the records such as the registrar, or by governmental seal or other authority. Such documentation shall be mailed or sent directly from the program to the board in an unopened, sealed envelope. Documentation may also be sent by secure electronic submission directly



from the program or from a transcript service which contracts with the program. The board in its discretion may waive this certification requirement when it is determined that it cannot be obtained through the exercise of due diligence, including the closure of the program or if the program does not maintain such records.

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

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

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

**§ 1399.413. Application for Licensing Examination deadline.**

(a) All new applications for examination shall be complete and shall be submitted on the form provided by to the board, accompanied by such statements and documents as required by this subsection. All such applications shall be received in the board's Sacramento office at least 120 calendar days prior to the date of the examination for which the application is made. A completed application for examination shall include the application fee required by Section 1399.460 and all of the following information:

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)).

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

(3) Applicant's physical address.

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

(5) Email address, if any.

(6) Applicant's telephone number.

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

- (8) Applicant's birthdate (month, day, and year).
- (9) Examination language preference.
- (10) Color copy of a U.S. state or federal government issued picture identification.
- (11) For applicants who have completed an approved educational and training program(s) as defined in Section 4927.5 of the Code, provide:
- (A) the name and location of each school or college where acupuncture education and training was obtained, including any higher education, undergraduate education, and education for which transfer credit was later awarded by another acupuncture school or college, if applicable,
  - (B) the dates of attendance for each approved educational and training program; and,
  - (C) the documentation required by section 1399.416(a), provided to the board in the manner prescribed by section 1399.411.
- (12) For applicants who have completed education outside of the United States (foreign-trained applicants), provide:
- (A) a list of the name(s) and address(es) of schools where acupuncture or Asian medicine education was obtained,
  - (B) the dates of attendance for each school,
  - (C) certified transcripts from each school for each educational program completed and provided to the board in the manner prescribed by section 1399.411; and,
  - (D) the results of an evaluation of the applicant's education from a credential evaluation service provided directly to the board by the service as prescribed by Section 1399.416.3.
- (13) For applicants who completed a tutorial program in the practice of an acupuncturist that is approved by the board pursuant to section 1399.425, provide tutorial program start and completion date(s).
- (14) A list of any other acupuncture or healing arts license or certification in any jurisdiction, including any state, agency of the federal government or country, and providing the type of license, license number, date of issuance, and dates of practice.
- (15) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.

(b) All applications for re-examination shall be complete and submitted on a form provided by to the board (“Application Update for Examination/Licensure”, revised 3/96), accompanied by such statements and documents as required by subsection (c). ~~All such applications shall be received in the board's office at least 30 calendar days prior to the date of the examination for which the application is made.~~

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

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),

(2) Applicant's Examination ID Number,

(3) Applicant's current mailing address, if different than previously supplied,

(4) Applicant's email address, if any,

(5) Applicant's telephone number,

(6) Examination language preference; and,

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

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

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

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

Reference: Sections 21, 27, 29.5, 30, 31, 325, 326, 494.5, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

**§ 1399.414. Request for re-evaluation of ~~D~~denial of applications to take licensing exam; Approval to Test.**

- (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 to take for the examination.
- (c) Nothing in this section shall ~~be constructed to deprive~~ be construed to 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 f~~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 educational and 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,~~ including certified transcripts, and certificates of completion of a course in cardiopulmonary resuscitation (CPR) pursuant to Section 1399.434(f)(3) or clean needle technique (CNT) pursuant to Section 1399.434(b)(2)(K), if not specified in the transcript.
- (b) All foreign-trained applicants shall submit documentation of their his or her education and clinical experience to a credentials evaluation service approved by the board, that is a member of the National Association of Credentials Evaluation Services, Inc. pursuant to Section 1399.416.4 for review and a report to the board a course-by-course evaluation. ~~This report shall be filed by the applicant with his or her application for examination.~~ All foreign-trained applicants must have successfully completed equivalent coursework to the coursework set forth under section 1399.434.

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

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

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

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

(1) An educational institution with a board-approved acupuncture educational and training program, as defined by section 4927.5 of the Code and meeting the curriculum requirements of section 1399.434. The approved educational and training program shall not require the foreign-trained applicant to complete any coursework beyond what has been identified by the list of missing courses provided by the board.

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

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

(c) Upon submission of certified transcripts sent directly to the board as required by section 1399.411 showing completion of the missing courses, the foreign-trained applicant shall be approved to take the examination.

Note: Authority cited: Sections 4933 and 4939 Business and Professions Code.

Reference: Sections 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code.

**§ 1399.416.3 Credential Evaluations by Evaluation Services of Foreign Education Requirements.**

Each evaluation provided by a board-approved Service shall:

- (a) Be originals furnished directly to the board in English and delivered or sent by United States mail either by first class or priority mail;
- (b) Affirm, in a written statement, that the evaluation is based only upon verified authenticated, original transcripts and degrees;
- (c) Include the specific method or methods of authentication for the transcripts, certification, degrees, and other education evaluated for the purposes of the report;
- (d) Include a report of each degree held by the applicant, along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;
- (e) Include an English translation of the course titles, and the semester unit equivalence for each course;
- (f) Provide the total number of units completed and evaluated by the Service;
- (g) Include certified copies of all original documents submitted by the applicant;
- (h) 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; and,
- (i) Include the following disclaimer: "This evaluation service is not authorized by the California Acupuncture Board to include in this evaluation any opinion as to whether certain courses will be accepted by the board as meeting the board's requirements or whether the applicant meets the board's requirements for taking the licensing exam or for licensure."

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

**§ 1399.416.4 Requirements for Approval and Renewal of Credential Evaluation Services of Foreign Education; Process for Denial or Revocation of Service Approvals; Appeal Procedures.**

- (a) To receive and to maintain board approval, a Service shall submit a completed application to the board containing the information and documents required by this section.
- (b) The application for a Service to apply for board approval shall contain the following:
- (1) Applicant identifying and contact information that includes all of the following:
    - (A) Legal Name of applicant and type of entity (agency or organization),
    - (B) Applicant's physical address,
    - (C) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,
    - (D) Applicant's phone number,
    - (E) Applicant's fax number, if any,
    - (F) Applicant's Internet web site address, if any,
    - (G) Applicant's email address, if any,
    - (H) The name and title of the individual who will be the applicant's primary contact ("primary contact") for the board,
    - (I) The primary contact's phone number; and,
    - (J) The primary contact's email address, if any.
  - (2) A copy of the Service's credential evaluation policy,
  - (3) A complete list of terminology and evaluation terms used in producing the Service's credential evaluations,
  - (4) A written statement affirming that the applicant bases its evaluations only upon verified authentic, official transcripts and providing a detailed description of the specific methods utilized for credential authentication by the Service,
  - (5) A list of at least three colleges and universities accredited by an association recognized by the Secretary of the United States Department of Education or

other licensing agencies currently using its services, along with a contact person at each institution,

(6) Résumés or curriculum vitae for each evaluator and translator, including years as a translator, a list of languages spoken, and places worked,

(7) Three sample evaluations that comply with the requirements of Section 1399.416.3; and,

(8) A written statement affirming all of the following:

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

(B) The Service maintains a complete set of reference materials. "Complete" means that the materials include all necessary information to prepare complete, accurate evaluations and are the most current editions available; and,

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

(c) In addition to the information required in subsection (b), the applicant shall also furnish the following information as part of the application:

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

(2) A copy of the Service's appeal procedure for applicants, and a statement certifying that the Service is in compliance with that procedure;

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

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

(d) The Service shall report to the board in writing any change to the information previously provided to the board pursuant to this section within 60 days of the date of such change.

(e) Approval issued under this section shall expire five (5) years after the date of issuance. As a condition of renewal, the Service shall successfully undergo re-



evaluation by the board by submitting the application and information required by subsections (a)-(c) and meeting the requirements of this section.

(f) In order to remain as a board-approved Service, the Service shall respond to any inquiries by the board, submit any documents and provide any information requested by the board, and cooperate in any investigation conducted by the board regarding the Service's compliance with the board's requirements. Failure to respond to the board within thirty (30) days of the date of the board's written inquiry or request for documents or information constitutes grounds for revocation of approval by the board pursuant to subsection (g).

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

(h) The board shall provide the Service with a written notice of the denial or revocation of the Service's approval when the board seeks to deny an application or revoke an approval pursuant to this section. The notice shall include the basis for either the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The Service may submit a written request for reconsideration to the board's designee of either the denial or revocation within fifteen (15) days of the date of the board's written notice of such denial or revocation. The written request shall provide the reasons the Service warrants a reconsideration of the denial or revocation. The Service, by availing itself of this request for reconsideration, does not waive its right to appeal under subsection (i).

(i) Regardless of whether or not the Service requests reconsideration as provided in subsection (h), the Service may appeal the denial or revocation of an approval by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within thirty (30) days of the date of the board's written notice specified in subsection (h).

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

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

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~~(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 qualify for take 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.

(d) For the purposes of this section "good cause" includes:

- (1) Death of an immediate family member. Documentation, such as a copy of the death certificate, must be submitted.
- (2) Catastrophic illness, contagious disease, or major traumatic injury to the applicant or immediate family member (spouse, child, or parent). Documentation, such as an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature, must be submitted.
- (3) Natural disaster (earthquake, flood, fire, etc.).
- (4) Non-issuance of visa for travel to the U.S.. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.
- (5) Service of the licensee on extended active duty with the Armed Forces of the United States. Documentation, such as copies of current Leave and Earnings Statements or military orders, must be submitted.

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

Reference: Sections 4933, 4938, and 4944, Business and Professions Code.

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

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- (b) An applicant will be notified of his or her eligibility for the examination ~~W~~within forty-five (45) calendar days of receipt of a completed application 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.~~
- (c) For foreign-trained applicants, 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.
- (~~e~~) 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 a license to practice acupuncture upon meeting all of the following:

(1) payment of the initial license fee specified in section 1399.460,

(2) submission of full and complete fingerprints to the board for use in conducting criminal history record checks through the California Department of Justice and the Federal Bureau of Investigation; and,

(3) the applicant is not subject to denial pursuant to Division 1.5 (commencing with Section 475) 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.~~

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to safely perform as an acupuncturist, ~~safely~~ because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with ~~the~~ this requirement shall render 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 144, 480, 820, 4938, and 4944, Business and Professions Code.