

# California Acupuncture Board Meeting

December 9-10, 2021

WebEx Conference Call



## **Board Members**

John Harabedian, Esq., President

Ruben Osorio, Vice President

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.



**LEC**



**ACUPUNCTURE BOARD  
LICENSING COMMITTEE MEETING  
AGENDA**

**Thursday, December 9, 2021  
9:30 a.m. to 11:30 a.m. or until the completion of business**

**LOCATION:**

**Web Ex Teleconference**

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mfc46845f64d543839148894f03dcd15d>

**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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In accordance with Government Code Section 11133, this meeting will be held by teleconference with no physical public locations.

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**Committee Members**

Dr. Amy Matecki, M.D., L.Ac.  
Hyun "Francisco" Kim, M.S., L.Ac.

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

1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, Chair)
2. Chair's Remarks (Matecki, Chair)
  - Welcoming message and meeting information
3. Public Comment on Items Not on the Agenda (Matecki)
4. Review Current Curriculum Standards to Ensure They Prepare Licensees for Entry Level Practice and Consumer Safety
  - A. Discussion and Potential Recommendation on Minimum Hours of Instruction and Curriculum Subject Areas Related to Herbs to Determine if Qualifications and

**Procedures for Safe Prescription and Use of Herbs Under Current Curriculum Standards are Sufficient (Herdt)**

- B. Discussion and Potential Recommendation on Minimum Hours of Instruction and Curriculum Subject Areas Related to Tai Chi and Qigong (Exercise Therapy) for Pain Management to Determine if Current Curriculum Standards are Sufficient (Herdt)**

**5. Future Agenda Items (Matecki)**

**6. Adjournment (Matecki)**

Informational Notes:

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

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this committee meeting at: <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. 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 Committee or prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

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

the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

# HOW TO – Join – DCA WebExEven

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

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

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

Example link:

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

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

Event Information: 3/26

Event status: Started

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

Duration: 1 hour

Description:

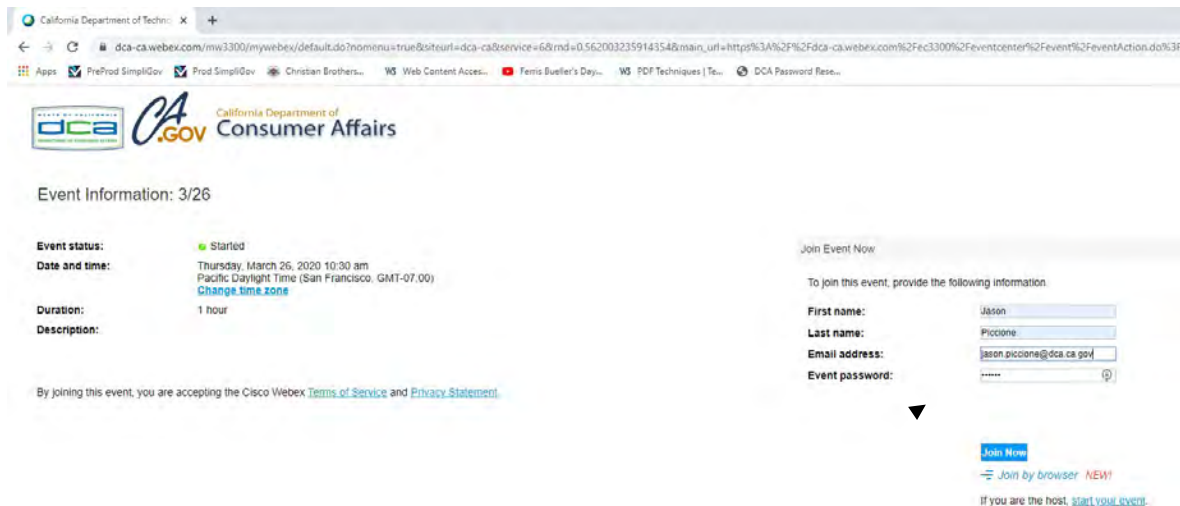
By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

On the right side of the page, there is a "Join Event Now" section with the following text: "To join this event, provide the following information." Below this text are four input fields: "First name:", "Last name:", "Email address:", and "Event password:". At the bottom of the registration form, there is a "Join Now" button and a link: "Join by browser: **NEW!**". Below the link, there is a note: "If you are the host, [start your event](#)."

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

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

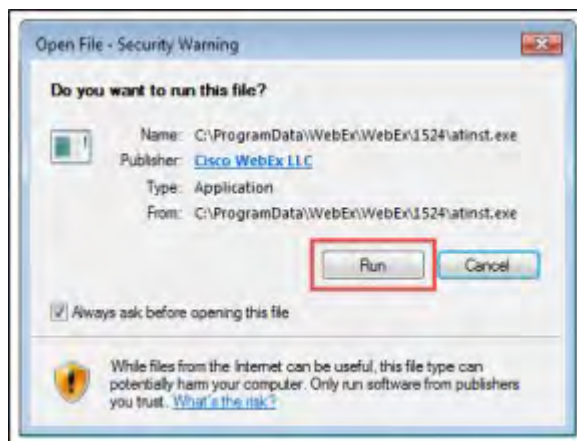
# HOW TO – Join – DCA WebExEven



3. Click the 'Join Now' button.

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

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



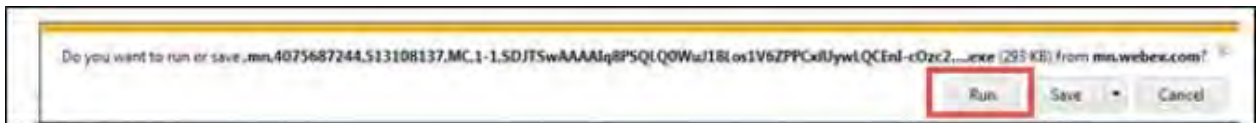
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

## Starting Webex...



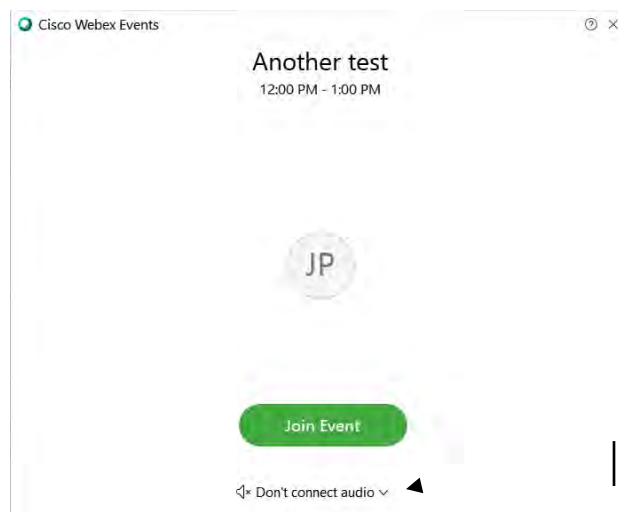
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

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



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

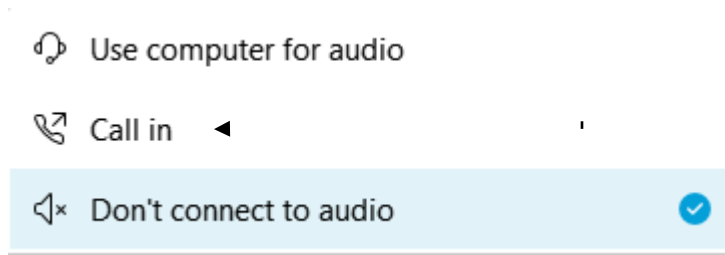
7. Click the audio menu below the green 'Join Event' button.





# HOW TO – Join – DCA WebExEven

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

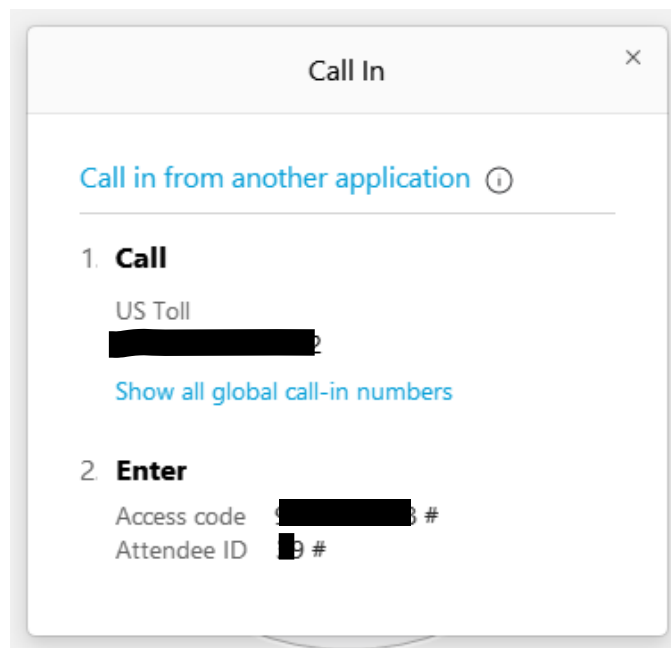


9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



Call in ▾

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



# HOW TO – Join – DCA WebExEven

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

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

Congratulations!

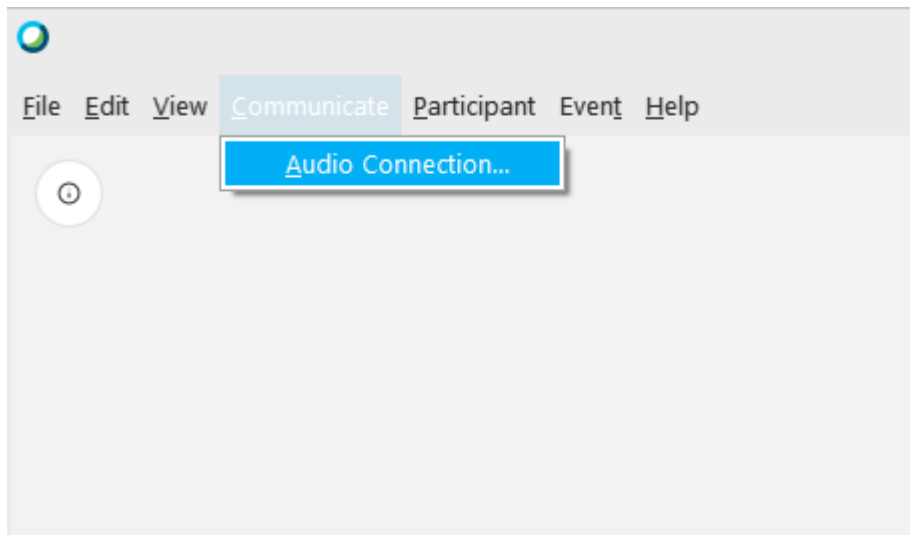


NOTE: Your audio line is muted and can only be unmuted by the event host.

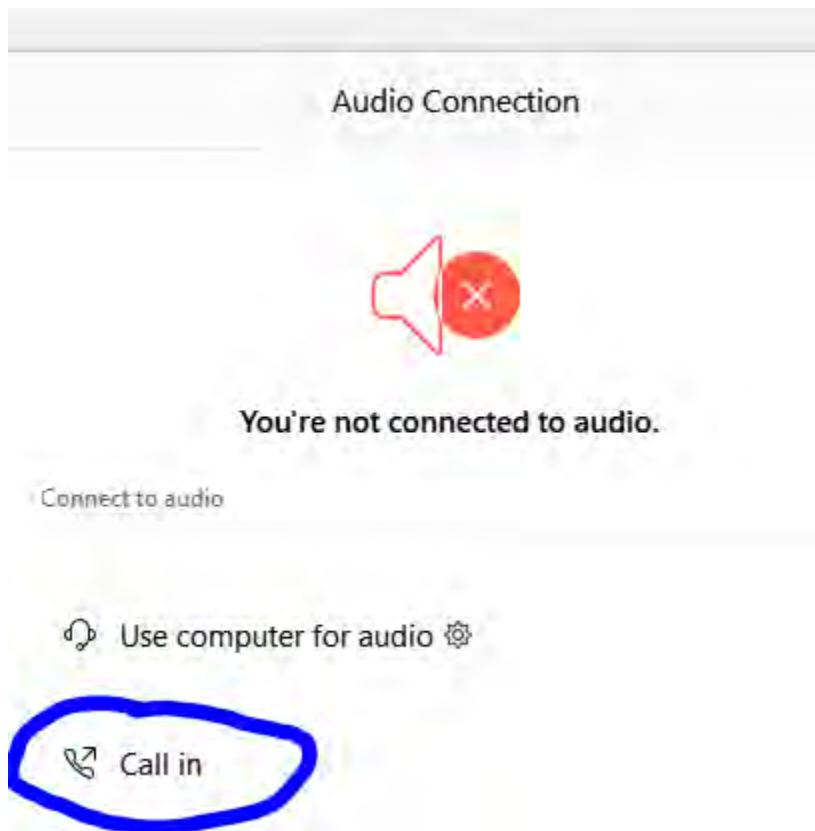
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

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

# HOW TO – Join – DCA WebEx Event



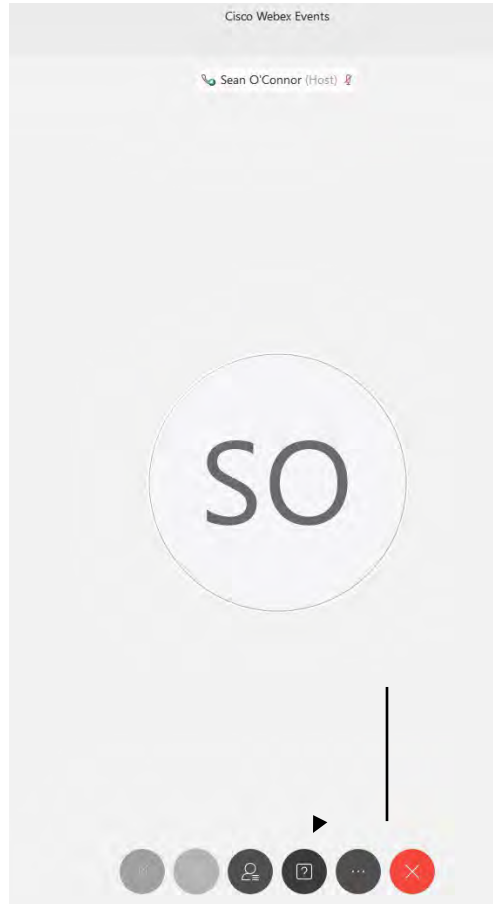
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



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

## Participating During a Public Comment Period

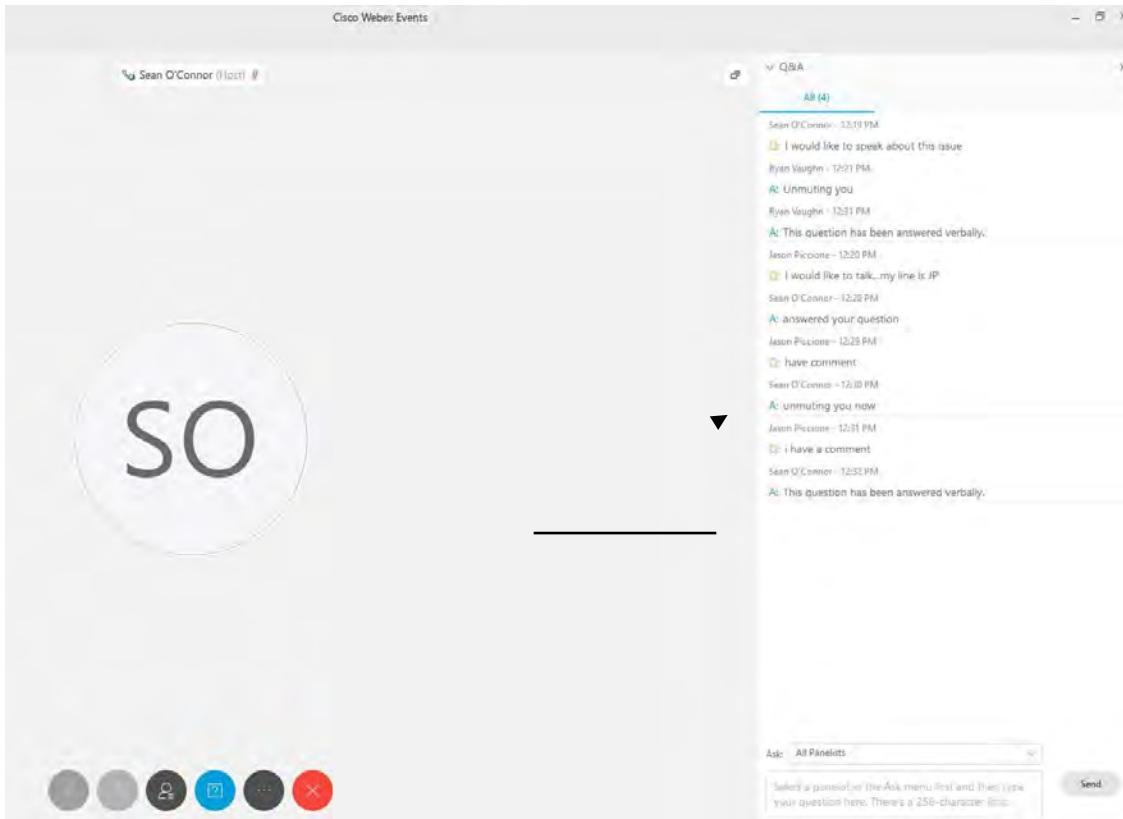
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



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

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

# HOW TO – Join – DCA WebEx Event



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

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

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



# Herbal Curriculum Standards



**CALIFORNIA  
ACUPUNCTURE  
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<b>DATE</b>	December 9-10, 2021
<b>TO</b>	Education and Research Committee
<b>FROM</b>	David Bruggeman, Policy Analyst
<b>SUBJECT</b>	Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Herbs to Determine if Qualifications and Procedures for Safe Prescription and Use of Herbs Under Current Curriculum Standards are Sufficient

Board members requested discussion on the use of herbs in the practice of acupuncture, most recently in the March 25-26, 2021 Board meeting. As part of the Board’s 2018-2022 Strategic Plan, Goal 3, Education, states that a goal of the Board is to:

*“Advance education standards to increase the quality of education and ensure consumer protection.”*

Goal 3.3 in Education captures the Board’s decision to, “Review current curriculum standards to ensure it prepares licensees for entry level practice and consumer safety.”

What follows is a listing of all references to curriculum requirements in current California acupuncture laws and regulations involving the use of herbs.

### **Acupuncture Tutorials**

300 hours specifically required as relating to “Traditional Oriental herbology including botany.” This is out of 1548 hours in the section on theoretical and didactic training. 16 CCR 1399.425 (e)(7)

### **Educational and Training Program Curricula**

At least 450 hours in “Chinese Herbal Medicine Principles and Theory, including relevant botany concepts.” 16 CCR 1399.434 (b)(1)(D). This change was made in 2005, while the requirement for tutorials remains at 300.

Instruction in herbal prescription, counseling, and preparation. 16 CCR 1399.434 (b)(2)(E) No minimum hours are listed for this category, but all courses in Acupuncture and Oriental Medicine Principles, Theories and Treatment - 16 CCR 1399.434 (b) - must total at least 1255 hours.

Instruction in “Pharmacological assessment, emphasizing side-effects and herb-drug interactions.” (16 CCR 1399.434 (c)(3)) No hours are listed, but all courses in Clinical Medicine, Patient Assessment and Diagnosis - 16 CCR 1399.434 (c) must total at least 240 hours.

Instruction in “treatment contraindications and complications, including drug and herb interactions” (16 CCR 1399.434 (d)(4)) No hours listed, but it is part of the 90 hour requirement in Case Management (16 CCR 1399.434(d))

## **Accreditation Commission for Acupuncture and Oriental Medicine Standards**

The most recent Comprehensive Standards and Criteria from the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) for Programs of Study require the following with respect to herbs:

### **Course Hours**

#### **Master's Level**

For a professional program in acupuncture with a Chinese herbal medicine specialization:

- 450 clock hours of instruction in didactic AOM-related herbal studies.
- 870 clock hours of instruction in integrated acupuncture and herbal clinical training, comprised of at least 150 hours in clinical observation and 700 clock hours of instruction in clinical internship.

For a Chinese herbal medicine certificate program:

- 450 clock hours of instruction in didactic AOM-related herbal studies.
- 210 clock hours of instruction in clinical training, comprised of at least 200 clock hours of instruction in herbal clinical internship training.
- Certificate programs must include current enrollment in, or the satisfactory completion of, an ACAOM-accredited/pre-accredited entry-level (i.e., master's-level, or professional doctoral) program in acupuncture or in acupuncture with a Chinese herbal medicine specialization.
  - English language competency is required of all students seeking admission to the master's-level program. This must be demonstrated by one of the following means:
    - a) The student must have completed a two-year (60 semester credits or 90 quarter credits) undergraduate- or graduate-level, English-based education in an institution:
      - (i) accredited by an agency recognized by the U.S. Secretary of Education, or
      - (ii) in the United Kingdom, Australia, Canada (except Quebec), New Zealand, or Ireland. In all cases, English must have been both the language of instruction and the language of the curriculum used;
    - b) Test of English as a Foreign Language Internet-Based Test (TOEFL® iBT) - Acceptable scores: TOEFL iBT total score – 61 with minimum speaking score –20 and minimum listening score – 17; or c)
    - c) International English Language Testing System (IELTS) Academic Format Acceptable scores: IELTS overall band score 6 with minimum speaking score –6.5 and minimum listening score – 6.

#### **Doctoral Level**

For a professional program in acupuncture with a Chinese herbal medicine specialization:

- 450 clock hours of instruction in didactic AOM-related herbal studies.



- 1,000 clock hours of instruction in integrated acupuncture and herbal clinical training, comprised of at least 150 hours in clinical observation and 700 clock hours of instruction in clinical internship.
- Meet or exceed all existing ACAOM standards and criteria required for master's level acupuncture programs with a Chinese herbal medicine specialization.

### **Competencies**

In addition to the course hour standards, ACAOM standards involve students being able to demonstrate a variety of competencies. Those explicitly related to herbs are:

#### **Master's Level**

- Describe the fundamental theory underlying the use of herbs, natural products and formulations.
- Accurately articulate properties and functions of herbs and natural products in the material medica.
- Recognize obsolete or restricted herbs and natural products (i.e., endangered species, restricted or toxic substances) and identify appropriate alternatives for said substances.
- Accurately articulate properties, functions, principles, dosages and ingredients of traditional formulations.
- Compose and revise formulations of appropriately dosed herbs and natural products based on traditional practice and patient assessment.
- Safely and effectively administer herbs and natural products, formulations, and prepared products (i.e., dietary supplements).
- Evaluate the efficacy of appropriately administered herbs, natural products, and formulations through the identification and review of current research.
- Recall elementary concepts of botany and common chemical constituents of herbs and natural products.
- Appraise potential toxicity, side effects, contraindications, and pharmaceutical interactions for herbs and natural products, formulas and prepared products.
- Describe state and federal regulations relevant to the practice of Oriental medicine, including scope of practice, vendor compliance with manufacturing standards, and appropriate mechanisms for the reporting of serious adverse events.
- Describe the various forms of formulation preparation.
- Describe dispensary practices that provide quality assurance, including product storage, facility management, preparation practices, product tracking, and record keeping,
- Recognize ethical issues and evaluate appropriate actions when administering herbs and natural products

#### **Doctoral Level**

The student must demonstrate the ability to administer AOM treatment, including Chinese herbal medicine as applicable, in core and concentration areas with competence that is qualitatively advanced beyond entry-level.



**Exercise  
Therapy  
Curriculum  
Standards**



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<b>DATE</b>	December 9-10, 2021
<b>TO</b>	Licensing Committee
<b>FROM</b>	David Bruggeman, Policy Analyst
<b>SUBJECT</b>	Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Tai Chi and Qigong (Exercise Therapy) for Pain Management to Determine if Current Curriculum Standards are Sufficient)

Board members requested discussion on the use of exercise therapy (such as tai chi and qi gong) in the practice of acupuncture, especially as it applies to pain management. This interest was most recently expressed at the March 25-26, 2021 Board meeting. As part of the Board’s 2018-2022 Strategic Plan, Goal 3, Education, states that a goal of the Board is to:

*“Advance education standards to increase the quality of education and ensure consumer protection.”*

Goal 3.3 in Education captures the Board’s decision to “Review current curriculum standards to ensure it prepares licensees for entry level practice and consumer safety.”

What follows is a listing of all references to curriculum requirements in current California acupuncture laws and regulations involving the use of exercise therapy.

**Acupuncture Tutorials**

Breathing techniques - introductory course in Qi Gong. 16 CCR 1399.425 (e)(5)

Traditional Oriental exercise - introductory course in Tai Chi Chuan. 16 CCR 1399.425 (e)(6)

These items are both part of the clinical and didactic training component, which requires a minimum of 1548 hours instruction. 16 CCR 1399.425 (e)

**Educational and Training Program Curricula**

Exercise therapy, including breathing, qi gong and taiji quan; 16 CCR 1399.434 (b)(2)(D). No hours given. This is part of the Acupuncture and Oriental Medicine Principles, Theories and Treatment component, which requires 1255 hours instruction. 16 CCR 1399.434(b).

**Continuing Education**

Exercise therapy is listed in both categories (patient-centered and non-patient centered) of continuing education courses described in 16 CCR 1399.484(b).

**ACAOM Standards**

The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) minimally references Tai Chi, Qi Gong, or other exercise therapy in Standard 7 as a related competency in its latest Comprehensive Standards and Criteria:

- AOM treatment may include, but is not limited to:

The use of AOM clinical procedures to stimulate specific locations via mechanical, electrical, magnetic, thermal, laser, photon, or wave-generating means; needle insertion (e.g., acupuncture, dry-needling); moxibustion and localized heat therapy; therapeutic blood withdrawal; cupping; scraping/gua sha; manual therapy (e.g., bodywork, tui na, shiatsu); therapeutic exercise (e.g., taiji, qigong); nutritional counseling; lifestyle recommendations; and internal and/or external herbal therapy.



# FBM Agenda



## ACUPUNCTURE BOARD MEETING AGENDA

Thursday and Friday, December 9 and 10, 2021

### Day One

Thursday, December 9, 2021

12:30 p.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=mfc46845f64d543839148894f03dcd15d>

### Important Notices to the Public

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

-

#### Members of the Board

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

-

1. Call to Order, Roll Call, and Establishment of Quorum  
(John Harabedian, Board President)
2. President's Remarks (Harabedian)

- Welcoming message and meeting information
3. Review and Possible Approval of the August 26, 2021 Board Meeting Minutes (Harabedian)
  4. Executive Management Report
    - (A) Budget Update
    - (B) Staffing Update
    - (C) Facilities Update
    - (D) Business Modernization Update
    - (E) Licensing Report Q1 Fiscal Year 2021-2022
    - (F) Enforcement Report Q1 Fiscal Year 2021-2022
    - (G) Strategic Plan Update
    - (H) Sunset Report Update
  5. Legislative Report and Update of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)
    - (A) Bills Chaptered into Law
      - i. [AB 107](#) (Salas) Licensure: veterans and military spouses
      - ii. [AB 361](#) (Robert Rivas) Open meetings: state and local agencies: teleconferences
      - iii. [SB 607](#) (Roth) Professions and vocations
      - iv. [AB 1273](#) (Rodriguez) Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer
    - (B) Bills That Remain Under Consideration in 2022
      - v. [AB 2](#) (Fong) Regulations: legislative review: regulatory reform
      - vi. [AB 29](#) (Cooper) State bodies: meetings
      - vii. [AB 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions
      - viii. [AB 810](#) (Flora) Healing arts: reports: claims against licensees
      - ix. [AB 885](#) (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
      - x. [AB 918](#) (Quirk-Silva) Acupuncture: licensure: examination
      - xi. [AB 1026](#) (Smith) Business licenses: veterans
      - xii. [AB 1236](#) (Ting) Healing Arts: licensees: data collection

- xiii. [AB 1386](#) (Cunningham) License fees: military partners and spouses
- xiv. [AB 1468](#) (Cunningham) Prior authorization
- xv. [SB 731](#) (Durazo) Criminal records: relief
- xvi. [SB 772](#) (Ochoa-Bogh) Professions and vocations: citations: minor violations

6. 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 for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service (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 1399.419 419 in Title 16 of the CCR)
- 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) Section 100 Clean-up Text and Forms ("B" for "b") (Title 16 CCR sections 1399.400 through 1399.489.1 inclusive)
- 9) Hand Hygiene Requirements (Title 16 CCR section 1399.451)

7. Public Comments for Items Not on the Agenda (Harabedian)

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

8. Adjournment of Day One





## ACUPUNCTURE BOARD MEETING

DAY TWO

Friday, December 10, 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=m9a9ab65704824920fbd84839f54ab841>

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

9. Call to Order, Roll Call, and Establishment of Quorum for Day Two (John Harabedian, Board President)
10. President's Remarks (Harabedian)
11. Occupational Analysis Report (OPES staff)
12. Report from Licensing Committee on December 9, 2021 Meeting and Any Possible Action on Recommendations (Dr. Matecki, Committee Chair)
13. Presentation on Informed Consent Practices in Other Healing Arts Boards (Bruggeman) – Discussion only



14. **Regulatory Packages Requiring Board Review and Possible Approval or Other Action (Brothers)**
  - (A) **Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees**
15. **Establish 2022 Meeting Calendar**
16. **Public Comment on Items Not on the Agenda (Harabedian)**

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

**Pursuant to Government Code Section 11126 (a) (1), the Board will Meet in Closed Session to conduct the Annual Evaluation of the Executive Officer**
19. **Return to OPEN SESSION**
20. **Adjournment of Day Two (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](http://www.acupuncture.ca.gov).

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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.

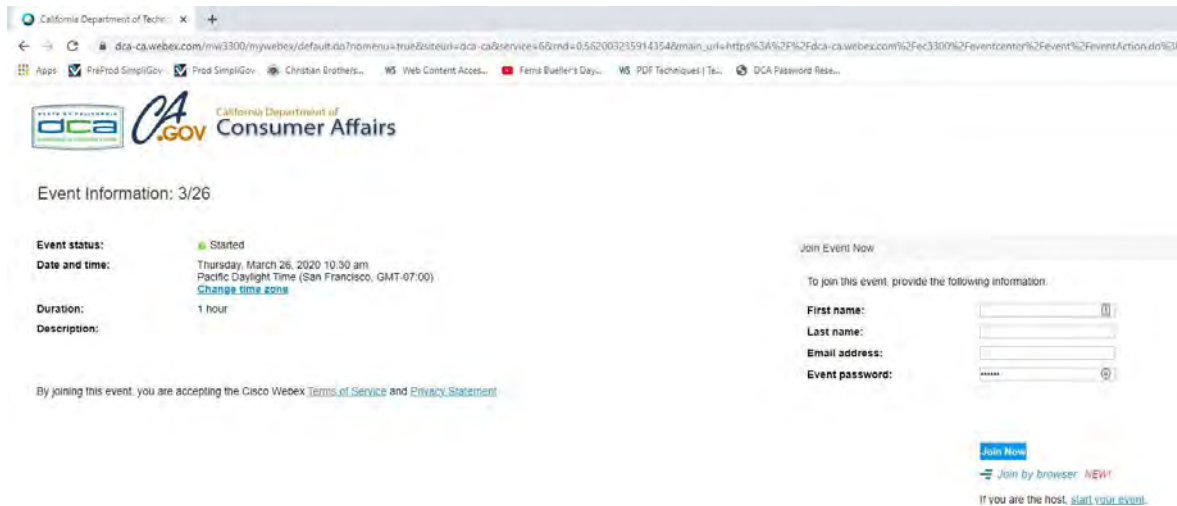
# HOW TO – Join – DCA WebEx Event

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.

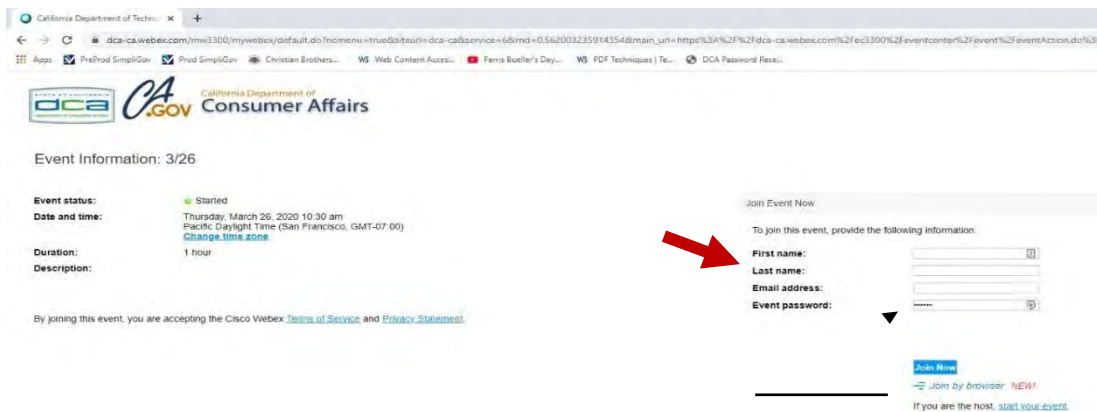
Example link:

<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:**

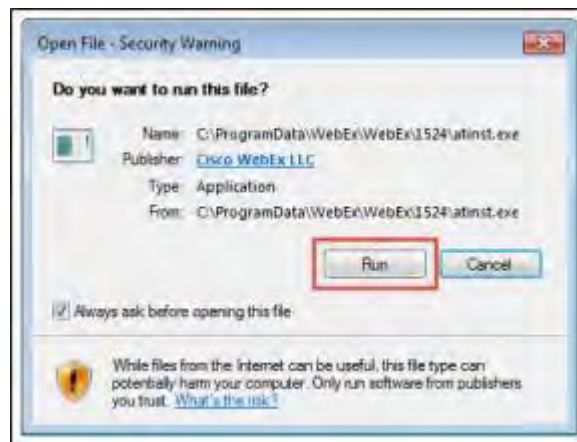
**Event password:**

**Join Now**

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

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

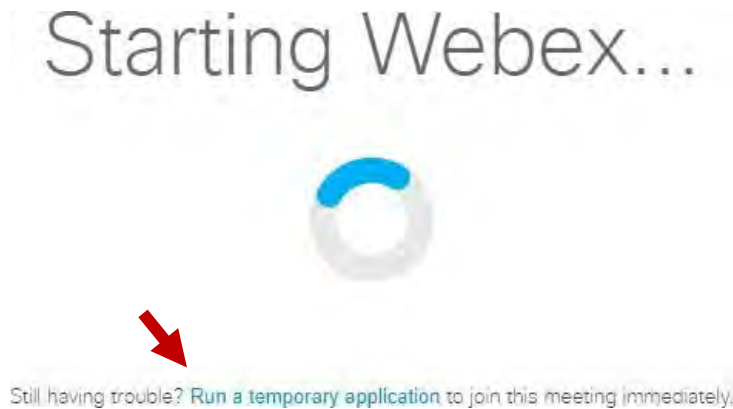
4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



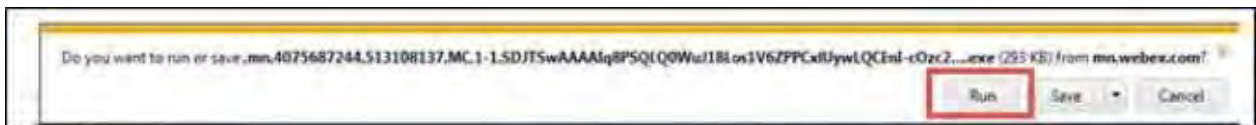
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

# HOW TO – Join – DCA WebEx Event

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



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



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

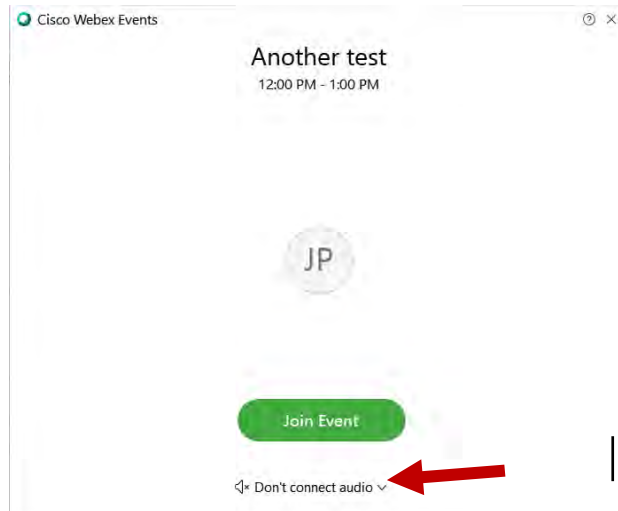
NOTE: The preferred audio connection to our event is via telephone conference or headset. Use of an open microphone and speakers through your computer could result in issue with audio clarity and potential feedback/echo.

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

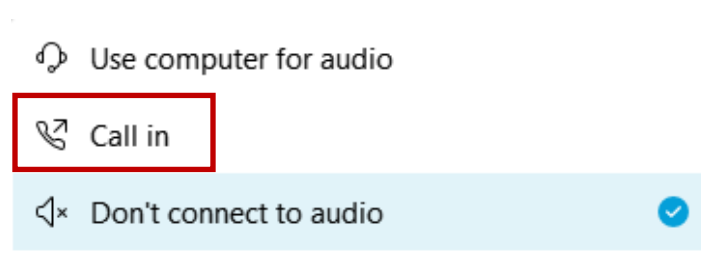


# HOW TO – Join – DCA WebEx Event

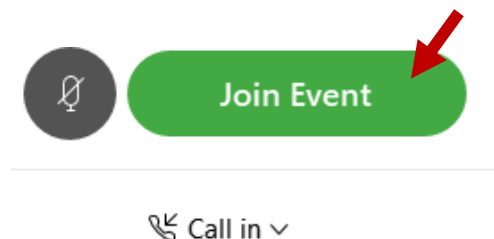
8. If using teleconference via your phone for audio, click the audio menu below the green 'Join Event' button.



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

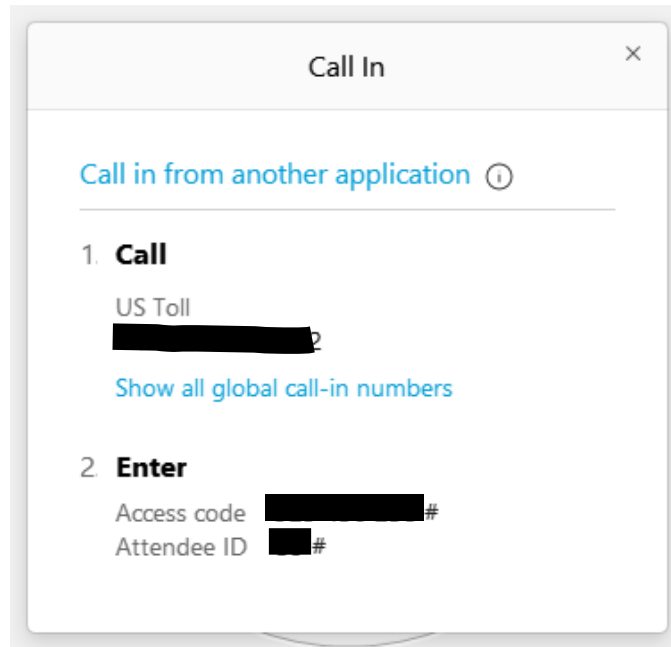


10. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



# 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.*

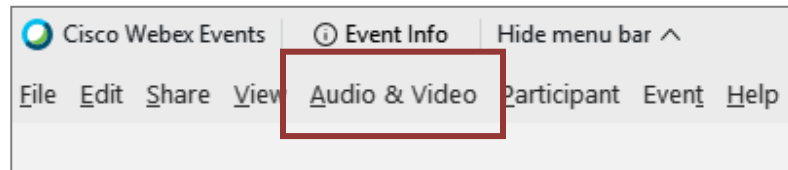


# HOW TO – Join – DCA WebEx Event

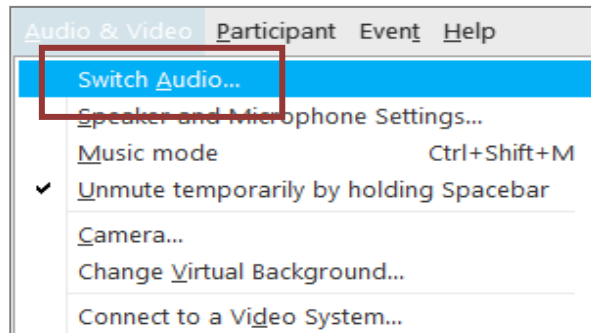
## Selecting Audio Connection After Joining

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.

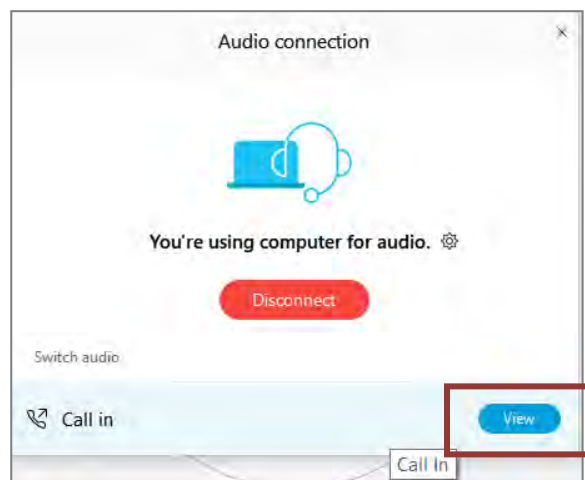
1. Select 'Audio & Video' from the menu bar at the top of your screen.



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.

# HOW TO – Join – DCA WebEx Event

## 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):

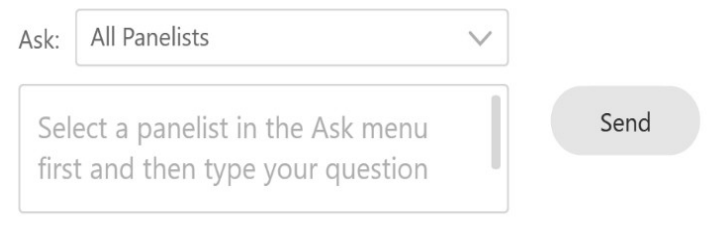
If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



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

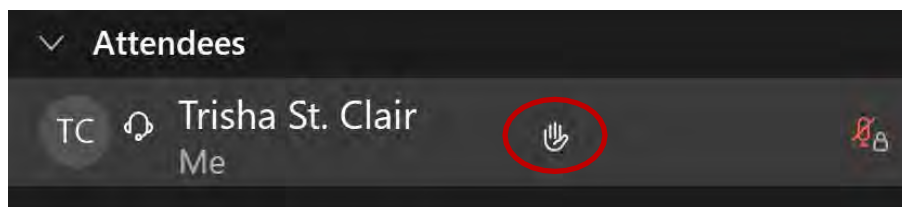
*NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.*

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.

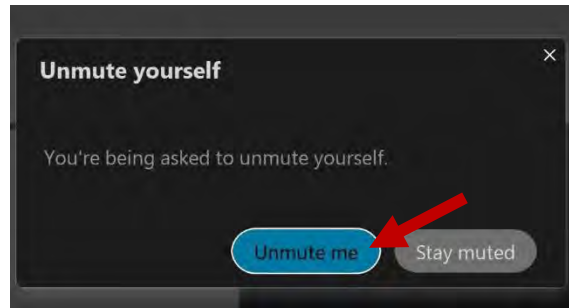


Please click on the hand icon again once your comment has been presented to lower your hand.

# HOW TO – Join – DCA WebEx Event

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 -August 2021  
Minutes**



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[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



## BOARD MEETING Meeting Minutes August 26, 2021

### LOCATION:

Web Ex Teleconference

### Board Members Present

John Harabedian  
Ruben Osorio  
Dr. Yong Ping Chen, Ph.D.  
Kitman Chan  
Hyun “Francisco” Kim  
Shu Dong Li, Ph.D.  
Dr. Amy Matecki

### Members of the Board

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

### Staff Present

Benjamin Bodea, Executive Officer  
Fred Chan-You, Legal Counsel  
Kristy Schieldge, 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, August 26

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

Board President, John Harabedian (President Harabedian), called the meeting to order at 9:45 a.m.

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

#### Members Present

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



2 Absent – Osorio, Kim

5-2 Quorum Established

## 2. President's Remarks

President Harabedian thanked the previous President, Dr. Matecki, and Vice President, Member Chan, for their service. Harabedian looks forward to the year ahead.

*Member Kim joined the meeting.*

There were no public comments on the President's remarks.

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

No discussion took place, nor were there public comments on the minutes.

### MOTION

*Member Matecki motioned to approve the March 2021 Board meeting minutes.*

Member Chen seconded the motion.

### Vote

**Yes:** Harabedian, Chan, Chen, Kim, Li, Matecki.

**6-0 motion passes**

## 4. Executive Management Report

### *Budget*

Executive Officer Ben Bodea (EO Bodea) noted that staff are waiting for final numbers for the end of fiscal year to be able to provide current data, and it would be available for review and discussion at the next Board meeting.

### *Staffing*

EO Bodea reported filling enforcement analyst and licensing technician positions.

### *Facilities*

EO Bodea noted that the tentative move date for Board staff to the new



location is now scheduled for November.

### *Business Modernization*

Licensing Manager (Herdt) provided an update on the Business Modernization project. As of the meeting, the following actions had been added or updated: wall license applications, exam applications, license applications and credit card transactions. The current phase of the process is working on continuing education processes: provider and course applications and renewals. This phase also includes license verification and address changes. All of these transactions will include the ability for credit card payments.

The complete business modernization process was scheduled to finish in October. That was extended to the end of the calendar year, but the project will remain within budget. Since online transactions began in September 2020, there have been 1254 license applications, 2551 renewal applications, 1255 wall license applications, and over \$1.97 million in revenue processed.

### *Licensing*

Herdt reviewed the Q4 (March-June 2021) licensing statistics. He thanked everyone involved with the 2021 Occupational Analysis. The full report is now available on the Board website. The most recent examination statistics will be posted to the website soon and will be presented at the next Board meeting.

### *Enforcement*

Enforcement Coordinator Cricket Borges (Borges) reviewed the Q4 (March-June 2021) enforcement statistics. She noted that the FY 2020-21 enforcement numbers are most likely lower than previous years due to the pandemic and a decrease in services provided during that time.

### *Vice President Osorio joined the meeting.*

Board members asked how the Acupuncture Board enforcement numbers compared to other boards. Borges noted the biggest parallel with other boards is that the cases are fluid. Smaller boards are more likely to have similar numbers to the Acupuncture Board compared to larger boards. Another question was about what is considered fraud in these statistics. Borges clarified that unauthorized practice is a distinct category from fraud. Cases in the fraud category typically involved billing matters.

The only public comment concerned seeing the presentation materials, which



were not available to view through the Web-Ex teleconference but available for the public to download on the Board's website.

## 5. Committee Assignments

President Harabedian described the new committee assignments. The Education and Licensing Committees were combined (into the Licensing Committee), with the remaining two committees as Enforcement, and, Executive and Legislative. Harabedian also placed Board members on new committees with an eye toward expanding everyone's scope of knowledge.

Member Kim expressed interest in continuing work on educational issues. Harabedian suggested Kim join licensing, which Member Matecki would chair. Vice President Osorio would chair Enforcement, and Member Chan would join that committee. (Member Chen and Member Li will serve on the Executive and Legislative Committee)

Both EO Bodea and President Harabedian emphasized that the committee assignments do not limit the issues Board members can weigh in on. Committees are there for developing ideas and bringing them to the full Board.

There were no public comments on this item.

The Board recessed from 10:42-10:55 a.m.

Roll Call taken at 10:55 a.m.:

### Members Present

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

*7-0 Quorum*

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

Policy Coordinator Kristine Brothers (Brothers) reviewed the 2021 California legislative calendar. They covered the status of bills that the Board expressed interest in and/or took a position of support or opposition. The status of each bill discussed was current as of August 6<sup>th</sup>. The bulk of the report focused on those bills that have been amended since the last Board meeting.

Four bills the Board has been watching have been amended since the last Board meeting. The Board previously took a watch position on each bill.





**AB 107** – Would require licensing boards to grant temporary licenses to applicants who are spouses or legal partners of service members assigned to duty stations in California. Amendments added requirements for a California law and ethics test as well as issuing a temporary license.

**AB 1273** – Would remove barriers to ‘earn and learn’ programs such as apprenticeships. Amendments did not substantively change the bill.

**SB 607** – Would require the Board to waive the application and initial license fees for applicants who meets expedited licensure requirements. Amendments change what fees would be waived.

**SB 731** – Would expand the ability to petition for arrest record and/or conviction record relief, provided certain circumstances are met. Amendments clarify applicants’ responsibilities under unexpired protective orders should relief be granted.

Board member discussion focused on SB 731. President Harabedian expressed concern it would have a big impact on the Board, and Member Kim asked how to monitor the bill’s progress. Staff will continue to track SB 731 and all the bills the Board has expressed interest in, as any of them could move next year if they aren’t signed into law this year. Harabedian indicated he had no suggestions for changing positions on any bills, and no Board members offered any.

No public comments were offered on the legislative report.

## **7. Regulations Update**

Policy Analyst David Bruggeman summarized the status of each regulatory package the Board has in progress. The major change since the last meeting was that the Office of Administrative Law approved a Section 100 regulatory package to repeal regulations on Sponsored Free Health Care Events. The underlying legislative authority for these regulations had expired.

No public comments were offered on the regulation update

## **8. Sunset Report Update**

EO Bodea noted that staff is working on the Sunset report, and that an ad hoc committee of President Harabedian and Member Matecki will be involved as well. The report will be reviewed at the November Board meeting as it is due to the Legislature the first week of December. The report requires full Board approval prior to submission.



The sole public comment was to reference several items (manual therapy/Asian massage, bleeding/therapeutic blood draw, acupuncture assistants, injection therapy).

The Board recessed from 11:35-11:50

Roll Call taken at 11:50 p.m.:

Members Present

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

7-0 Quorum

**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 Board**

Brothers reviewed the policy memo that discusses the proposed language changes. The proposed amendments build on and refine the amendments the Board approved at its March 2021 meeting. The new amendments provided additional clarity and further updates regulatory language.

President Harabedian supported the proposed language and asked for Board member comments. Board members had no substantive comments.

No public comments were offered on the proposed regulatory language.

**MOTION**

*Member Chen motioned to 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..*

Member Kim seconded the motion.

### Vote

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

**7-0 motion passes**

#### **10. Public Comments Received by the Board**

President Harabedian noted he received an email on August 18 from Dylan Stan on behalf of continuing education providers concerning the recent changes to the continuing education fee structure. He forwarded it to EO Bodea for further discussion. Neither Bodea nor the Board members reported receiving any other public comments.

No public comments were offered for this item.

#### **11. Public Comment on Items Not on the Agenda**

No public comments were offered for this item.

#### **12. Future Agenda Items**

Member Kim expressed interest in gathering input from the schools and the associations to help with the Sunset report. EO Bodea noted the Occupational Analysis report will be covered at the next Board meeting. Kim also wants to continue a curriculum review at the Committee level.

Harabedian noted that CalATMA has provided a list of topics to be included in the Sunset report.

Member Chen noted that acupuncturists could be more aware of public health needs, what acupuncturists can do to address them, and suggested linking this to the curriculum review.

Kim suggested bringing in researchers working in COVID and acupuncture, perhaps connected to the curriculum review. Bodea stated a research review would be outside of the Board's authority to review. But could research to see



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how to place it within the Board’s scope, but that is hard to do without a regulatory or enforcement link.

Kim echoed an earlier comment about connecting public needs to acupuncture training. The idea would be to assess existing needs and measure them against curriculum and other education requirements.

There were no public comments offered for this item.

### **13. Adjournment**

Meeting Adjourned at 12:36 p.m. PDT.



## **4 -Executive Management Report**



# 4(A) Budget Report

**0108 - CA Acupuncture Board Fund Analysis of Fund Condition  
(Dollars in Thousands) Budget Act 2021-22**

	<b>PY 2020-21</b>	<b>CY 2021-22</b>	<b>BY 2022-23</b>	<b>BY+1 2023-24</b>	<b>BY+2 2024-25</b>
<b>BEGINNING BALANCE</b>	\$3,720	\$2,684	\$1,989	\$1,159	\$187
Prior Year Adjustment	\$0	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$3,720	\$2,684	\$1,989	\$1,159	\$187
<b>REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>					
Revenues					
4121200 - Delinquent fees	\$15	\$76	\$76	\$76	\$76
4127400 - Renewal fees	\$2,401	\$2,936	\$2,936	\$2,936	\$2,936
4129200 - Other regulatory fees	\$106	\$194	\$194	\$194	\$194
4129400 - Other regulatory licenses and permits	\$539	\$598	\$598	\$598	\$598
4163000 - Income from surplus money investments	\$22	\$28	\$17	\$3	\$0
4171400 - Escheat of unclaimed checks and warrants	\$4	\$2	\$2	\$2	\$2
4172500 - Miscellaneous Revenues	\$1	\$0	\$0	\$0	\$0
4173500 - Settlements & Adjustments - Other	\$2	\$0	\$0	\$0	\$0
Totals, Revenues	\$3,090	\$3,834	\$3,823	\$3,809	\$3,806
Transfers and Other Adjustments	-\$186	\$0	\$0	\$0	\$0
<b>TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>	\$2,904	\$3,834	\$3,823	\$3,809	\$3,806
<b>TOTAL RESOURCES</b>	\$6,624	\$6,518	\$5,812	\$4,968	\$3,993

	PY 2020-21	CY 2021-22	BY 2022-23	BY+1 2023-24	BY+2 2024-25
<b>EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>					
Expenditures:					
1111 Program Expenditures (State Operations)	\$3,749	\$4,138	\$4,262	\$4,390	\$4,522
9892 Supplemental Pension Payments (State Operations)	\$43	\$43	\$43	\$43	\$43
9900 Statewide Pro Rata	\$148	\$348	\$348	\$348	\$348
<b>TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>	\$3,940	\$4,529	\$4,653	\$4,781	\$4,913
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$2,684	\$1,989	\$1,159	\$187	-\$920
Months in Reserve	7.1	5.1	2.9	0.5	-2.2

**NOTES:**

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



Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Fiscal Month: 13

Fiscal Year: 2020 - 2021

PERSONAL SERVICES

Fiscal Code	Line Item	PY Budget	PY FM13	Budget	YTD	Encumbrance	YTD + Encumbrance	Balance
5100	PERMANENT POSITIONS	\$911,000	\$743,821	\$865,000	\$766,767	\$0	\$766,767	\$98,233
5100	TEMPORARY POSITIONS	\$19,000	\$62,660	\$19,000	\$37,879	\$0	\$37,879	-\$18,879
5105-5108	PER DIEM, OVERTIME, & LUMP SUM	\$12,000	\$6,300	\$12,000	\$22,031	\$0	\$22,031	-\$10,031
5150	STAFF BENEFITS	\$573,000	\$440,703	\$536,000	\$419,088	\$0	\$419,088	\$116,912
	<b>PERSONAL SERVICES</b>	<b>\$1,515,000</b>	<b>\$1,253,484</b>	<b>\$1,432,000</b>	<b>\$1,245,765</b>	<b>\$0</b>	<b>\$1,245,765</b>	<b>\$186,235</b>

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	Line Item	PY Budget	PY FM13	Budget	YTD	Encumbrance	YTD + Encumbrance	Balance
5301	GENERAL EXPENSE	\$79,000	\$18,294	\$79,000	\$8,312	\$8,557	\$16,870	\$62,130
5302	PRINTING	\$18,000	\$4,382	\$18,000	\$199	\$5,711	\$5,909	\$12,091
5304	COMMUNICATIONS	\$18,000	\$2,810	\$18,000	\$3,217	\$0	\$3,217	\$14,783
5306	POSTAGE	\$28,000	\$1,382	\$28,000	\$7,020	\$0	\$7,020	\$20,980
5308	INSURANCE	\$0	\$30	\$0	\$190	\$0	\$190	-\$190
53202-204	IN STATE TRAVEL	\$34,000	\$17,444	\$34,000	\$10,395	\$0	\$10,395	\$23,605
53206-208	OUT OF STATE TRAVEL	\$0	\$1,002	\$0	\$0	\$0	\$0	\$0
5322	TRAINING	\$4,000	\$34,752	\$4,000	\$0	\$0	\$0	\$4,000
5324	FACILITIES	\$65,000	\$134,198	\$65,000	\$167,635	\$111,881	\$279,516	-\$214,516
53402-53403	C/P SERVICES (INTERNAL)	\$577,000	\$293,917	\$539,000	\$289,050	\$0	\$289,050	\$249,950
53404-53405	C/P SERVICES (EXTERNAL)	\$1,066,000	\$366,798	\$1,170,000	\$463,334	\$183,251	\$646,584	\$523,416
5342	DEPARTMENT PRORATA	\$874,000	\$798,566	\$959,000	\$848,853	\$0	\$848,853	\$110,147
5342	DEPARTMENTAL SERVICES	\$334,000	\$283,506	\$334,000	\$356,366	\$0	\$356,366	-\$22,366
5344	CONSOLIDATED DATA CENTERS	\$4,000	\$10,493	\$4,000	\$21,253	\$0	\$21,253	-\$17,253
5346	INFORMATION TECHNOLOGY	\$5,000	\$790	\$43,000	\$13,650	\$8,983	\$22,633	\$20,367
5362-5368	EQUIPMENT	\$66,000	\$58,625	\$0	\$9,548	\$32,820	\$42,368	-\$42,368
5390	OTHER ITEMS OF EXPENSE	\$3,000	\$1,730	\$3,000	\$0	\$0	\$0	\$3,000
54	SPECIAL ITEMS OF EXPENSE	\$0	\$1,459	\$0	\$11,983	\$0	\$11,983	-\$11,983
	<b>OPERATING EXPENSES &amp; EQUIPMENT</b>	<b>\$3,175,000</b>	<b>\$2,030,178</b>	<b>\$3,298,000</b>	<b>\$2,211,004</b>	<b>\$351,203</b>	<b>\$2,562,207</b>	<b>\$735,793</b>

<b>OVERALL TOTALS</b>	<b>\$4,690,000</b>	<b>\$3,283,662</b>	<b>\$4,730,000</b>	<b>\$3,456,769</b>	<b>\$351,203</b>	<b>\$3,807,972</b>	<b>\$922,028</b>
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19.49%



**4(E)  
Licensing  
Report**

## FY 2021/22 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Active	12172			
Inactive	2298			
Delinquent	1243			
Cancelled	85			
Initial AC License Applications Approved	93			
Initial AC License Applications Denied	0			
AC License Renewals	1253			
Active Wall Licenses	1672			
Initial Wall Licenses	718			
Wall License Renewals	13			

## Fiscal Year 2021/22 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Continuing Education Active Providers	477			
New CE Provider Applications Approved	6			
CE Provider Applications Denied	0			
Course Applications Received	371			
Course Applications Approved	368			
Course Denials	3			

## Fiscal Year 2021/22 Acupuncture Educational and Training Programs

Application for Board Approval of Curriculum (ABAC)	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
ABAC - Received	4			
ABAC - Incomplete	1			
ABAC - Approved	0			
Loss of Approval	0			

## Fiscal Year 2021/22 Acupuncture Tutorial Training Programs

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Applications Received	7			
New Program Approvals	4			
Programs Completed	2			
Programs Terminated, Abandoned	1			
Total Approved Programs	38			

**EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL**

1/1/2021 - 6/30/2021

APPROVED ACUPUNCTURE AND EDUCATIONAL TRAINING PROGRAMS	1ST TIME TAKERS			OVERALL (Includes Re-Takers)		
	#PASS	#FAIL	PASS %	#PASS	#FAIL	PASS %
Academy of Chinese Culture & Health Sciences	0	3	0%	1	3	25%
Acupuncture & Integrative Medicine College	3	0	100%	3	0	100%
Alhambra Medical University	8	0	100%	10	0	100%
American College of Traditional Chinese Medicine at CIIS	11	1	92%	13	1	92%
Bastyr University	1	1	50%	2	1	67%
California Trinity University	0	0	0%	0	1	0%
California University-Silicon Valley	1	0	100%	1	0	100%
Dongguk University Los Angeles	3	0	100%	4	3	57%
Emperor's College of Tradional Chinese Medicine	18	0	100%	18	0	100%
Five Branches University	11	2	85%	13	4	76%
Golden State University	3	0	100%	3	0	100%
Oregon College of Oriental Medicine	3	0	100%	3	0	100%
Pacific College of Health and Science	29	10	75%	33	13	72%
South Baylo University	17	5	77%	22	9	71%
Southern California University School of OM & Acupuncture	1	1	50%	1	2	33%
Southern California University of Health Sciences	2	0	100%	2	2	50%
University of East West Medicine	7	1	88%	9	4	69%
University of Herbal Medicine	2	0	100%	2	0	100%
Yo San University of TCM	5	1	83%	7	1	88%
Yuin University	1	0	100%	1	0	100%
Tutorials	3	0	100%	5	1	83%
Foreign	3	1	75%	4	2	67%
<b>GRAND TOTAL</b>	<b>132</b>	<b>26</b>	<b>84%</b>	<b>157</b>	<b>47</b>	<b>77%</b>

**EXAMINATION RESULTS STATISTICS - BY LANGUAGE****7/1/2019 - 12/31/2019**

<b>LANGUAGE</b>	<b>#PASS</b>	<b>#FAIL</b>	<b>PASS %</b>
Chinese	44	15	75%
English	98	38	72%
Korean	30	12	71%
<b>GRAND TOTAL</b>	<b>172</b>	<b>65</b>	<b>73%</b>



**4(F)  
Enforcement  
Report**



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<b>DATE</b>	December 9, 2021
<b>TO</b>	Board Members
<b>FROM</b>	Ben Bodea, Executive Officer
<b>SUBJECT</b>	Enforcement Update for Quarter 1 (Q1) FY 2021/2022: 7/1/21 – 9/30/21

**COMPLAINTS/CONVICTIONS & ARRESTS**

DCA Category		Received
<b>Unprofessional Conduct</b>	<b>Sub-Total</b>	<b>10</b>
• <i>DHHS exclusion notification</i>	1	
• <i>Aiding and Abetting Unlicensed Practice</i>	2	
• <i>Record Keeping Violation</i>	4	
• <i>Violation on Business Premises</i>	1	
• <i>Misrepresentation as a Doctor</i>	1	
• <i>Network Provider Termination Due to Board Discipline</i>	1	
<b>Unlicensed/Unregistered</b>		<b>5</b>
<b>Criminal Charges/Convictions**</b>		<b>10</b>
• <i>Applicants</i>	5	
• <i>Licensees</i>	5	
<b>Sexual Misconduct</b>		<b>2</b>
<b>Fraud</b>		<b>4</b>
<b>Non-jurisdictional</b>		<b>0</b>
<b>Incompetence/Negligence</b>		<b>5</b>
<b>Unsafe/Unsanitary Conditions</b>		<b>1</b>
<b>Other</b>		<b>0</b>
<b>Substance Abuse/Drug &amp; Mental/Physical Impairment</b>		<b>0</b>
<b>Discipline by Another State Agency</b>		<b>0</b>
<b>Total</b>		<b>37</b>

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	10	57	11
Unlicensed/Unregistered	5	26	7
Criminal Charges/Convictions (includes pre-licensure)	10	14	11
Sexual Misconduct	2	9	3
Fraud	4	44	2
Non-jurisdictional	0	3	0
Incompetence/Negligence	5	37	6
Unsafe/Unsanitary Conditions	1	7	1
Other	0	3	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	0	1	0
<b>Total</b>	<b>37</b>	<b>201</b>	<b>41</b>

\* Includes both formal investigations by DCA category conducted by DOI and desk investigations by staff. \*\* These numbers include current and previous quarter. 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 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM1: Total Complaints Received	109	27				27	↓ -75%
PM1: Total Convictions/Arrest Received	29	10				10	↓ -66%
PM1: Total Received	138	37				37	↓ -73%

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

Intake Cycle Time (Target: 10 Days)	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM2: Intake/Avg. Days	4.5	6				6.0	↑ 33%

## 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 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM3: All Investigations Closed	174	41				41	↓ -76%
PM3: Average Cycle Time Investigations	334	553				553	↑ 65%

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

	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	40%	16				39%	↓ -1%
91 - 180 Days	7%	1				2%	↓ -5%
181 Days - 1 Year (364)	14%	5				12%	↓ -2%
1 to 2 Years (365-730)	24%	6				15%	↓ -9%
2 to 3 Years (731- 1092)	11%	5				12%	↑ 1%
Over 3 Years (1093 +)	5%	8				20%	↑ 15%

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

Citations	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Final Citations	22	2				2	↓ -91%
Average Days to Close	650.8	1354				1354.0	↑ 108%



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

Transmittals to Attorney General (AG) Target: 540 Days	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM4: Volume AG Cases	14	2				2	↓ -86%
PM4: Total Cycle Time	1039	1167				1167	↑ 12%

	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
AG Cases Initiated	13	2				2	↓ -85%
AG Cases Pending	16	15				15	↓ -6%
SOIs Filed	0	0				0	⇒ 0%
Accusations Filed	6	1				1	↓ -83%
Total Closed after Transmission	14	3				3	↓ -79%
Revoked	3	0				0	↓ -33%
Voluntary Surrender	5	0				0	↓ -100%
Probation	6	2				2	↓ -67%
License Denied	0	0				0	⇒ 0%
Public Reprimand	0	0				0	⇒ 0%
Closed w/out Disciplinary Action	1	0				0	↓ -100%

The percentage below represents the number of cases assigned for discipline that closed in the specified quarter.

Total Orders Aging/Final Decision	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	0%	0				0%	⇒ 0%
91 - 180 Days	7%	0				0%	↓ -7%
181 Days - 1 Year (364)	0%	0				0%	⇒ 0%
1 to 2 Years (365-730)	50%	1				50%	⇒ 0%
2 to 3 Years (731- 1092)	7%	0				0%	↓ -7%
Over 3 Years (1093 +)	36%	1				50%	↑ 14%

Other Legal Actions	FY 2020/21	Fiscal Year 2021/22					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PC 23 Ordered	2	0				0	↓ -50%
Interim Suspension	0	0				0	⇒ 0%



## 5 -Legislative Report

## 2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE  
Revised 10-21-21

### DEADLINES

JANUARY							
	S	M	T	W	TH	F	S
Interim Recess							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
Wk. 1	30	31					

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

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

APRIL							
	S	M	T	W	TH	F	S
Wk. 1						1	2
Wk. 2	3	4	5	6	7	8	9
Spring Recess	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

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

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 14** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 17** Martin Luther King, Jr. Day.
- Jan. 21** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)).  
Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).
  
- Feb. 18** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Feb. 21** Presidents' Day.
  
- Apr. 1** Cesar Chavez Day observed.
- Apr. 7** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Apr. 18** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 29** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 6** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 13** Last day for **policy committees** to meet prior to May 31 (J.R. 61(b)(7)).
- May 20** Last day for **fiscal committees** to hear and report to the **floor** bills introduced in their house (J.R. 61 (b)(8)).  
Last day for **fiscal committees** to meet prior to May 31 (J.R. 61 (b)(9)).
- May 23 – 27** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).
- May 27** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).
- May 30** Memorial Day.
- May 31** Committee meetings may resume (J.R. 61(b)(12)).

\*Holiday schedule subject to final approval by Rules Committee.

**2022 TENTATIVE LEGISLATIVE CALENDAR**

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE  
Revised 10-21-21

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

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

**June 30** Last day for a legislative measure to qualify for the Nov. 8 General Election ballot (Elections Code Sec. 9040).

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

**July 1** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).

**Summer Recess** begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

**July 4** Independence Day.

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

**Aug. 1** Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

**Aug. 12** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).

**Aug. 15 – 31 Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).

**Aug. 25** Last day to **amend** bills on the floor (J.R. 61(b)(17)).

**Aug. 31** Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).

**Final Recess** begins upon adjournment (J.R. 51(b)(3)).

**IMPORTANT DATES OCCURRING DURING FINAL RECESS**

**2022**

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Oct. 2 Bills enacted on or before this date take effect January 1, 2023. (Art. IV, Sec. 8(c)).

Nov. 8 General Election.

Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).

Dec. 5 2023-24 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

**2023**

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

\*Holiday schedule subject to final approval by Rules Committee.



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<b>DATE</b>	December 9-10, 2021
<b>TO</b>	Board Members, Acupuncture Board
<b>FROM</b>	Kristine Brothers, Policy Coordinator
<b>SUBJECT</b>	2020 - 2021 Pending CA Legislation of Interest as of October 11, 2021

### **Bills Chaptered Into Law**

#### **[Assembly Bill 107](#): Licensure: veterans and military spouses (Chapter 693)**

**Status: Chaptered on 10/8/21**

#### **Summary of Bill:**

Repeals existing Business and Professions Code (BPC) section 115.6 after July 1, 2023 and enacts new provisions under Section 115.6 operative July 1, 2023. Enacts BPC sections 115.8 and 115.9.

Requires 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.

Requires, if necessary, a board to submit to DCA for approval draft regulations necessary to administer the provisions of the bill. Requires DCA to prepare an annual report to the Legislature containing specified information relating to the professional licensure of veterans, service members, and their spouses.

Requires boards to publish information pertinent to all licensing options available to military spouses on the home page of the internet website of the department or board.

#### **Board Implementation Plan:**

- Develop regulations to identify requirements and satisfactory evidence for the process of applying for temporary licensure under these new provisions and clarify that practice in California will be limited to the scope of practice in California.
- Work with the Office of Information Services (OIS) to develop a new temporary license in the Board's systems, including codes, logic related to expiry dates, and new temporary license print.
- Add new laws to the general provisions section of the Board's Laws and Regulations booklet.
- Determine if Board's current California Acupuncture Licensing Examination (CALE) meets the requirements for a California law and ethics examination or if a new exam, testing only laws and ethics, needs to be developed.
- Develop a system of retrieving data within systems for the reporting requirements.

- Update the Board's Military Resources information webpage to add additional information from the newly enacted laws.

**Board Position:**

Watch

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**[Assembly Bill 361](#): Open meetings: state and local agencies: teleconferences (Chapter 165)**

**Status: Chaptered on 9/16/21**

**Summary of Bill:**

Extends the ability of board and committees to meet remotely until January 31, 2022 by amending the Bagley-Keene Open Meetings Act.

**Board Implementation Plan:**

Reference to new law, Government Code section 11133, has been placed on the Board's most recent Board meeting agenda. Anytime a meeting is held under the Bagley-Keene Open Meetings Act remotely until January 31, 2022, the notice will contain reference to the Government Code section authorizing remote meetings without physical presence.

**Board Position:**

None

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**[Senate Bill 607](#): Professions and vocations (Chapter 367)**

**Status: Chaptered on 9/28/21**

**Summary of Bill:**

Requires 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.

Extends the operation of the Board and the authority to appoint an executive officer to January 1, 2024, essentially delaying the Board's sunset review by a year. All programs up for sunset review in 2022 have been delayed through this legislation.

**Board Implementation Plan:**

Staff will work with OIS to make changes to the Board's IT systems to waive the application fee and initial license fee for those licensees affected by BPC section 115.5. The Board's examination and license application forms will be updated and the new requirements of the applications will be updated in regulation. The new law will be added to the Board's Laws and Regulations booklet and Military Resources section on the Board's website.

Staff will continue working on the sunset report with a new due date of December 2022, and the hearing in early 2023.

**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 (Chapter 477)**

**Status:** Chaptered on 10/4/21

**Summary of Bill:**

Amends the BPC and the Health and Safety Code with respect to so-called 'earn and learn' programs. Amends the Labor Code to add the Director of Consumer Affairs and the Public Health Officer to the Interagency Advisory Committee on Apprenticeship.

Removes 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.

**Board Implementation Plan:**

Nothing is required as the Board's laws and regulations are already in compliance.

**Board Position:**

Watch

**Bills That Remain Under Consideration in 2022**

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

**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would require state agencies to identify and resolve any regulations that are duplicative, overlapping, inconsistent or out of date no later than January 1, 2023 and report those regulatory revisions to the Legislature and Governor.

**Board Position:**

Watch

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

**Status:** This bill was held in the Assembly Appropriations Committee. This is a two-year bill.

**Summary of Bill:**

This bill would require a state body's meeting notice to include all writings and materials. This bill would require the writings and materials to be posted to the state body's website 72 hours in advance of the meeting or provided to any person who requests the writings or materials in writing. This bill would prohibit a state body from discussing those writings or materials, or taking action on an item, until the state body has complied with these provisions.

**Board Position:**

Watch

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

**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would require boards and bureaus under the Department of Consumer Affairs (Department) that post information on their website about a revoked license, when the revocation is due to a criminal conviction, to update or remove information about the revoked license should the board receive an expungement order related to the conviction. This bill would authorize a board to charge a fee to perform these activities, not to exceed the necessary cost of administering this bill.

**Board Position:**

Watch

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

**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would increase the minimum fine assessed to healing arts licensees for failing to report certain settlements, judgments, or arbitrations.

**Board Position:**

Support

~~~

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

**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would amend the teleconferencing statutes of the Bagley-Keene Act to require public meetings held via teleconference to be both audibly and visually observable to the public. Additionally, this bill would clarify that only one primary physical meeting location need be disclosed and held open for public participation and affirm all members of the state body participating in the meeting remotely would still count towards a quorum.

**Board Position:**

Watch

~~~

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

**Status:** This is a two-year bill, last located in the Assembly Business and Professions Committee.

**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 Position:**

Oppose

~~~

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



**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would require boards and bureaus to reduce initial licensing fees for honorably-discharged veterans by 50 percent. Applicants would be required to submit satisfactory evidence they are an honorably-discharged veteran by providing a copy of a driver's license or identification card with the word "Veteran" printed on it.

**Board Position:**

Watch

~~~

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

**Status:** Ordered to inactive file at the request of Assembly Member Ting. This is a two-year bill.

**Summary of Bill:**

This bill would standardize the licensee demographic data that must be collected by all healing arts boards. Several board-specific data collection requirements would be repealed. Aggregate information collected must be posted on each board's website and provided to the Office of Statewide Health Planning and Development.

**Board Position:**

Watch

~~~

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

**Status:** This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would require boards and bureaus to waive initial license fees for military spouses.

**Board Position:**

Oppose

~~~

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

**Status:** Held under submission by Assembly Committee on Appropriations. This is a two-year bill.

**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.

**Board Position:**

Watch

~~~

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

**Status:** Failed to pass out of Assembly. This is a two-year bill and dead for 2021.

**Summary of Bill:**

This bill would continue recent criminal justice reforms by, among other things, expanding felonies that are eligible for automatic record sealing to include convictions for certain felonies that resulted in incarceration, as long as the individual has completed their sentence and has not been convicted of a new felony offense for four years.

**Board Position:**

Watch

~~~

**[Senate Bill 772](#): Professions and vocations: citations: minor violations - Ochoa Bogh**

**Status: This is a two-year bill and dead for 2021.**

**Summary of Bill:**

This bill would prohibit the assessment of an administrative fine for minor violations if the licensee corrects the violation within 30 days. Minor violations are defined as those that did not pose a serious health or safety threat, were not willful, did not occur while on probation, and are not violations that the licensee has a history of committing.

**Board Position:**

Oppose



**6 -  
Regulatory  
Update**



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|                |                                 |
|----------------|---------------------------------|
| <b>DATE</b>    | December 9-10, 2021             |
| <b>TO</b>      | Acupuncture Board Members       |
| <b>FROM</b>    | David Bruggeman, Policy Analyst |
| <b>SUBJECT</b> | Regulatory Update December 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                            | 09/02/21                      | 09/02/21                    |

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 regulations were filed with the Secretary of State on September 2, 2021 and took effect as of that date.

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. Following review from Legal Affairs, the Board will consider revised language at its December 2021 meeting.

**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. Filing is anticipated (along with the Disciplinary Guidelines package) in early 2022.

**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                        | 08/26/21                       |                                     |                               |                             |
| 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 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 and approved language changes at the March and August 2021 Board meetings. The regulatory package is currently being developed by staff. Filing is anticipated in the beginning of 2022.

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 the number of units and an end-of-class testing requirements) and clean up

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

The 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. The proposed language has been sent to the Regulatory Unit for review.

**9. 16 CCR 1399.400 through 1399.489.1 (inclusive) Section 100 Clean-up Text and Forms (“b” for “b”)**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Submit to OAL | OAL Determination |
|------------------------------|---------------------------|-----------------------------|----------------|-------------------------------------|---------------|-------------------|
| 10/2021                      | 9/21                      | n/a                         | n/a            | 10/21                               |               |                   |
| Effective Date               |                           |                             |                |                                     |               |                   |
|                              |                           |                             |                |                                     |               |                   |

This package would clean up regulatory language and forms for consistency. These changes would not be substantive and can be done through a Section 100 rulemaking process. The Board requested suggested language from the Regulatory unit. The changes would include replacing any instance of board (small b) with Board (capital B). Staff intends to file the package by the end of 2021.

**10. 16 CCR 1399.451: Hand Hygiene 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 |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 10/2021                      | 2013                      | 1/2014                         | 2/2014                         | 2014                                |                               |                             |
| 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 was initially approved by the Board in February 2014 to update existing regulations and bring them up to then-current public health and health industry standards. Package was set aside for higher priority regulations and in October 2018 the Board restated its interest in proceeding with regulations. Package was again set aside for higher priority regulations. It is currently under review with the Regulatory Unit.





**11 -  
Occupational  
Analysis**



OCCUPATIONAL ANALYSIS OF THE  
ACUPUNCTURIST PROFESSION

STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS



CALIFORNIA ACUPUNCTURE BOARD

# OCCUPATIONAL ANALYSIS OF THE ACUPUNCTURIST PROFESSION



July 2021

Heidi Lincer, Ph.D., Chief

Sanja Durman-Perez, M.A., Research Data Specialist II



This occupational analysis report is mandated by California Business and Professions Code (B&P) § 139 and by DCA Licensure Examination Validation Policy OPES 18-02.

## EXECUTIVE SUMMARY

The California Acupuncture Board (Board) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of acupuncturist practice in California. The purpose of the OA is to define practice for acupuncturists in terms of the tasks that newly licensed acupuncturists must be able to perform at the time of licensure and the knowledge required to perform those tasks safely and competently. The results of this OA provide a description of practice for the acupuncturist profession that can be used to develop the California Acupuncture Licensing Examination (CALE). In addition, the results of this OA can be used to evaluate national acupuncturist examination programs for use in California licensure.

OPES test specialists began by researching the profession and by conducting telephone interviews with acupuncturists working in locations throughout California. The purpose of these interviews was to identify the tasks performed by acupuncturists and to specify the knowledge required to perform those tasks in a safe and competent manner. Using the information gathered from the research and the interviews, OPES test specialists developed a preliminary list of tasks performed in acupuncturist practice along with statements representing the knowledge required to perform those tasks.

OPES convened three workshops to review and refine the preliminary lists of tasks and knowledge statements. The workshops included acupuncturists, or subject matter experts (SMEs), with diverse backgrounds in the profession (i.e., location of practice, years licensed, specialty). These SMEs identified changes and trends in acupuncture practice and performed a preliminary linkage of each task with a knowledge statement. Additional tasks and knowledge statements were created as needed to create a comprehensive description of acupuncture practice in California.

The SMEs also determined demographic questions for a three-part OA questionnaire to be completed by acupuncturists statewide. After the third workshop, OPES test specialists developed the questionnaire. Questionnaire development included a pilot study that was conducted using a group of acupuncturists. The pilot study participants' feedback was reviewed and used in refining the final questionnaire.

In the first part of the OA questionnaire, the acupuncturists were asked to provide demographic information relating to their work settings and practice. In the second part, they were asked to rate specific tasks in terms of frequency (i.e., how often the acupuncturist performs the task in the acupuncturist's current or most recent practice) and importance (i.e., how important the task is to effective performance of the acupuncturist's current or most recent practice). In the third part, they were asked to rate each knowledge statement in terms of how important it is to effective performance of the acupuncturist's most recent practice.

In March 2021, the Board sent a letter to all acupuncturists with an active license and address of record in California (11,828). The letter invited them to complete the OA questionnaire online and included a link to the questionnaire (Appendix D). A total of 333 mailed letters were

returned as undeliverable. The Board also sent email invitations to approximately 1,900 email addresses on its subscriber alert list and to approximately 6,800 acupuncturists whose email address was on file with the Board.

In April 2021, the Board sent an OA questionnaire reminder email to approximately 6,800 acupuncturists whose email address was on file with the Board. In April 2021, the Board also mailed out an OA questionnaire reminder postcard to all acupuncturists with an active license and address of record in California (11,828).

In addition to providing the link to the OA questionnaire in the letter, the Board posted the link on its website. To further promote the OA effort, the Board also announced the OA at the December 2020 and the March 2021 Board meetings.

Of the 11,828 acupuncturists invited to complete the questionnaire, 4,806 (40.6%) responded by accessing the online questionnaire. The final sample size included in the data analyses was 2,795, or 23.6% of the licensed acupuncturist population that was invited to complete the questionnaire. This response rate reflects two adjustments. First, OPES excluded data from respondents who indicated they had not practiced as acupuncturists in California within the last 18 months. Second, questionnaires containing a large volume of missing data were also excluded. The final respondent sample appears to be representative of the population of California acupuncturists based on the sample's demographic composition.

OPES test specialists then performed data analyses of the task and knowledge ratings obtained from the OA questionnaire respondents. The task frequency and importance ratings were combined to derive a criticality index for each task statement. The mean importance rating was used as the criticality index for each knowledge statement.

Once the data were analyzed, OPES conducted an additional workshop with SMEs in May 2021 to review the results of the OA. The SMEs evaluated the criticality indices and determined whether any tasks or knowledge statements should be removed from the examination outline. The SMEs in this group also established the final linkage between tasks and knowledge statements and finalized the organization of the tasks and knowledge statements into content areas. The SMEs then determined the final content area and subarea weights for the examination outline. The new examination outline was reviewed and finalized in a July 2021 workshop.

The examination outline is structured into four content areas. It provides a description of the scope of practice for acupuncturists, and identifies the tasks and knowledge critical to safe and competent acupuncturist practice in California at the time of licensure. Additionally, the examination outline provides a basis for evaluating the degree to which the content of any examination under consideration measures content critical to acupuncturist practice in California.

## OVERVIEW OF THE CALIFORNIA ACUPUNCTURE LICENSING EXAMINATION (CALE) OUTLINE

| Content Area                         | Content Area Description                                                                                                                                                                                                                                                                                                                                            | Percent Weight |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 01. Patient assessment               | This area assesses the practitioner's knowledge of assessing patient's chief complaint and underlying health conditions using Traditional Chinese Medicine (TCM) and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations. | 27             |
| 02. Diagnosis and treatment planning | This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.                     | 17             |
| 03. Treatment                        | This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.                                                                                                                                                                                                                     | 44             |
| 04. Professional responsibilities    | This area assesses the practitioner's knowledge of legal requirements, ethical guidelines, and professional standards related to the acupuncturist profession in California.                                                                                                                                                                                        | 12             |
| <b>Total</b>                         |                                                                                                                                                                                                                                                                                                                                                                     | <b>100</b>     |



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# CHAPTER 1 | INTRODUCTION

## PURPOSE OF THE OCCUPATIONAL ANALYSIS

The California Acupuncture Board (Board) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) as part of the Board's comprehensive review of acupuncturist practice in California. The purpose of the OA is to define practice for acupuncturists in terms of the tasks that newly licensed acupuncturists must be able to perform at entry level and the knowledge required to perform those tasks safely and competently. The results of this OA provide a description of practice for the acupuncturist profession that can be used to develop the California Acupuncture Licensure Examination (CALE). In addition, the results of this OA can be used to evaluate national acupuncturist examinations for possible use in California licensure.

## CONTENT VALIDATION STRATEGY

To ensure that the description of acupuncturist practice resulting from the OA reflects the tasks performed by practicing acupuncturists, OPES incorporated the technical expertise of California acupuncturists throughout the OA process.

## PARTICIPATION OF SUBJECT MATTER EXPERTS

OPES selected Board-approved California acupuncturists to participate as subject matter experts (SMEs) during all phases of the OA. The SMEs were selected from a broad range of practice settings, geographic locations, and experience backgrounds. During the interviews and the first three of four workshops, SMEs provided technical expertise and information about acupuncturist practice. This information was needed to develop tasks and knowledge statements and organize them into meaningful content areas. They also developed demographic questions for the survey, reviewed rating scales for tasks and knowledge statements, and performed a preliminary linkage of tasks and knowledge statements. During the last workshop, the SMEs reviewed the results of the OA, including the demographic composition of the final sample and task and knowledge ratings. They also performed the final linkage of tasks and knowledge statements, finalized the organization of tasks and knowledge statements into content areas, and developed the examination outline.

## ADHERENCE TO LEGAL STANDARDS AND GUIDELINES

Licensing, certification, and registration programs in the State of California adhere to federal and state laws and regulations, as well as to professional guidelines and technical standards. For the purposes of OAs, the following laws and guidelines are authoritative:

- California Business and Professions (B&P) Code § 139.
- 29 Code of Federal Regulations Part 1607 – Uniform Guidelines on Employee Selection Procedures (1978).
- California Fair Employment and Housing Act, Government Code § 12944.

- *Principles for the Validation and Use of Personnel Selection Procedures* (2018), Society for Industrial and Organizational Psychology (SIOP).
- *Standards for Educational and Psychological Testing* (2014), American Educational Research Association, American Psychological Association, and National Council on Measurement in Education.

For a licensure examination to meet these standards, it must be solidly based upon the job activities required for practice.

## DESCRIPTION OF OCCUPATION

California B&P Code § 4927(d) defines acupuncture as follows:

"Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control for the treatment of certain diseases or dysfunctions of the body, and includes the techniques of electroacupuncture, cupping, and moxibustion.

California B&P Code § 4937 describes authorized practices under an acupuncturist license as follows:

An acupuncturist's license authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

(b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing, or prescribing the use of any modality listed in this subdivision.

(c) For purposes of this section, a "magnet" means a mineral or metal that produces a magnetic field without the application of an electric current.

(d) For purposes of this section, "plant, animal, and mineral products" means naturally occurring substances of plant, animal, or mineral origin, except that it does not include synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(e) For purposes of this section, "dietary supplement" has the same meaning as defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary supplement does not include controlled substances or dangerous drugs as defined in Section 4021 or 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

## CHAPTER 2 | OCCUPATIONAL ANALYSIS QUESTIONNAIRE

### SUBJECT MATTER EXPERT INTERVIEWS

OPES contacted 12 acupuncturists to conduct semi-structured telephone interviews. During the interviews, the SMEs were asked to identify major content areas of their practice and the tasks performed in each content area. They were also asked to identify the knowledge necessary to perform the tasks safely and competently.

### TASKS AND KNOWLEDGE STATEMENTS

OPES test specialists developed a preliminary list of tasks and knowledge statements based on the information gathered from a literature review of profession-related sources (e.g., previous OA reports, articles, industry publications, laws and regulations) and from the interviews with SMEs. The statements were organized into major content areas of practice.

OPES conducted three workshops with practicing SMEs from diverse backgrounds (i.e., years licensed, specialty, and practice location) to develop comprehensive lists of tasks and knowledge statements reflecting current acupuncture practice in California.

In September 2020, OPES test specialists facilitated the first workshop with eight SMEs to review and revise the preliminary lists of tasks and knowledge statements. The SME review ensured the technical accuracy and comprehensiveness of the tasks and knowledge statements. The SMEs also made recommendations regarding the organization of tasks and knowledge statements into content areas.

In November 2020, OPES test specialists facilitated the second workshop with eight SMEs. One of those SMEs had also participated in the first workshop. The SMEs continued to review and revise the lists of tasks and knowledge statements for technical accuracy and comprehensiveness. They also made several changes to the organization of tasks and knowledge statements into content areas.

In January 2021, OPES test specialists facilitated the third workshop with nine SMEs. Two of those SMEs had also participated in the second workshop. The SMEs reviewed and finalized the lists of tasks and knowledge statements and confirmed the organization of tasks and knowledge statements into content areas. The SMEs also performed the preliminary linkage of tasks and knowledge statements. Each task was linked to all knowledge statements that underlie safe and effective performance of that task. The SMEs also developed demographic questions for the OA survey and reviewed the rating scales to be used to rate tasks and knowledge statements on the OA survey.

OPES used the finalized list of tasks and knowledge statements, demographic questions, and rating scales to develop an online questionnaire.



## QUESTIONNAIRE DEVELOPMENT

OPES test specialists developed an online OA questionnaire designed to solicit acupuncturists' ratings of the tasks and knowledge statements. The surveyed acupuncturists were instructed to rate how often each task is performed in their current or most recent practice (Frequency) and how important the task is for effective performance of their current or most recent practice (Importance). In addition, they were instructed to rate how important each knowledge statement is for effective performance of tasks in their most recent practice (Importance).

The response options for the Frequency scale used for rating tasks were:

- 0 – Never
- 1 – Very rarely
- 2 – Rarely
- 3 – Occasionally
- 4 – Frequently
- 5 – Very Frequently

The response options for the Importance scale used for rating tasks and knowledge statements were:

- 0 – Does not apply to my job
- 1 – Not important
- 2 – Of minor importance
- 3 – Moderately important
- 4 – Very important
- 5 – Critically important

The OA questionnaire also included a demographic section to obtain relevant information about the professional backgrounds of responding acupuncturists.

A PDF version of the OA questionnaire can be found in Appendix E.

## PILOT STUDY

Before administering the final questionnaire, OPES conducted a pilot study of the online questionnaire. After review by Board staff, the questionnaire was sent to 28 SMEs who participated in previous workshops. A total of 9 SMEs responded to the pilot survey invitation. They provided information about the technical accuracy and comprehensiveness of the tasks and knowledge statements, the estimated time to complete the survey, and the functionality of the questionnaire. OPES used this feedback to refine the final questionnaire.

## CHAPTER 3 | RESPONSE RATE AND DEMOGRAPHICS

### SAMPLING STRATEGY AND RESPONSE RATE

In March 2021, the Board sent a letter to all acupuncturists with an active license and address of record in California (11,828). The letter (Appendix D) invited them to complete the OA questionnaire online and contained a link to the questionnaire. A total of 333 mailed letters were returned as undeliverable. In March 2021, the Board also sent email invitations to approximately 1,900 email addresses on its subscriber alert list and to approximately 6,800 acupuncturists whose email address was on file with the Board.

In April 2021, the Board sent an OA questionnaire reminder email to approximately 6,800 acupuncturists whose email address was on file with the Board. In April 2021, the Board also mailed out an OA questionnaire reminder postcard to all acupuncturists with an active license and address of record in California (11,828).

In addition to providing the link to the OA questionnaire in the letter, the Board posted the link on its website. To further promote the OA effort, the Board also announced the OA at the December 2020 and the March 2021 Board meetings.

Of the 11,828 acupuncturists invited to complete the questionnaire, 4,806 (40.6%) responded by accessing the online questionnaire. The final sample size included in the data analyses was 2,795, or 23.6% of the population that was invited to complete the questionnaire. This response rate reflects two adjustments. First, OPES excluded data from respondents who indicated they were not currently practicing and had not practiced as acupuncturists in California within the last 18 months. Second, questionnaires containing a large volume of missing data were excluded. The final respondent sample appears to be representative of the population of California acupuncturists based on the sample's demographic composition.

### DEMOGRAPHIC SUMMARY

Tables 1–23 and Figures 1–23 provide detailed demographic information about the final sample included in the data analyses.

Table 1 and Figure 1 show that the majority of respondents (92.1%) indicated that they were currently practicing in California as licensed acupuncturists. The remaining respondents indicated that they were not currently practicing but had practiced in the past 18 months.

Respondents represented the profession at all experience levels (Table 2 and Figure 2). The distribution of respondents across experience categories was relatively balanced, with acupuncturists in different experience categories being similarly represented in the final sample.

Similarly, Table 3 and Figure 3 show that similar percentages of respondents, around 20%, reported working fewer than 10 hours per week, 11–20 hours per week, 21–30 hours per week, and 31–40 hours per week as licensed acupuncturists. Only about 10% reported working more than 40 hours per week as licensed acupuncturists.

Table 4 and Figure 4 show that the reported number of patients seen per week varies significantly among respondents, with the majority of respondents seeing fewer than 20 patients per week (53.2%) and only about 10.3% seeing 51 or more patients per week.

The majority of respondents can also be described in terms of the following demographic characteristics:

- Have a primary practice in an urban location (Table 5 and Figure 5).
- Have a primary practice that can be described as a sole proprietorship (Table 6 and Figure 6).
- Are self-employed (Table 7 and Figure 7).
- Have patients who pay for services primarily out-of-pocket or using health insurance (Table 8 and Figure 8).
- Have not used telehealth services over the past 12 months to provide patient care (Table 9 and Figure 9).
- Describe the primary focus of their practice as pain management (Tables 10 and Figure 10) and have practiced pain management more often than any other treatment category over the past 12 months (Table 11 and Figure 11).
- Use acupuncture, cupping, herbal therapy, diet and nutrition recommendations, electroacupuncture, infrared therapy, ear seeds, manual therapy, heat therapy, and moxibustion in their practice (Table 12 and Figure 12).
- Report acupuncture as the treatment modality used most often in their practice over the last 12 months (Table 13 and Figure 13).
- Report English as their native language (Table 14 and Figure 14).
- Report English as the language spoken by the majority of their patients (Table 15 and Figure 15).
- Have a master's degree or higher in acupuncture or Asian medicine (Table 16 and Figure 16).
- Report generating less than \$50,000 in gross annual income from employment as a licensed acupuncturist (Table 18 and Figure 18), but feel that they are able to make a living from working as an acupuncturist (Table 19 and Figure 19).
- Report a decrease in income due to the COVID-19 pandemic (Table 20 and Figure 20).
- Feel that their acupuncture training program prepared them for their first year in practice (Table 21 and Figure 21).

When asked to identify subjects that would have helped adequately prepare them for their first year in practice (Table 22 and Figure 22), almost two thirds of respondents wished they had had more training in practice management and business skills, while almost half wished they had had more training in insurance billing.

Table 23 and Figure 23 show the location of respondents' primary practice organized by geographical region. For comparison, they also show the address of record organized by region for the overall population of actively licensed acupuncturists with a California address of record at the time of the survey. The data show that the sample included in the analysis was

geographically representative of the overall population of actively licensed acupuncturists in California. The proportions of respondents with a primary practice in each region in the final sample closely mirror the proportions of acupuncturists whose address of record with the Board is located in each region.

The highest number of respondents reported their primary practice location in Los Angeles County and vicinity, followed by the San Francisco Bay Area, and San Diego and vicinity. The remaining regions were reported as their primary practice location by fewer than 5% of respondents: Riverside and vicinity, South and Central Coast, North Coast, Sacramento Valley, Sierra Mountain Valley, San Joaquin Valley, and Shasta and Cascade.

TABLE 1 – CURRENTLY PRACTICING AS AN ACUPUNCTURIST

| RESPONSE                                 | NUMBER (N) | PERCENT |
|------------------------------------------|------------|---------|
| Currently practicing as an acupuncturist | 2,575      | 92.1    |
| Has practiced in the past 18 months      | 220        | 7.9     |
| Total                                    | 2,795      | 100.0   |

FIGURE 1 – CURRENTLY PRACTICING AS AN ACUPUNCTURIST

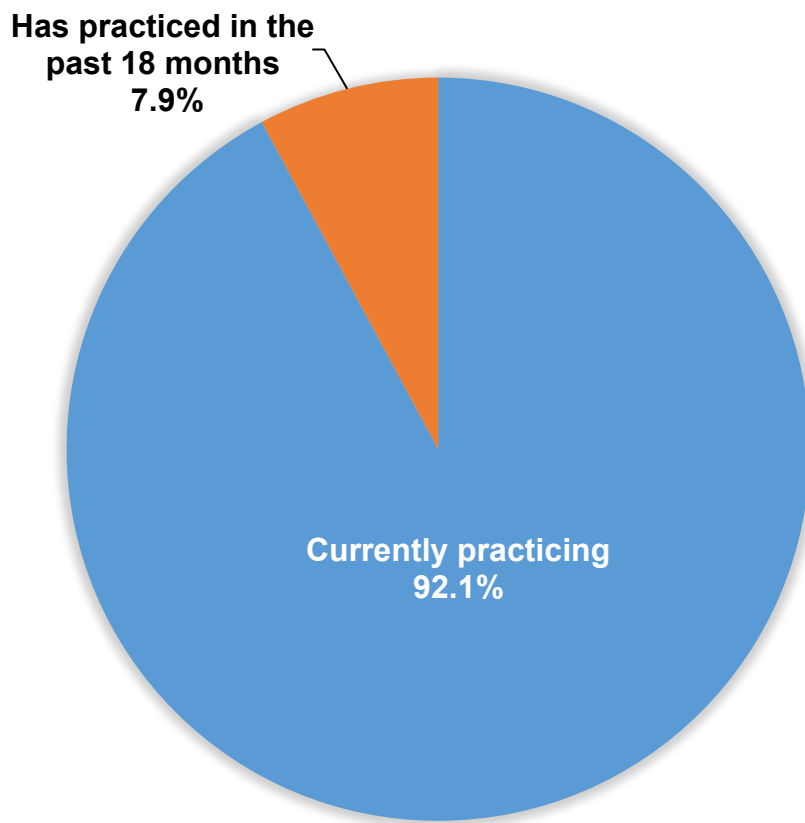


TABLE 2 – NUMBER OF YEARS LICENSED AS AN ACUPUNCTURIST

| YEARS              | NUMBER (N) | PERCENT |
|--------------------|------------|---------|
| 0–5 years          | 583        | 20.9    |
| 6–10 years         | 531        | 19.0    |
| 11–15 years        | 522        | 18.7    |
| 16–20 years        | 449        | 16.1    |
| 21–25 years        | 312        | 11.2    |
| 26–30 years        | 139        | 5.0     |
| More than 30 years | 259        | 9.3     |
| Total              | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 2 – NUMBER OF YEARS LICENSED AS AN ACUPUNCTURIST

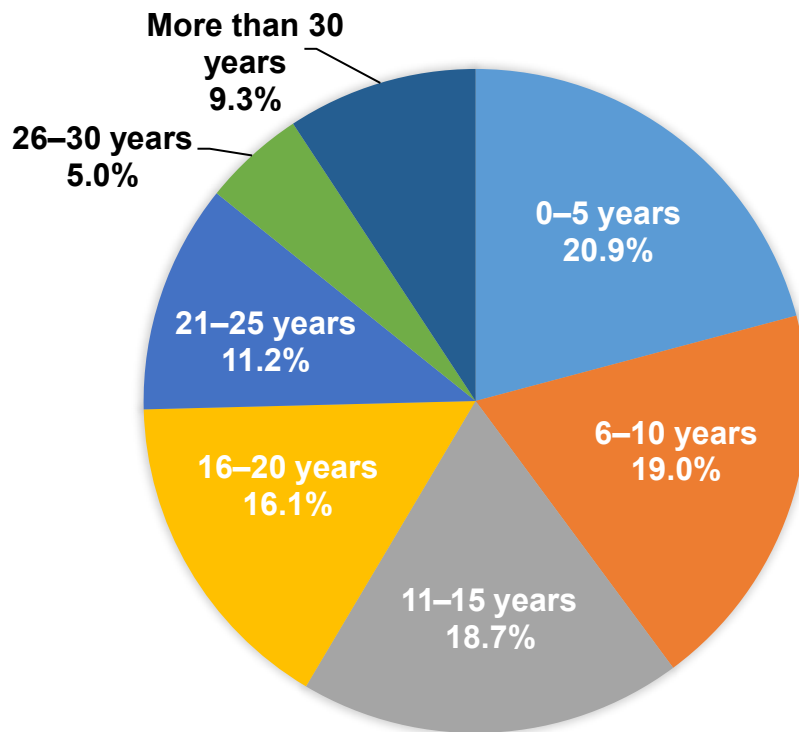


TABLE 3 – HOURS PER WEEK WORKING AS A LICENSED ACUPUNCTURIST

| HOURS PER WEEK   | NUMBER (N) | PERCENT |
|------------------|------------|---------|
| 0–10 hours       | 568        | 20.3    |
| 11–20 hours      | 624        | 22.3    |
| 21–30 hours      | 673        | 24.1    |
| 31–40 hours      | 635        | 22.7    |
| 41 or more hours | 283        | 10.1    |
| Missing          | 12         | 0.4     |
| Total            | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 3 – HOURS PER WEEK WORKING AS A LICENSED ACUPUNCTURIST

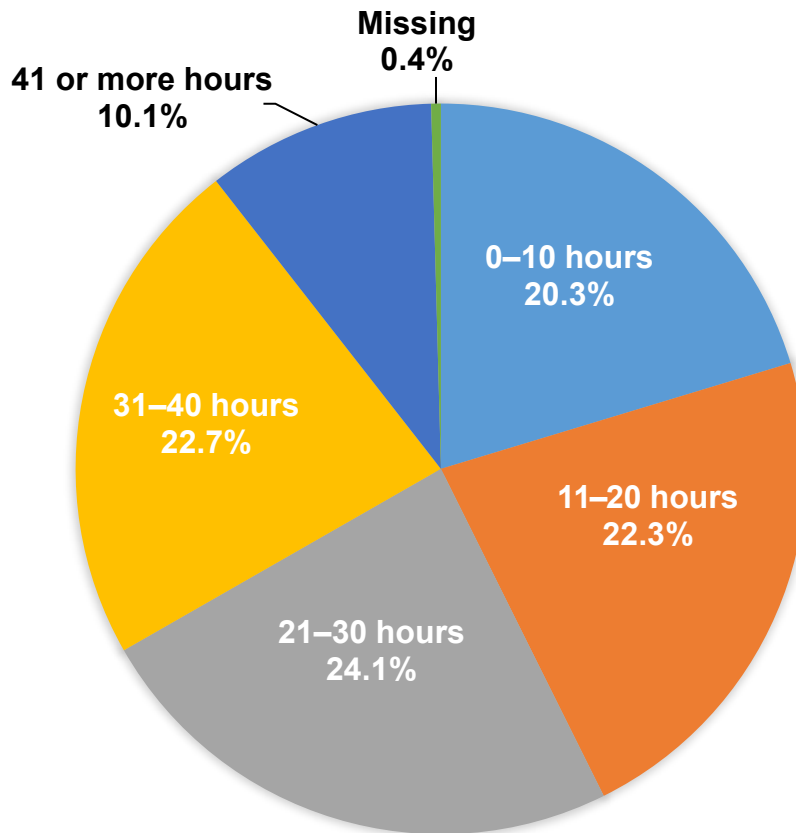


TABLE 4 – PATIENTS SEEN PER WEEK AS A LICENSED ACUPUNCTURIST

| PATIENTS PER WEEK   | NUMBER (N) | PERCENT |
|---------------------|------------|---------|
| 0–10 patients       | 781        | 27.9    |
| 11–20 patients      | 707        | 25.3    |
| 21–30 patients      | 576        | 20.6    |
| 31–50 patients      | 433        | 15.5    |
| 51 or more patients | 287        | 10.3    |
| Missing             | 11         | 0.4     |
| Total               | 2,795      | 100.0   |

FIGURE 4 – PATIENTS SEEN PER WEEK AS A LICENSED ACUPUNCTURIST

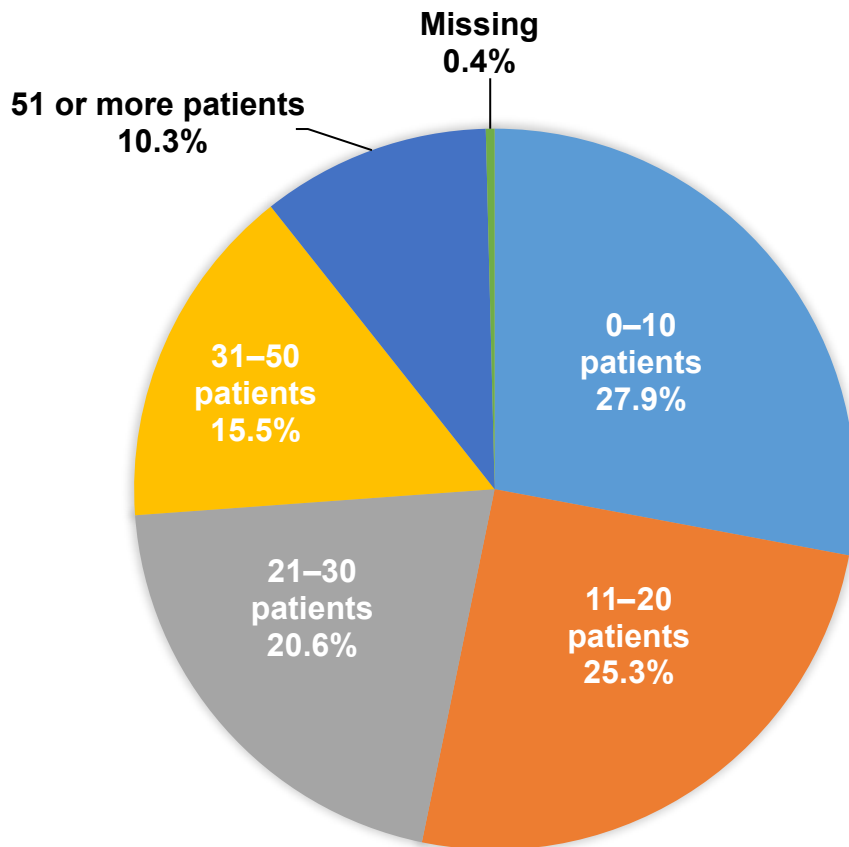




TABLE 5 – PRIMARY PRACTICE LOCATION TYPE

| LOCATION TYPE                    | NUMBER (N) | PERCENT |
|----------------------------------|------------|---------|
| Urban (more than 50,000 people)  | 2,435      | 87.1    |
| Rural (fewer than 50,000 people) | 334        | 11.9    |
| Missing                          | 26         | 0.9     |
| Total                            | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 5 – PRIMARY PRACTICE LOCATION TYPE

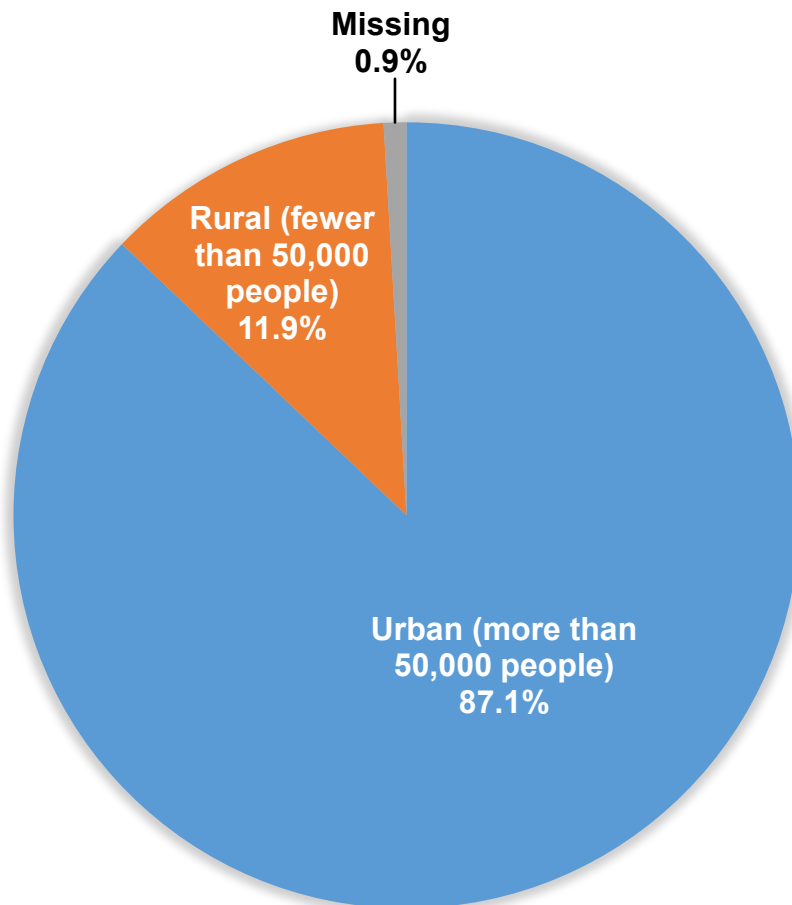


TABLE 6 – PRIMARY PRACTICE SETTING

| SETTING                                     | NUMBER (N) | PERCENT* |
|---------------------------------------------|------------|----------|
| Sole proprietor                             | 1,645      | 58.9     |
| Group multidisciplinary practice            | 255        | 9.1      |
| Acupuncture medical group (Inc. or LLC)     | 241        | 8.6      |
| Group acupuncture practice                  | 221        | 7.9      |
| Community acupuncture clinic                | 88         | 3.1      |
| Mobile practice (house calls / home visits) | 65         | 2.3      |
| Multiple settings                           | 62         | 2.2      |
| Educational institution (e.g., instructor)  | 37         | 1.3      |
| Hospital                                    | 35         | 1.3      |
| Spa                                         | 14         | 0.5      |
| Telehealth                                  | 11         | 0.4      |
| Other                                       | 121        | 4.3      |

\*NOTE: Respondents were asked to select all that apply. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 6 – PRIMARY PRACTICE SETTING

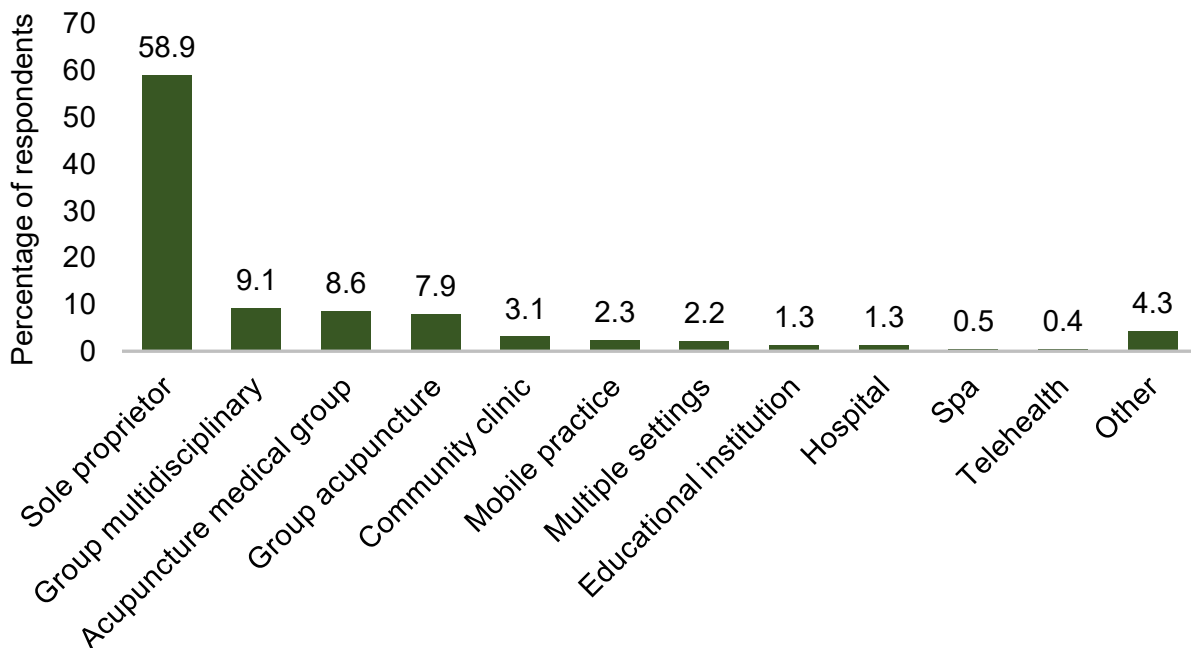


TABLE 7 – EMPLOYMENT STATUS

| EMPLOYMENT STATUS      | NUMBER (N) | PERCENT |
|------------------------|------------|---------|
| Self-employed          | 2,087      | 74.7    |
| Independent contractor | 247        | 8.8     |
| Hourly employee        | 170        | 6.1     |
| Salaried employee      | 240        | 8.6     |
| Commissioned employee  | 43         | 1.5     |
| Missing                | 8          | 0.3     |
| Total                  | 2,795      | 100.0   |

FIGURE 7 – EMPLOYMENT STATUS

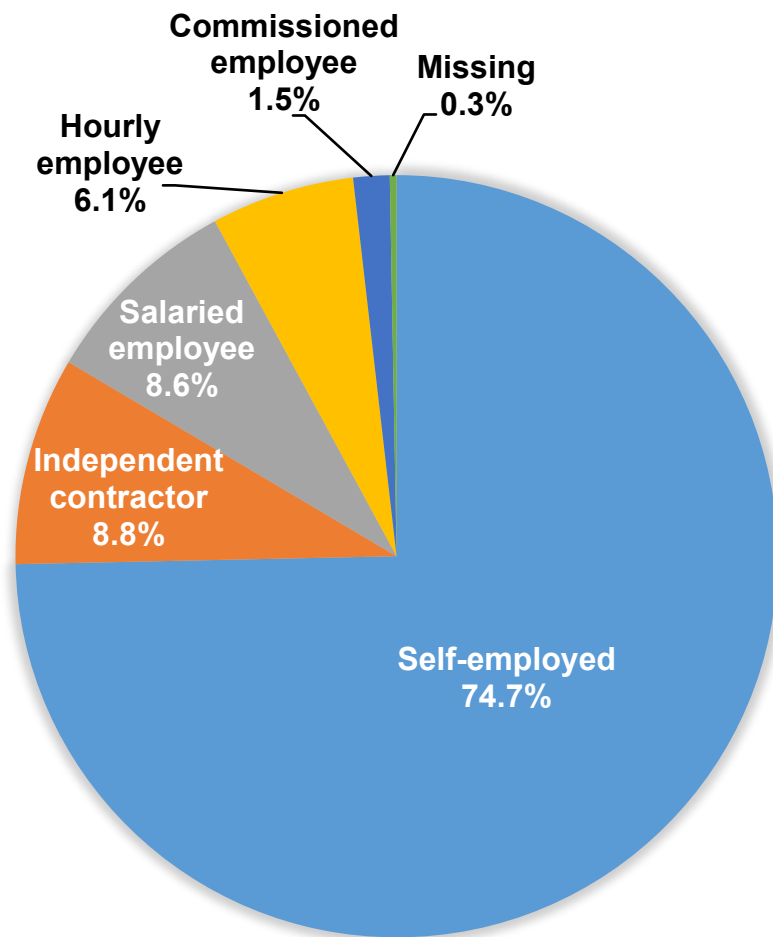


TABLE 8 – PRIMARY WAY PATIENTS PAY FOR SERVICES

| PAYMENT TYPE                                          | NUMBER (N) | PERCENT* |
|-------------------------------------------------------|------------|----------|
| Out-of-pocket (e.g., cash, check, credit/debit, etc.) | 2,286      | 81.8     |
| Health insurance (e.g., HMO, PPO)                     | 1,551      | 55.5     |
| Workers' compensation                                 | 562        | 20.1     |
| Personal injury                                       | 408        | 14.6     |
| Veterans affairs                                      | 282        | 10.1     |
| Medicaid/Medicare/Medi-Cal                            | 261        | 9.3      |
| Other                                                 | 70         | 2.5      |

\*NOTE: Respondents were asked to select all that apply. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 8 – PRIMARY WAY PATIENTS PAY FOR SERVICES

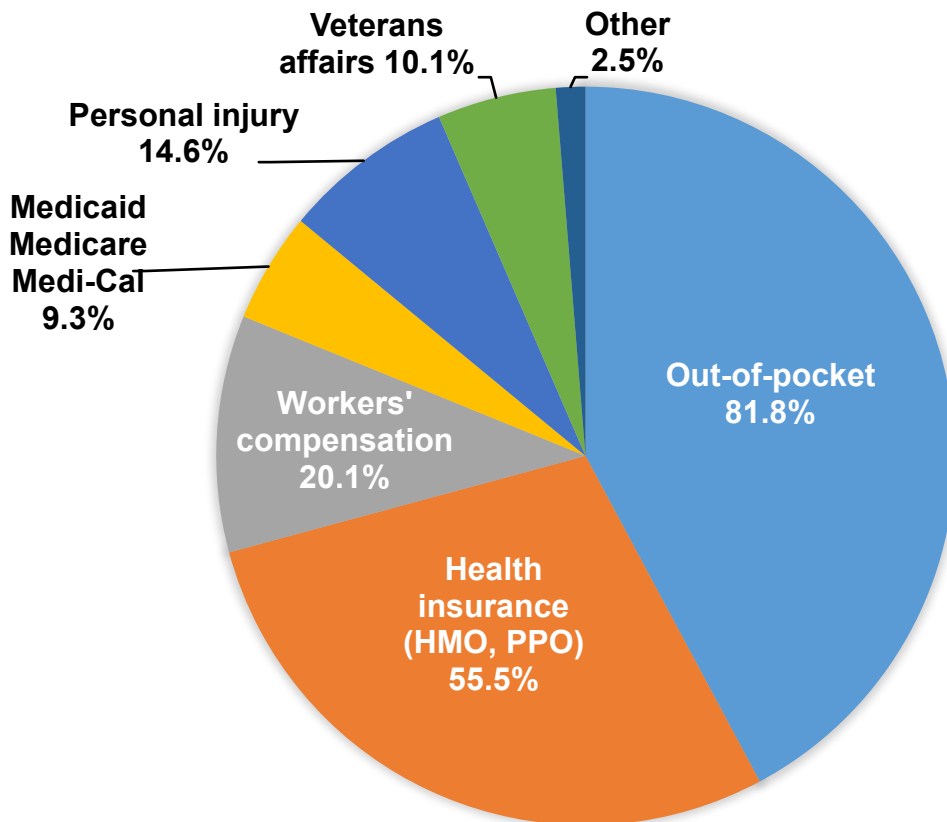


TABLE 9 – PERCENTAGE OF TIME USING TELEHEALTH TO PROVIDE PATIENT CARE SERVICES OVER THE PAST 12 MONTHS

| PERCENTAGE OF TIME           | NUMBER (N) | PERCENT |
|------------------------------|------------|---------|
| None, did not use telehealth | 1,548      | 55.4    |
| 1–5%                         | 717        | 25.7    |
| 6–10%                        | 199        | 7.1     |
| 11–20%                       | 113        | 4.0     |
| 21–30%                       | 51         | 1.8     |
| 31–50%                       | 52         | 1.9     |
| 51–75%                       | 42         | 1.5     |
| 76–95%                       | 34         | 1.2     |
| 96–100%                      | 32         | 1.1     |
| Missing                      | 7          | 0.3     |
| Total                        | 2,795      | 100.0   |

FIGURE 9 – PERCENTAGE OF TIME USING TELEHEALTH TO PROVIDE PATIENT CARE SERVICES OVER THE PAST 12 MONTHS

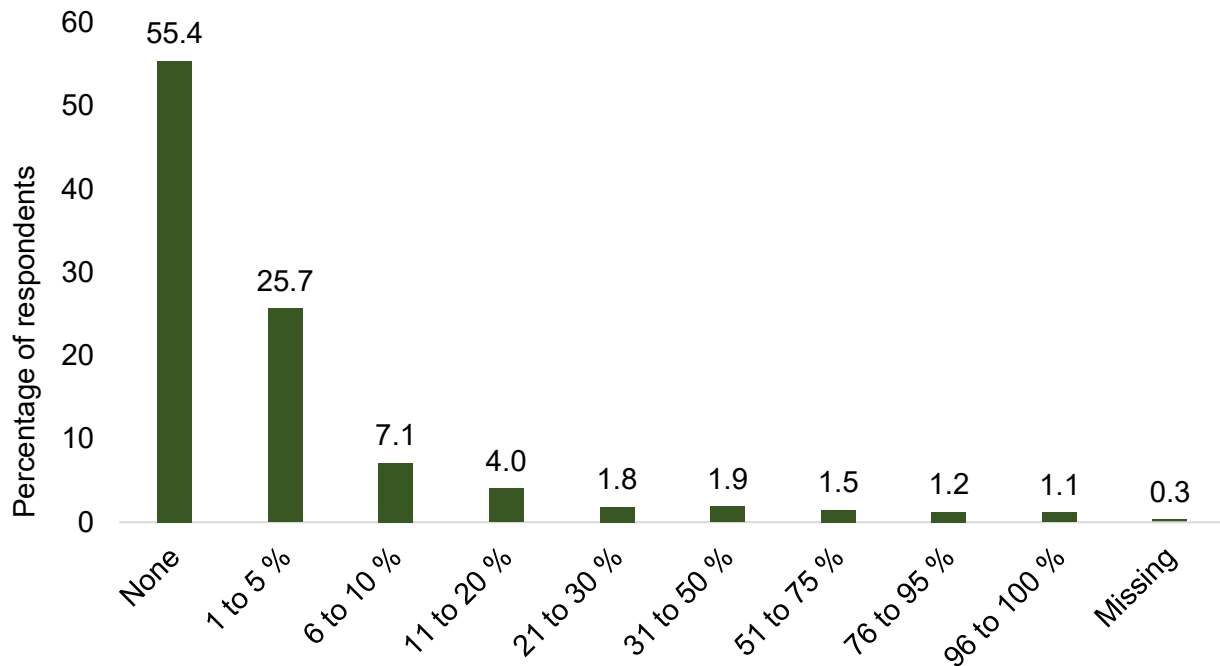


TABLE 10 – TREATMENT CATEGORY THAT BEST DESCRIBES PRIMARY FOCUS OF ACUPUNCTURE PRACTICE

| TREATMENT CATEGORY         | NUMBER (N) | PERCENT* |
|----------------------------|------------|----------|
| Pain Management            | 2,174      | 77.8     |
| General                    | 1,181      | 42.3     |
| Women's health             | 783        | 28.0     |
| Mental health              | 476        | 17.0     |
| Orthopedics                | 426        | 15.2     |
| Gastrointestinal           | 374        | 13.4     |
| Fertility                  | 368        | 13.2     |
| Sports medicine            | 317        | 11.3     |
| Immune disorders           | 238        | 8.5      |
| Neurological               | 196        | 7.0      |
| Endocrine health           | 126        | 4.5      |
| Dermatological or cosmetic | 106        | 3.8      |
| Geriatrics                 | 101        | 3.6      |
| Oncology support           | 91         | 3.3      |
| Men's health               | 62         | 2.2      |
| Respiratory                | 51         | 1.8      |
| Addiction                  | 45         | 1.6      |
| Cardiovascular             | 38         | 1.4      |
| Pediatrics                 | 38         | 1.4      |
| Other                      | 115        | 4.1      |

\*NOTE: Respondents were asked to select up to three options. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 10 – TREATMENT CATEGORY THAT BEST DESCRIBES PRIMARY FOCUS OF ACUPUNCTURE PRACTICE

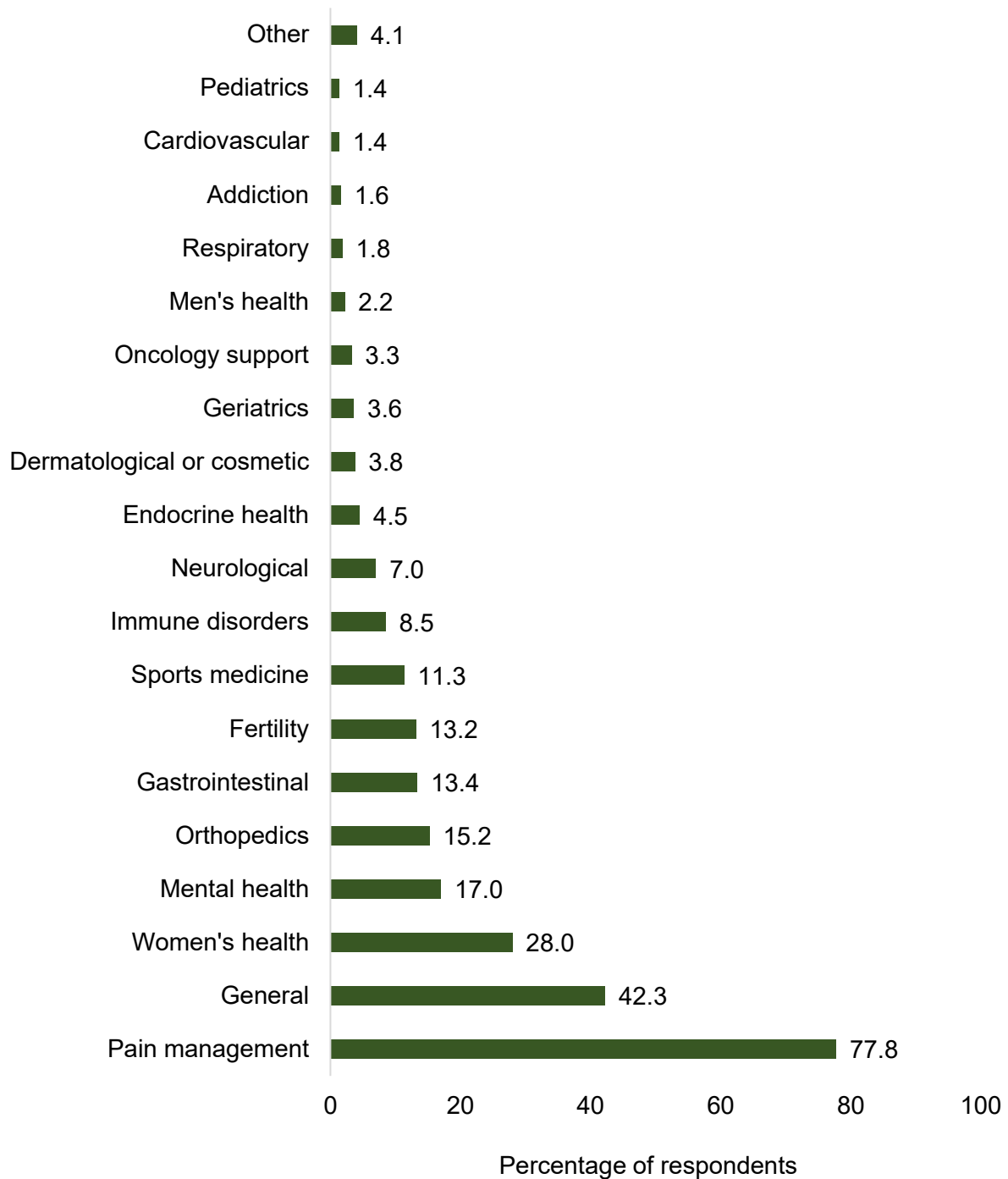


TABLE 11 – TREATMENT CATEGORY APPLIED MOST OFTEN WITH PATIENTS OVER THE LAST 12 MONTHS

| TREATMENT CATEGORY         | NUMBER (N) | PERCENT |
|----------------------------|------------|---------|
| Pain management            | 1,559      | 55.8    |
| General                    | 335        | 12.0    |
| Mental health              | 164        | 5.9     |
| Women’s health             | 140        | 5.0     |
| Orthopedics                | 123        | 4.4     |
| Fertility                  | 94         | 3.4     |
| Gastrointestinal           | 57         | 2.0     |
| Immune disorders           | 44         | 1.6     |
| Sports medicine            | 42         | 1.5     |
| Neurological               | 28         | 1.0     |
| Oncology support           | 24         | 0.9     |
| Geriatrics                 | 19         | 0.7     |
| Dermatological or cosmetic | 17         | 0.6     |
| Endocrine health           | 12         | 0.4     |
| Addiction                  | 8          | 0.3     |
| Respiratory                | 8          | 0.3     |
| Cardiovascular             | 6          | 0.2     |
| Pediatrics                 | 6          | 0.2     |
| Men’s health               | 5          | 0.2     |
| Missing                    | 16         | 0.6     |
| Other                      | 88         | 3.1     |
| Total                      | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.



FIGURE 11 – TREATMENT CATEGORY APPLIED MOST OFTEN WITH PATIENTS OVER THE LAST 12 MONTHS

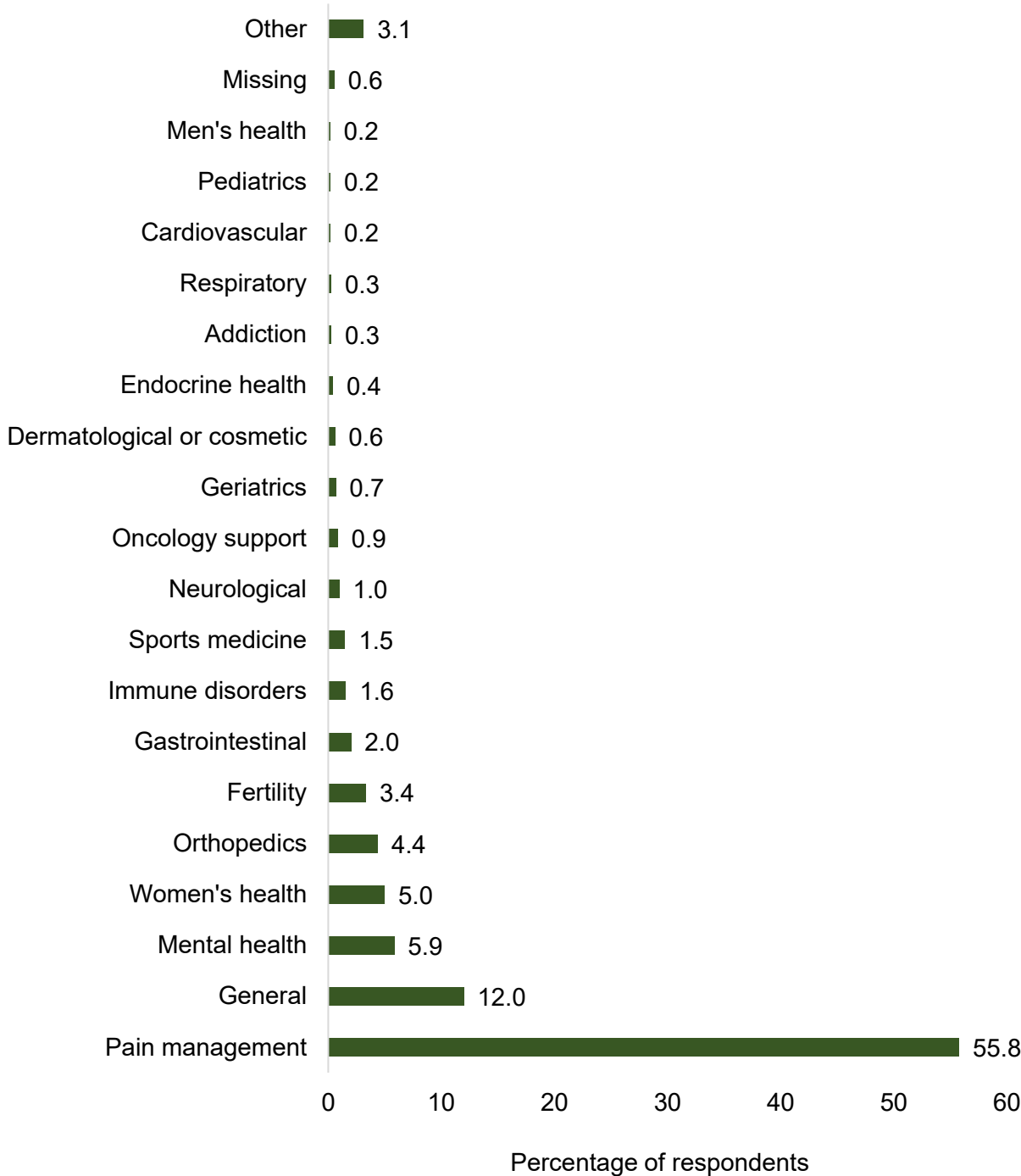


TABLE 12 – TREATMENT MODALITIES USED

| TREATMENT MODALITY   | NUMBER (N) | PERCENT |
|----------------------|------------|---------|
| Acupuncture          | 2,765      | 98.9    |
| Cupping              | 2,199      | 78.7    |
| Herbal therapy       | 1,939      | 69.4    |
| Diet and nutrition   | 1,830      | 65.5    |
| Electroacupuncture   | 1,823      | 65.2    |
| Infrared therapy     | 1,644      | 58.8    |
| Ear seeds            | 1,570      | 56.2    |
| Manual therapy       | 1,475      | 52.8    |
| Exercise             | 1,467      | 52.5    |
| Heat therapy         | 1,464      | 52.4    |
| Moxibustion          | 1,407      | 50.3    |
| Gua Sha              | 1,192      | 42.6    |
| Breathing techniques | 1,118      | 40.0    |
| Herbal plaster       | 569        | 20.4    |
| Kinesiology tape     | 438        | 15.7    |
| Laser acupuncture    | 130        | 4.7     |
| Other                | 171        | 6.1     |
| Pediatrics           | 6          | 0.2     |
| Men's health         | 5          | 0.2     |
| Missing              | 16         | 0.6     |
| Other                | 88         | 3.1     |

\*NOTE: Respondents were asked to select all that apply. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 12 – TREATMENT MODALITIES USED

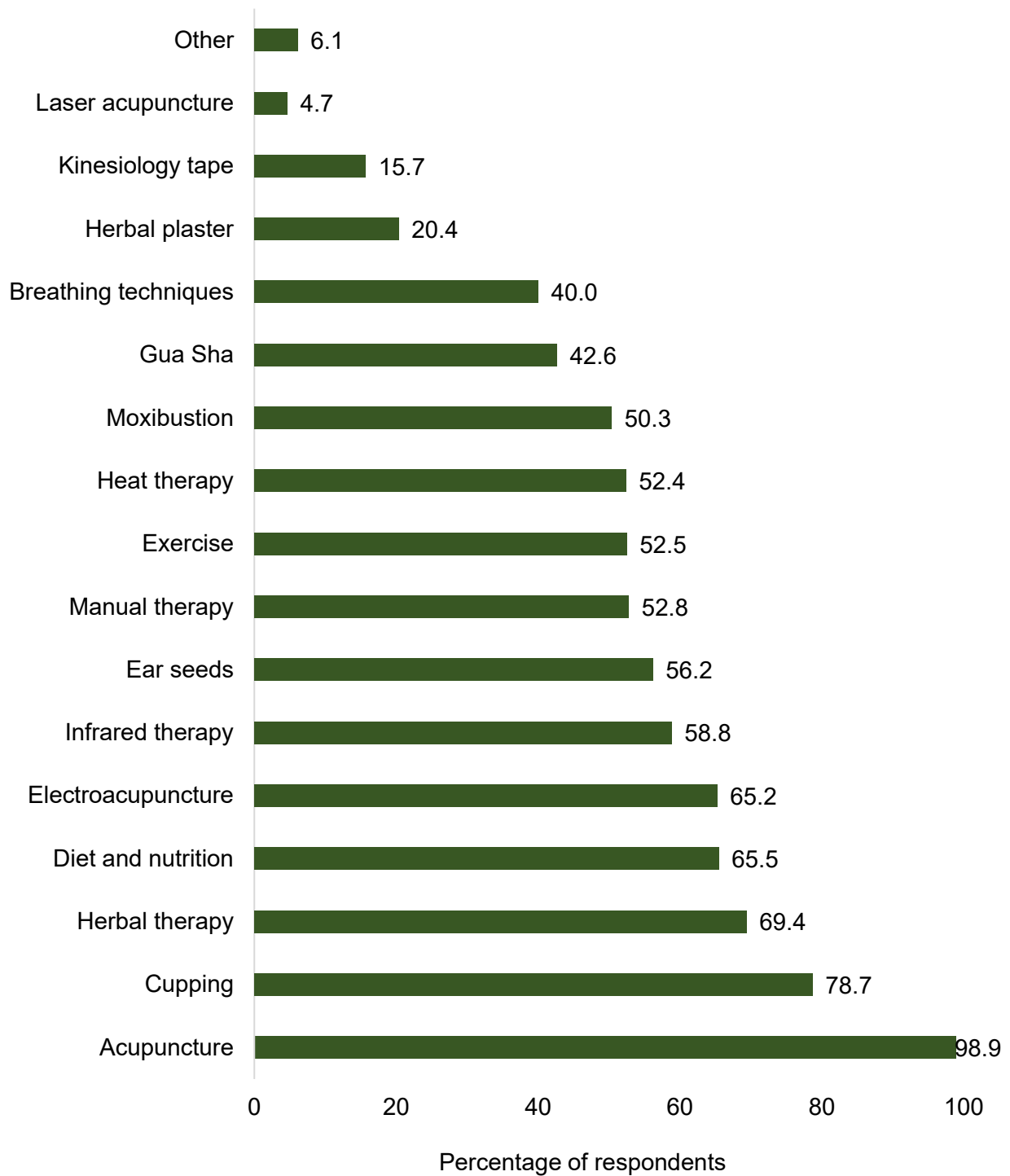


TABLE 13 – TREATMENT MODALITY USED MOST OFTEN OVER THE LAST 12 MONTHS

| TREATMENT MODALITY   | NUMBER (N) | PERCENT |
|----------------------|------------|---------|
| Acupuncture          | 2,270      | 81.2    |
| Electroacupuncture   | 176        | 6.3     |
| Herbal therapy       | 128        | 4.6     |
| Diet and nutrition   | 42         | 1.5     |
| Manual therapy       | 41         | 1.5     |
| Cupping              | 19         | 0.7     |
| Moxibustion          | 11         | 0.4     |
| Exercise             | 10         | 0.4     |
| Breathing techniques | 9          | 0.3     |
| Ear seeds            | 6          | 0.2     |
| Infrared therapy     | 6          | 0.2     |
| Heat therapy         | 5          | 0.2     |
| Herbal plaster       | 3          | 0.1     |
| Laser acupuncture    | 3          | 0.1     |
| Gua Sha              | 1          | 0.0     |
| Missing              | 11         | 0.4     |
| Other                | 54         | 1.9     |
| Total                | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 13 – TREATMENT MODALITY USED MOST OFTEN OVER THE LAST 12 MONTHS

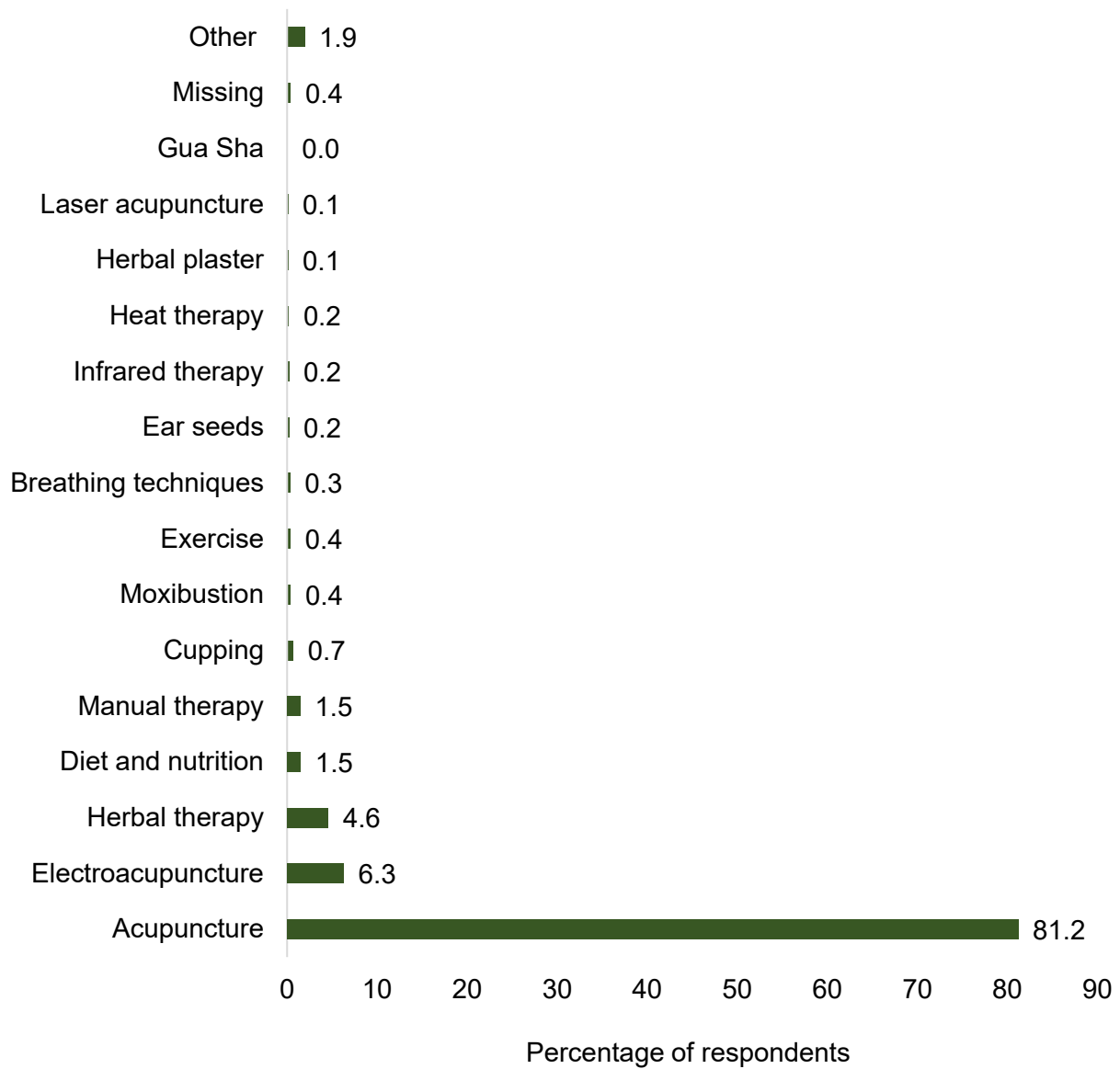


TABLE 14 – NATIVE LANGUAGE OF RESPONDENTS

| NATIVE LANGUAGE | NUMBER (N) | PERCENT |
|-----------------|------------|---------|
| English         | 1,497      | 53.6    |
| Chinese         | 634        | 22.7    |
| Korean          | 447        | 16.0    |
| Spanish         | 31         | 1.1     |
| Missing         | 2          | 0.1     |
| Other           | 184        | 6.6     |
| Total           | 2,795      | 100.0*  |

\*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 14 – NATIVE LANGUAGE OF RESPONDENTS

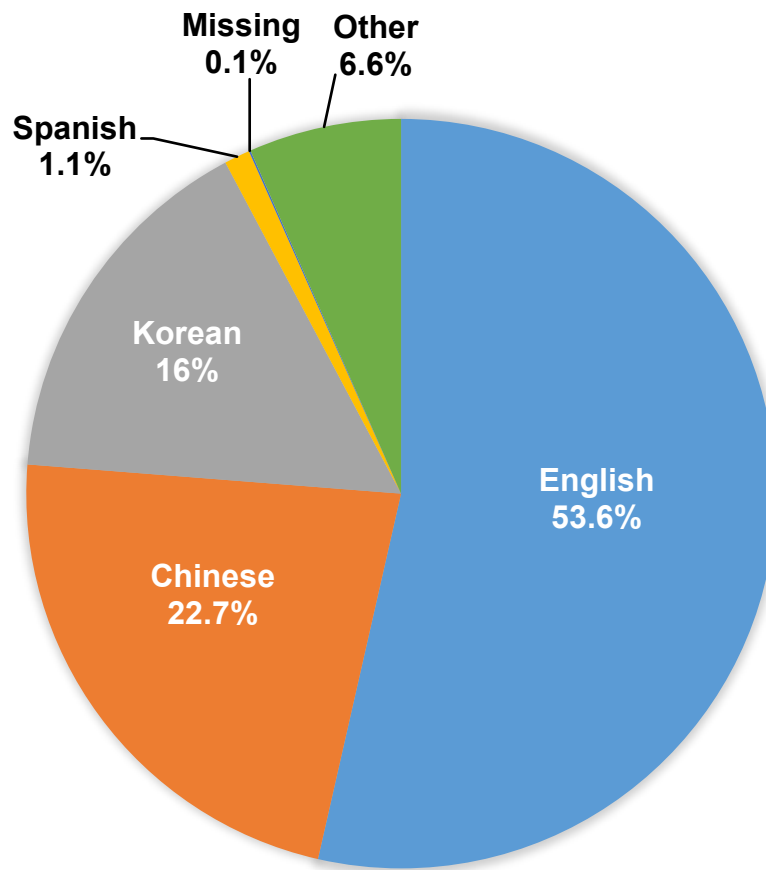


TABLE 15 – LANGUAGE SPOKEN BY THE MAJORITY OF PATIENTS

| LANGUAGE | NUMBER (N) | PERCENT |
|----------|------------|---------|
| English  | 2,374      | 84.9    |
| Chinese  | 217        | 7.8     |
| Korean   | 127        | 4.5     |
| Spanish  | 32         | 1.1     |
| Missing  | 11         | 0.4     |
| Other    | 34         | 1.2     |
| Total    | 2,795      | 100.0   |

FIGURE 15 – LANGUAGE SPOKEN BY THE MAJORITY OF PATIENTS

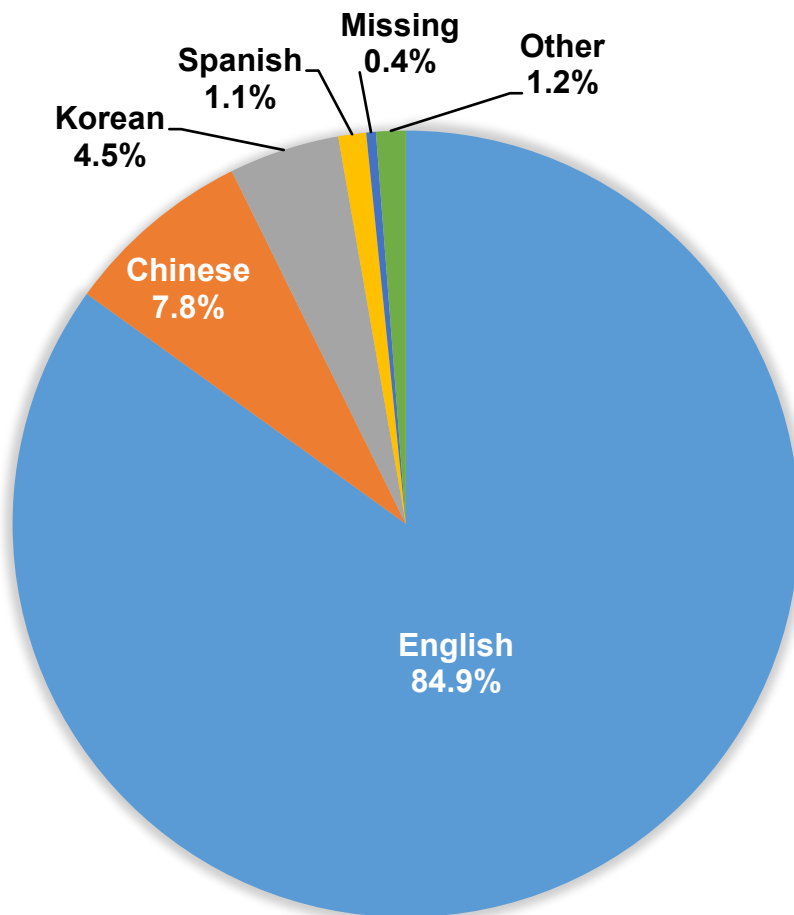


TABLE 16 – HIGHEST LEVEL OF EDUCATION ACHIEVED

| DEGREE            | NUMBER (N)   | PERCENT      |
|-------------------|--------------|--------------|
| Associate degree  | 17           | 0.6          |
| Bachelor's degree | 98           | 3.5          |
| Master's degree   | 1,580        | 56.5         |
| Doctorate         | 994          | 35.6         |
| Certificate       | 58           | 2.1          |
| Other             | 40           | 1.4          |
| Missing           | 8            | 0.3          |
| <b>Total</b>      | <b>2,795</b> | <b>100.0</b> |

FIGURE 16 – HIGHEST LEVEL OF EDUCATION ACHIEVED

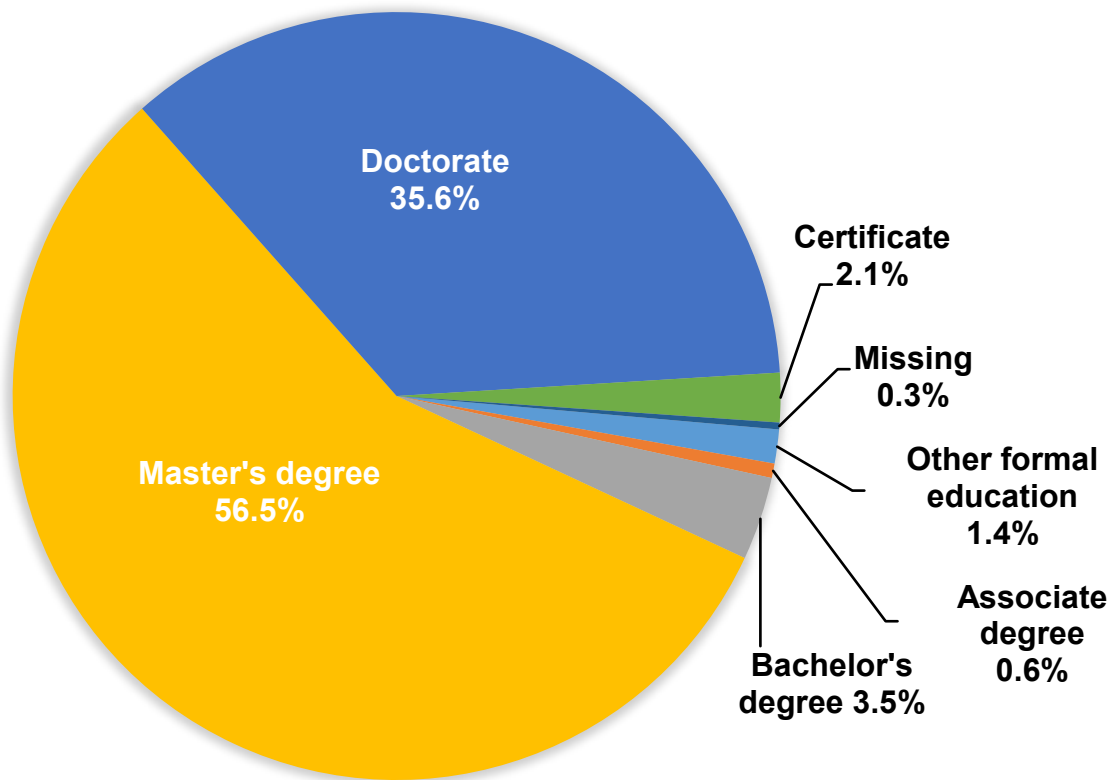




TABLE 17 – OTHER PROFESSIONAL LICENSES HELD

| LICENSE                                                  | NUMBER (N) | PERCENT* |
|----------------------------------------------------------|------------|----------|
| Massage Therapist                                        | 220        | 7.9      |
| Chiropractor                                             | 99         | 3.5      |
| Registered Nurse (RN) or Nurse Practitioner (NP)         | 55         | 2.0      |
| Esthetician                                              | 44         | 1.6      |
| Naturopathic Doctor                                      | 21         | 0.8      |
| Physical Therapist                                       | 17         | 0.6      |
| Athletic Trainer                                         | 17         | 0.6      |
| Pharmacist (RPh) or Pharmacy Technician (TCH)            | 9          | 0.3      |
| Real Estate                                              | 9          | 0.3      |
| Physician                                                | 7          | 0.3      |
| Mental health therapist (Psychologist, LMFT, LPCC, LCSW) | 5          | 0.2      |
| Attorney                                                 | 4          | 0.1      |
| Other                                                    | 116        | 4.2      |

\*NOTE: Respondents were asked to select all that apply. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 17 – OTHER PROFESSIONAL LICENSES HELD

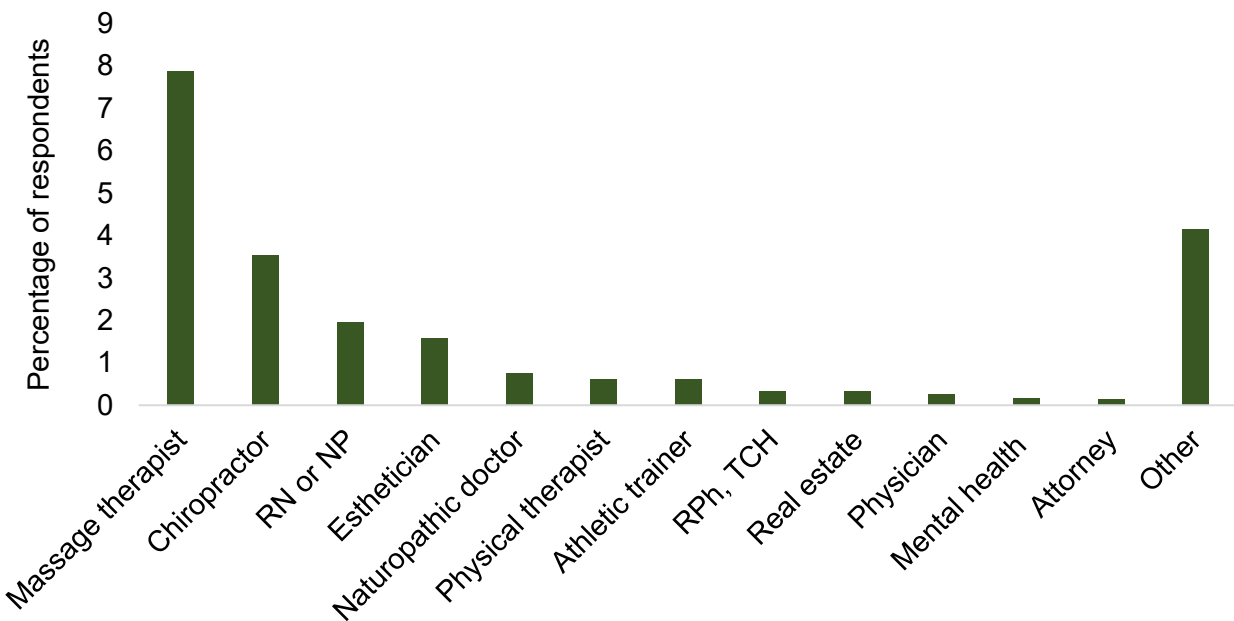


TABLE 18 – APPROXIMATE GROSS ANNUAL INCOME GENERATED FROM EMPLOYMENT AS A LICENSED ACUPUNCTURIST

| APPROXIMATE INCOME  | NUMBER (N) | PERCENT |
|---------------------|------------|---------|
| Under \$15,000      | 500        | 17.9    |
| \$15,000–\$29,999   | 455        | 16.3    |
| \$30,000–\$49,999   | 512        | 18.3    |
| \$50,000–\$74,999   | 482        | 17.2    |
| \$75,000–\$99,999   | 317        | 11.3    |
| \$100,000–\$149,999 | 275        | 9.8     |
| \$150,000–\$200,000 | 127        | 4.5     |
| Over \$200,000      | 103        | 3.7     |
| Missing             | 24         | 0.9     |
| Total               | 2,795      | 100.0   |

FIGURE 18 – APPROXIMATE GROSS ANNUAL INCOME GENERATED FROM EMPLOYMENT AS A LICENSED ACUPUNCTURIST

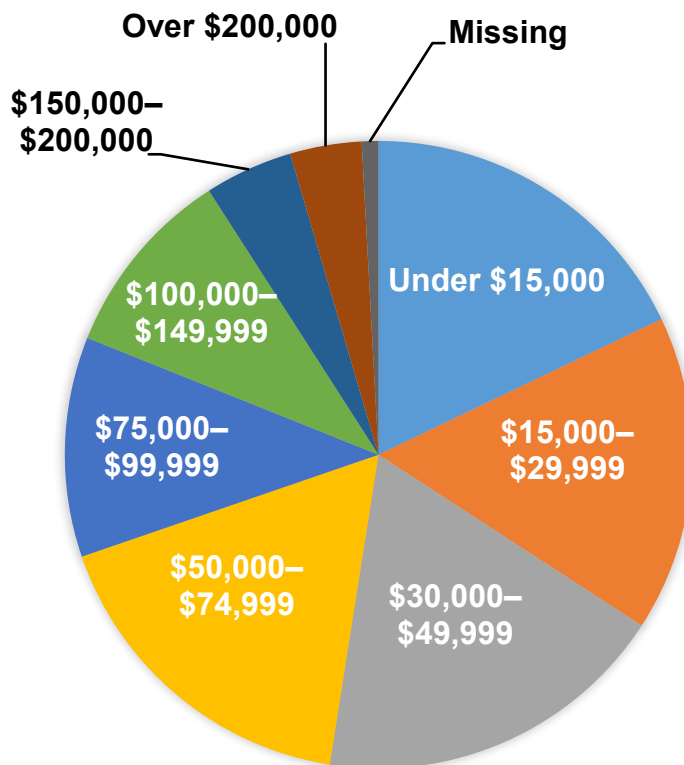


TABLE 19 – RESPONDENT FEELS ABLE TO EARN A LIVING WAGE FROM EMPLOYMENT AS A LICENSED ACUPUNCTURIST

| FEELS ABLE TO EARN A LIVING WAGE | NUMBER (N) | PERCENT |
|----------------------------------|------------|---------|
| Yes                              | 1,643      | 58.8    |
| No                               | 1,133      | 40.5    |
| Missing                          | 19         | 0.7     |
| Total                            | 2,795      | 100.0   |

FIGURE 19 – RESPONDENT FEELS ABLE TO EARN A LIVING WAGE FROM EMPLOYMENT AS A LICENSED ACUPUNCTURIST

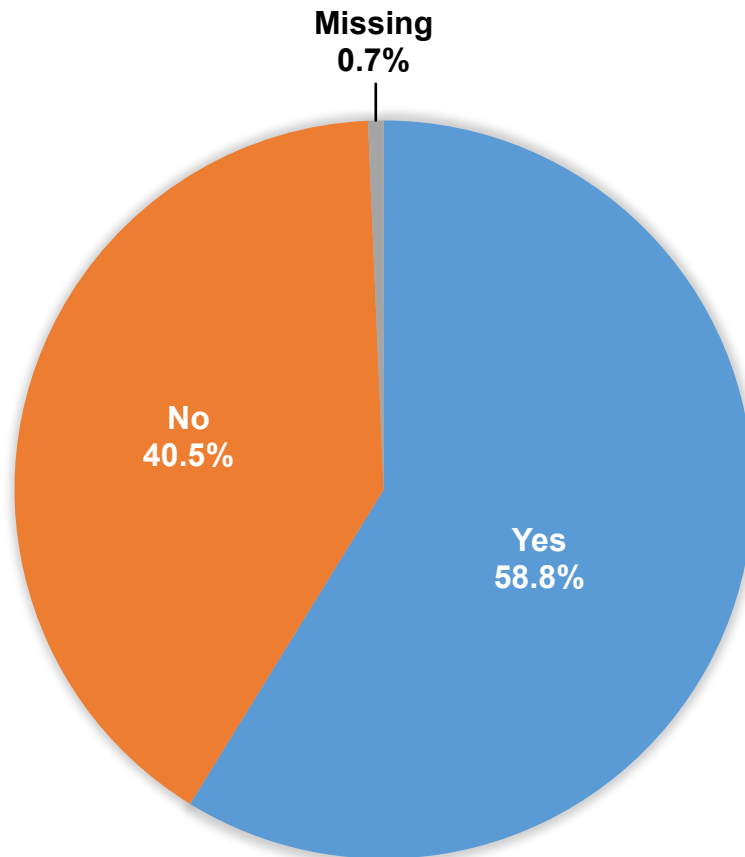


TABLE 20 – CHANGE IN RESPONDENTS’ INCOME DUE TO THE COVID-19 PANDEMIC

| INCOME CHANGE           | NUMBER (N) | PERCENT |
|-------------------------|------------|---------|
| Increased significantly | 66         | 2.4     |
| Increased slightly      | 152        | 5.4     |
| No change               | 271        | 9.7     |
| Decreased slightly      | 607        | 21.7    |
| Decreased significantly | 1,674      | 59.9    |
| Missing                 | 25         | 0.9     |
| Total                   | 2,795      | 100.0   |

FIGURE 20 – CHANGE IN RESPONDENTS’ INCOME DUE TO THE COVID-19 PANDEMIC

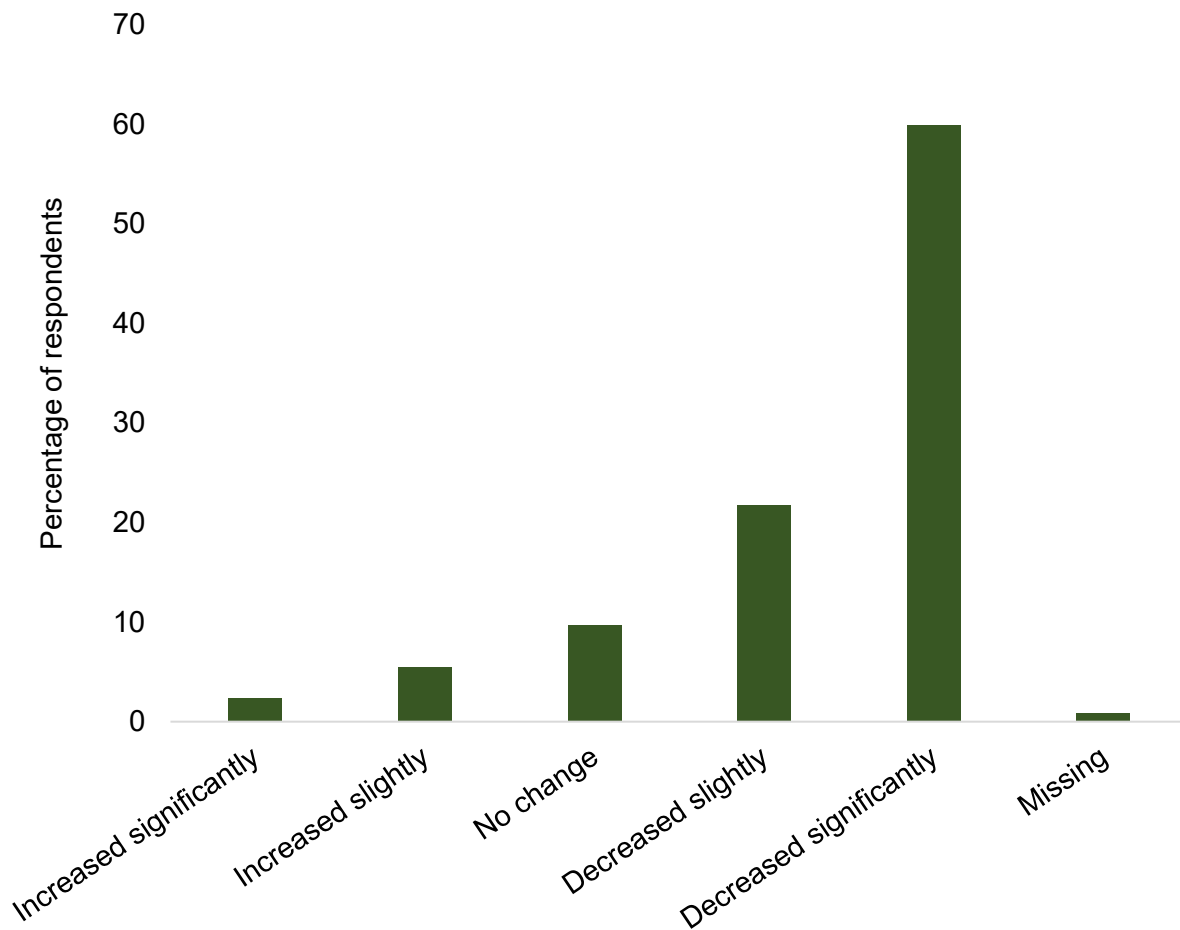


TABLE 21 – ACUPUNCTURE TRAINING PROGRAM PREPARATION FOR FIRST YEAR IN PRACTICE

| PROGRAM PREPARATION                                            | NUMBER (N) | PERCENT |
|----------------------------------------------------------------|------------|---------|
| Training program prepared me for first year in practice        | 1,769      | 63.3    |
| Training program did not prepare me for first year in practice | 997        | 35.7    |
| Missing                                                        | 29         | 1.0     |
| Total                                                          | 2,795      | 100.0   |

FIGURE 21 – ACUPUNCTURE TRAINING PROGRAM PREPARATION FOR FIRST YEAR IN PRACTICE

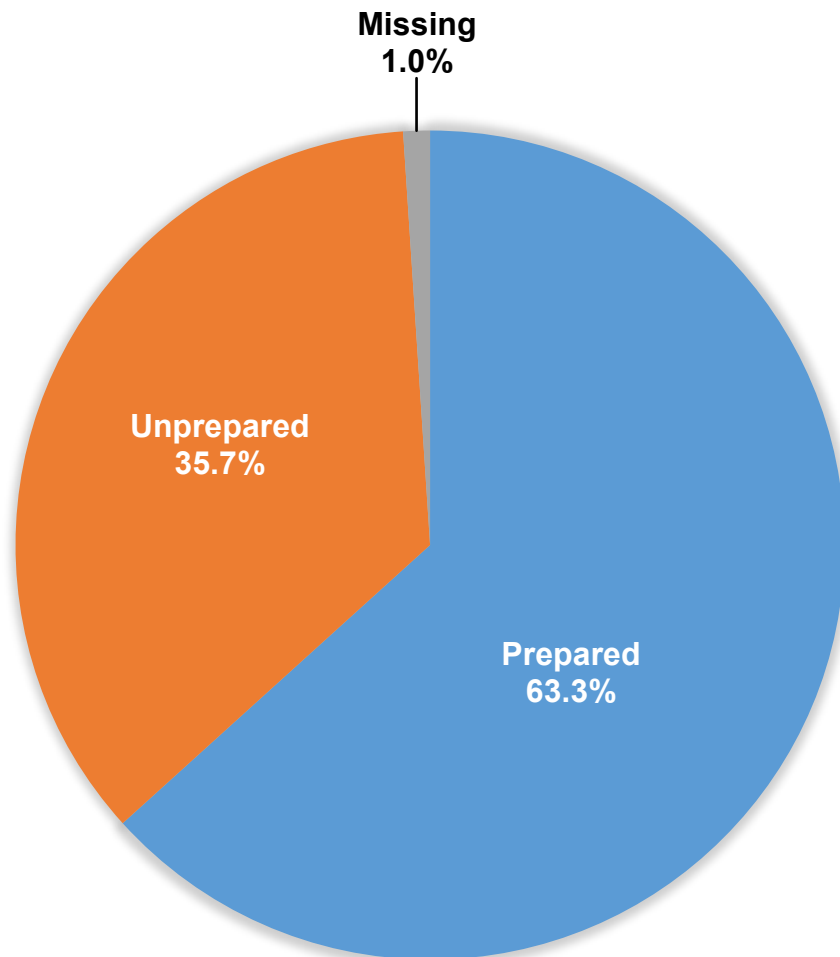


TABLE 22 – SUBJECTS THAT WOULD HAVE BEEN BENEFICIAL FOR ADEQUATE PREPARATION FOR FIRST YEAR IN PRACTICE

| SUBJECT                                              | NUMBER (N) | PERCENT* |
|------------------------------------------------------|------------|----------|
| Practice management and business skills              | 1,787      | 63.3     |
| Insurance billing                                    | 1,344      | 48.1     |
| Clinical experience in diverse practice settings     | 874        | 31.3     |
| Patient education and counseling                     | 799        | 28.6     |
| Clinical experience with diverse patient populations | 607        | 21.7     |
| Additional clinical practice hours                   | 505        | 18.1     |
| Other                                                | 269        | 9.6      |

\*NOTE: Respondents were asked to select all that apply. Percentages represent the proportion of respondents in the total sample (2,795) who chose each answer option.

FIGURE 22 – SUBJECTS THAT WOULD HAVE BEEN BENEFICIAL FOR ADEQUATE PREPARATION FOR FIRST YEAR IN PRACTICE

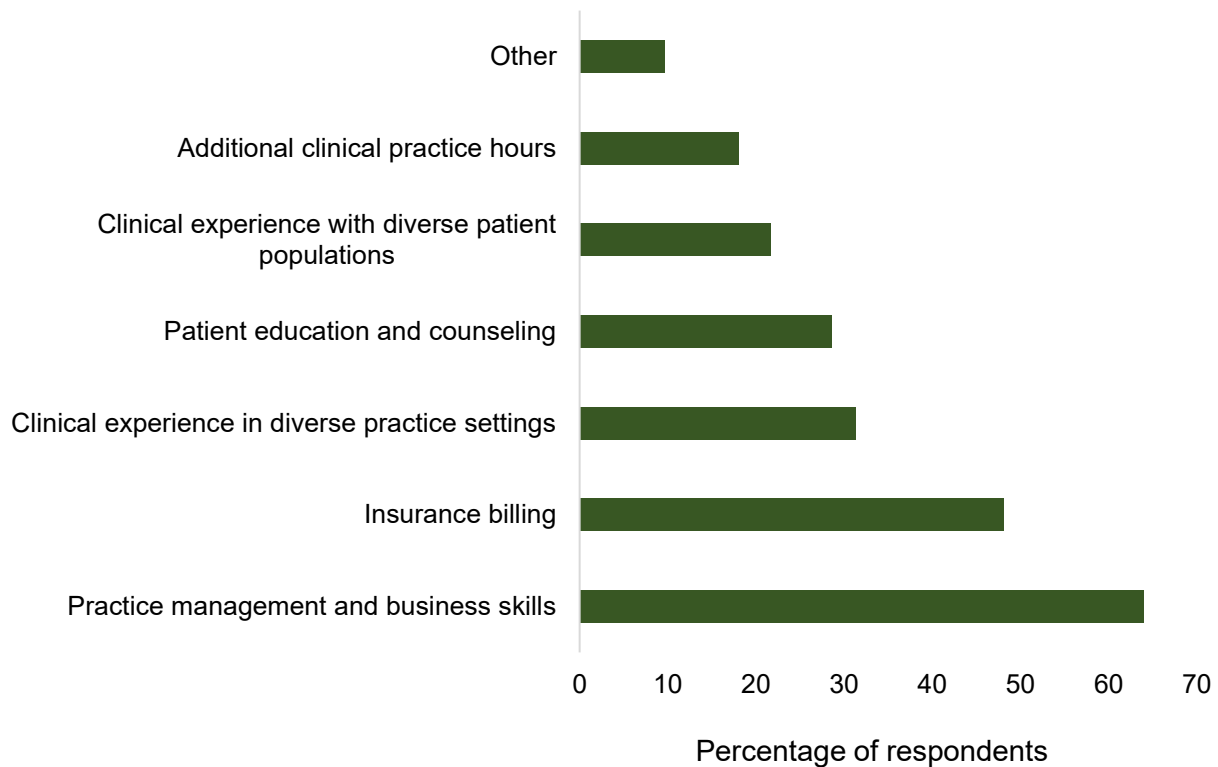


TABLE 23 – PRIMARY PRACTICE LOCATION IN FINAL SAMPLE AND ADDRESS OF RECORD IN POPULATION BY REGION\*

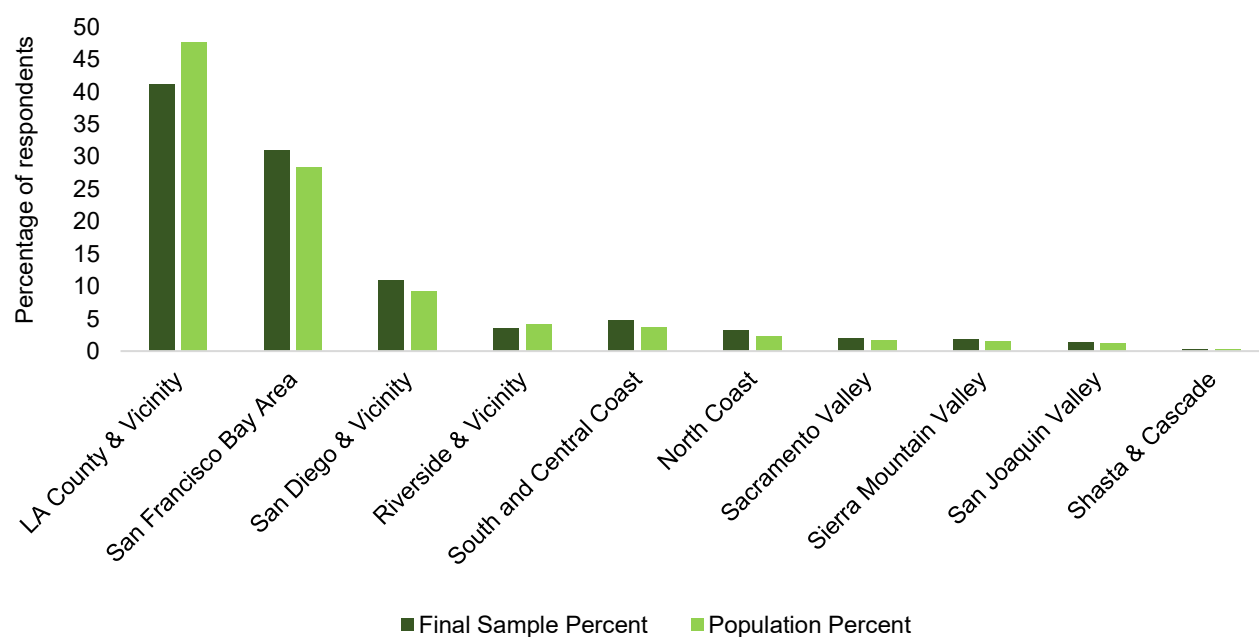
| REGION                          | PRACTICE LOCATION<br>FINAL SAMPLE |          | ADDRESS OF RECORD<br>POPULATION** |          |
|---------------------------------|-----------------------------------|----------|-----------------------------------|----------|
|                                 | NUMBER                            | PERCENT  | NUMBER                            | PERCENT  |
| Los Angeles County and Vicinity | 1,150                             | 41.1     | 5,633                             | 47.6     |
| San Francisco Bay Area          | 867                               | 31.0     | 3,357                             | 28.4     |
| San Diego County and Vicinity   | 305                               | 10.9     | 1,093                             | 9.2      |
| Riverside and Vicinity          | 100                               | 3.6      | 486                               | 4.1      |
| South and Central Coast         | 133                               | 4.8      | 431                               | 3.6      |
| North Coast                     | 87                                | 3.1      | 276                               | 2.3      |
| Sacramento Valley               | 55                                | 2.0      | 202                               | 1.7      |
| Sierra Mountain Valley          | 52                                | 1.9      | 179                               | 1.5      |
| San Joaquin Valley              | 38                                | 1.4      | 137                               | 1.2      |
| Shasta and Cascade              | 8                                 | 0.3      | 34                                | 0.3      |
| Total                           | 2,795                             | 100.0*** | 11,828                            | 100.0*** |

\*NOTE: See Appendix A for a more detailed breakdown of the frequencies by region.

\*\*NOTE: Population values represent address of record for acupuncturists in California at the start of survey.

\*\*\*NOTE: Percentages may not add to 100 due to rounding.

FIGURE 23 – PRIMARY PRACTICE LOCATION IN FINAL SAMPLE AND ADDRESS OF RECORD IN POPULATION BY REGION



## CHAPTER 4 | DATA ANALYSIS AND RESULTS

### RELIABILITY OF RATINGS

OPES evaluated the task and knowledge ratings obtained by the questionnaire with a standard index of reliability, coefficient alpha ( $\alpha$ ), that ranges from 0 to 1. Coefficient alpha is an estimate of the internal consistency of the respondents' ratings of the tasks and knowledge statements. A higher coefficient value indicates more consistency between respondent ratings. Coefficients were calculated for all respondent ratings.

Table 24 displays the reliability coefficients for the task statement frequency and importance rating scales by content area and overall. The task statement frequency and importance ratings in each content area and overall were highly reliable. Table 25 displays the reliability coefficients for the knowledge statement importance rating scale by content area and overall. The knowledge statement importance ratings in each content area and overall were highly reliable.

TABLE 24 – RELIABILITY OF TASK FREQUENCY AND IMPORTANCE RATING SCALES BY CONTENT AREA AND OVERALL

| CONTENT AREA                         | NUMBER OF STATEMENTS | $\alpha$ FREQUENCY | $\alpha$ IMPORTANCE |
|--------------------------------------|----------------------|--------------------|---------------------|
| 01. Patient assessment               | 43                   | .956               | .961                |
| 02. Diagnosis and treatment planning | 25                   | .921               | .934                |
| 03. Treatment                        | 71                   | .953               | .962                |
| 04. Professional responsibilities    | 19                   | .838               | .900                |
| Overall*                             | 158                  | .976               | .981                |

\*NOTE: Ratings for all task statements were included in the reliability analysis.

TABLE 25 – RELIABILITY OF KNOWLEDGE IMPORTANCE RATING SCALE BY CONTENT AREA AND OVERALL

| CONTENT AREA                         | NUMBER OF STATEMENTS | $\alpha$ IMPORTANCE |
|--------------------------------------|----------------------|---------------------|
| 01. Patient assessment               | 59                   | .983                |
| 02. Diagnosis and treatment planning | 28                   | .974                |
| 03. Treatment                        | 93                   | .984                |
| 04. Professional responsibilities    | 20                   | .973                |
| Overall*                             | 200                  | .992                |

\*NOTE: Ratings for all knowledge statements were included in the reliability analysis.



## TASK CRITICALITY INDICES

OPES convened a workshop including nine acupuncturist SMEs in May 2021. The SMEs used the results of the OA questionnaire to identify the essential tasks and knowledge required for safe and effective acupuncturist practice at the time of licensure. The SMEs reviewed the mean frequency and importance ratings for each task and its criticality index and evaluated the mean importance ratings for all knowledge statements.

To calculate the criticality indices of the task statements, OPES test specialists used the following formula. For each respondent, OPES first multiplied the frequency rating ( $F_i$ ) and the importance rating ( $I_i$ ) for each task. Next, OPES averaged the multiplication products across respondents as shown below.

$$\text{Task criticality index} = \text{mean } [(F_i) \times (I_i)]$$

The task statements, their mean frequency and importance ratings, and their associated criticality indices are presented in Appendix B. The task statements were sorted by criticality index in descending order.

The SMEs who participated in the May 2021 workshop evaluated the task criticality indices derived from the questionnaire results. OPES test specialists instructed the SMEs to determine if any of the tasks had a criticality index that was too low for the task to be included on the examination outline. Based on their review, the SMEs indicated that tasks with a criticality index of 2.23 and above should be included on the examination outline and those with a criticality index of 1.89 or lower should be excluded from the examination outline. This resulted in the exclusion of the following tasks from the examination outline:

- Task 118: Apply herbal plaster therapy to treat indicated conditions.
- Task 74: Select points on patient in accordance with midnight-noon ebb-flow principles (e.g., chrono-acupuncture, Zi Wu Liu Zhu theory, Horary points).
- Task 110: Apply intradermal needles to treat indicated conditions.
- Task 119: Apply kinesiology tape to patients to treat indicated conditions.
- Task 111: Perform laser acupuncture to treat indicated conditions.

The exclusion of a task statement from the examination outline does not mean that the task is not used in practice. The SMEs decided that excluding it from testing was justified due to a very low criticality index relative to other tasks within the scope of acupuncturist practice. A low criticality index is an indication that questionnaire respondents rated the task low in terms of how often it is performed and how important it is for effective practice.

## KNOWLEDGE IMPORTANCE RATINGS

To determine the importance of each knowledge statement, the mean importance rating for each statement was calculated. The knowledge statements, sorted by mean importance ratings in descending order, are presented in Appendix C.

The SMEs who participated in the May 2021 workshop and who evaluated the task criticality indices also reviewed the knowledge statement mean importance ratings. Based on their review, the SMEs found that the knowledge statements with the lowest mean importance ratings were closely associated with the tasks that had the lowest criticality ratings and were excluded from the examination outline. The SMEs determined that the following 10 knowledge statements had a mean importance index that was too low (3.23 or lower) to be included on the examination outline:

- Knowledge 155: Knowledge of indications, contraindications, and side effects of herbal plaster therapy.
- Knowledge 51: Knowledge of the Five Spirits theory and pattern differentiation methods.
- Knowledge 139: Knowledge of indications, contraindications, and side effects of application of intradermal needles.
- Knowledge 95: Knowledge of clinical significance of selecting points based upon specific time of day.
- Knowledge 154: Knowledge of the application of herbal plaster.
- Knowledge 138: Knowledge of application of intradermal needles.
- Knowledge 157: Knowledge of indications, contraindications, and side effects of kinesiology tape application.
- Knowledge 156: Knowledge of the application of kinesiology tape to patient's body.
- Knowledge 141: Knowledge of indications, contraindications, and side effects of laser acupuncture.
- Knowledge 140: Knowledge of methods and procedures for laser acupuncture.



## CHAPTER 5 | WRITTEN EXAMINATION OUTLINE

### TASK-KNOWLEDGE LINKAGE

The SMEs who participated in the May 2021 workshop performed the final linkage of tasks and knowledge statements. For each task, the SMEs identified all knowledge statements that underlie the safe and effective performance of the task.

### CONTENT AREAS AND WEIGHTS

The SMEs in the May 2021 workshop also finalized the weights for content areas on the California Acupuncturist Licensing Examination (CALE) outline. OPES test specialists presented the SMEs with preliminary weights of the content areas that were calculated by dividing the sum of the criticality indices for the tasks in each content area by the overall sum of the criticality indices for all tasks, as shown below.

$$\frac{\text{Sum of Criticality Indices for Tasks in Content Area}}{\text{Sum of Criticality Indices for All Tasks}} = \text{Percent Weight of Content Area}$$

The SMEs evaluated the preliminary content area weights in terms of how well they reflected the relative importance of the content areas to entry-level acupuncturist practice in California. Through discussion, the SMEs determined that adjustments to preliminary content area weights were necessary to reflect the relative importance of each area more accurately. The SMEs also determined the distribution of the content area weights across the subareas by consensus.

The SMEs also made two changes to the tasks and knowledge statements on the examination outline. The SMEs revised task statement T127 from “Identify herbal therapy with *equivalent* action to Western medications” to “Identify herbal therapy with *similar and complementary* action to Western medications.” The SMEs created a new knowledge statement K201, “Knowledge of principles for selecting sedation and tonification points,” to be added to the “Acupuncture point selection” content subarea 0301.

OPES convened a CALE development workshop in July 2021. The SMEs who participated in the July 2021 workshop reviewed and finalized the new CALE outline developed in the May 2021 workshop. They made two final changes to the CALE outline. First, they moved the subarea “Communication with patients and other health care providers” and its associated weight from content area “Professional responsibilities” to content area “Diagnosis and treatment planning.” Second, the SMEs changed the reference to “Lower He-Sea points” in task statement 83 and knowledge statement 107 to “He-Sea points.”

A summary of the content area and subarea weights for the CALE outline is presented in Table 26.

The CALE outline is presented in Table 27.

TABLE 26 – CALE OUTLINE CONTENT AREA WEIGHTS

| CONTENT AREA                                                             | Preliminary<br>Percent<br>Weight | Final<br>Percent<br>Weight |
|--------------------------------------------------------------------------|----------------------------------|----------------------------|
| 01. Patient assessment                                                   | 28                               | 27                         |
| 0101. Patient assessment using Traditional Chinese Medicine methods      | 23                               | 18                         |
| 0102. Patient assessment using Western medicine methods                  | 4                                | 7                          |
| 0103. Referrals and emergency management                                 | 2                                | 2                          |
| 02. Diagnosis and treatment planning                                     | 16                               | 18                         |
| 0201. Diagnosis                                                          | 8                                | 11                         |
| 0202. Treatment planning                                                 | 4                                | 6                          |
| 0203. Communication with patients and other health care providers        | 4                                | 1                          |
| 03. Treatment                                                            | 40                               | 44                         |
| 0301. Acupuncture point selection                                        | 16                               | 16                         |
| 0302. Acupuncture point location and needling techniques                 | 8                                | 8                          |
| 0303. Adjunct treatment modalities                                       | 5                                | 5                          |
| 0304. Herbal therapy                                                     | 11                               | 15                         |
| 04. Professional responsibilities                                        | 16                               | 11                         |
| 0401. Records, confidentiality, mandated reporting, and informed consent | 5                                | 3                          |
| 0402. Infection control and environmental safety                         | 5                                | 4                          |
| 0403. Professional conduct and ethics                                    | 6                                | 4                          |
| Total                                                                    | 100                              | 100                        |

TABLE 27 – EXAMINATION OUTLINE: CALE

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                                    | <i>Task</i>                                                   | <i>Associated Knowledge Statement</i>                                                                   |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 0101.<br>Patient<br>assessment using<br>Traditional<br>Chinese Medicine<br>(TCM) methods<br>(18%) | T1 Identify patient's chief complaint.                        | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                   |                                                               | K2 Knowledge of observational techniques for obtaining information about patient health.                |
|                                                                                                   |                                                               | K3 Knowledge of listening and smelling techniques for obtaining information about patient health.       |
|                                                                                                   |                                                               | K4 Knowledge of palpation examination methods and techniques.                                           |
|                                                                                                   | T2 Collect information about family health history.           | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                   |                                                               | K5 Knowledge of effects of patient and family health history on current health status.                  |
|                                                                                                   | T3 Collect information about patient health history.          | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                   |                                                               | K5 Knowledge of effects of patient and family health history on current health status.                  |
|                                                                                                   | T4 Identify supplements and herbs that the patient is taking. | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                   |                                                               | K6 Knowledge of signs and symptoms associated with use of supplements and herbs.                        |
|                                                                                                   |                                                               | K83 Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications. |
|                                                                                                   |                                                               | K84 Knowledge of actions and side effects of commonly used supplements.                                 |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                                      | <i>Task</i>                                                                  | <i>Associated Knowledge Statement</i>                                                                   |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%)                                         | T5 Identify signs and symptoms associated with use of supplements and herbs. | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                     |                                                                              | K2 Knowledge of observational techniques for obtaining information about patient health.                |
|                                                                                                     |                                                                              | K6 Knowledge of signs and symptoms associated with use of supplements and herbs.                        |
|                                                                                                     |                                                                              | K83 Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications. |
|                                                                                                     |                                                                              | K84 Knowledge of actions and side effects of commonly used supplements.                                 |
|                                                                                                     | T6 Assess emotional health to inform pattern differentiation.                | K1 Knowledge of interview techniques for obtaining information about patient health.                    |
|                                                                                                     |                                                                              | K2 Knowledge of observational techniques for obtaining information about patient health.                |
|                                                                                                     |                                                                              | K10 Knowledge of clinical manifestations of Shen.                                                       |
|                                                                                                     |                                                                              | K13 Knowledge of signs and symptoms of psychosocial dysfunction associated with disharmony patterns.    |
|                                                                                                     |                                                                              | K14 Knowledge of emotions associated with disharmony patterns.                                          |
|                                                                                                     | T7 Evaluate level and quality of Qi to inform pattern differentiation.       | K2 Knowledge of observational techniques for obtaining information about patient health.                |
|                                                                                                     |                                                                              | K8 Knowledge of clinical indicators of the level and quality of Qi.                                     |
|                                                                                                     |                                                                              | K26 Knowledge of respiratory signs and symptoms associated with disharmony patterns.                    |
|                                                                                                     |                                                                              | K29 Knowledge of cardiovascular signs and symptoms associated with disharmony patterns.                 |
| K37 Knowledge of the relationship between quality and strength of voice and patterns of disharmony. |                                                                              |                                                                                                         |
| K40 Knowledge of radial pulse characteristics associated with patterns of disharmony.               |                                                                              |                                                                                                         |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                                      | <i>Task</i>                                                                                  | <i>Associated Knowledge Statement</i>                                                                |
|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%)                                         | T8 Assess Shen to inform pattern differentiation.                                            | K2 Knowledge of observational techniques for obtaining information about patient health.             |
|                                                                                                     |                                                                                              | K7 Knowledge of clinical indicators of the level and quality of Blood.                               |
|                                                                                                     |                                                                                              | K9 Knowledge of clinical indicators of Essence.                                                      |
|                                                                                                     |                                                                                              | K10 Knowledge of clinical manifestations of Shen.                                                    |
|                                                                                                     |                                                                                              | K12 Knowledge of the associations between patient physical characteristics and disharmony patterns.  |
|                                                                                                     |                                                                                              | K13 Knowledge of signs and symptoms of psychosocial dysfunction associated with disharmony patterns. |
|                                                                                                     |                                                                                              | K14 Knowledge of emotions associated with disharmony patterns.                                       |
|                                                                                                     |                                                                                              | K30 Knowledge of skin characteristics and conditions associated with disharmony patterns.            |
|                                                                                                     |                                                                                              | K37 Knowledge of the relationship between quality and strength of voice and patterns of disharmony.  |
|                                                                                                     |                                                                                              | T9 Assess patient physical characteristics to inform pattern differentiation.                        |
| K3 Knowledge of listening and smelling techniques for obtaining information about patient health.   |                                                                                              |                                                                                                      |
| K4 Knowledge of palpation examination methods and techniques.                                       |                                                                                              |                                                                                                      |
| K7 Knowledge of clinical manifestations of Shen.                                                    |                                                                                              |                                                                                                      |
| K9 Knowledge of clinical indicators of the level and quality of Blood.                              |                                                                                              |                                                                                                      |
| K12 Knowledge of the associations between patient physical characteristics and disharmony patterns. |                                                                                              |                                                                                                      |
| T10 Identify external factors (e.g., stress, pollutants, noise, climate) influencing health.        | T10 Identify external factors (e.g., stress, pollutants, noise, climate) influencing health. | K1 Knowledge of interview techniques for obtaining information about patient health.                 |
|                                                                                                     |                                                                                              | K15 Knowledge of external factors (e.g., stress, pollutants, noise, climate) that affect health.     |



01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                              | <i>Task</i>                                                                                                         | <i>Associated Knowledge Statement</i>                                                                            |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%) | T11 Identify lifestyle factors influencing health.                                                                  | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K16 Knowledge of effects of lifestyle factors on health.                                                         |
|                                                             | T12 Identify patient sleep patterns to inform pattern differentiation.                                              | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K7 Knowledge of clinical indicators of the level and quality of Blood.                                           |
|                                                             |                                                                                                                     | K9 Knowledge of clinical indicators of Essence.                                                                  |
|                                                             |                                                                                                                     | K17 Knowledge of sleep patterns indicating health imbalance.                                                     |
|                                                             | T13 Identify dietary habits to inform pattern differentiation.                                                      | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K18 Knowledge of effects of dietary habits and nutrition on health and wellness.                                 |
|                                                             | T14 Identify food and drink flavor preferences, cravings, and aversions to inform pattern differentiation.          | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K19 Knowledge of food and drink flavor preferences, cravings, and aversions associated with disharmony patterns. |
|                                                             |                                                                                                                     | K20 Knowledge of food and drink temperature preferences and aversions associated with disharmony patterns.       |
|                                                             | T15 Identify preferences and aversions related to temperature of food and drinks to inform pattern differentiation. | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K20 Knowledge of food and drink temperature preferences and aversions associated with disharmony patterns.       |
|                                                             | T16 Assess thirst and fluid intake to inform pattern differentiation.                                               | K1 Knowledge of interview techniques for obtaining information about patient health.                             |
|                                                             |                                                                                                                     | K21 Knowledge of thirst characteristics associated with patterns of disharmony.                                  |
|                                                             |                                                                                                                     | K22 Knowledge of relationship between fluid intake and disharmony patterns.                                      |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                              |     | <i>Task</i>                                                                                                                |                                                                         | <i>Associated Knowledge Statement</i>                                                                              |
|-------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%) | T17 | Identify gastrointestinal signs and symptoms (e.g., characteristics of bowel movements, pain) indicating health imbalance. | K1                                                                      | Knowledge of interview techniques for obtaining information about patient health.                                  |
|                                                             |     |                                                                                                                            | K2                                                                      | Knowledge of observational techniques for obtaining information about patient health.                              |
|                                                             |     |                                                                                                                            | K3                                                                      | Knowledge of listening and smelling techniques for obtaining information about patient health.                     |
|                                                             |     |                                                                                                                            | K4                                                                      | Knowledge of palpation examination methods and techniques.                                                         |
|                                                             |     |                                                                                                                            | K18                                                                     | Knowledge of effects of dietary habits and nutrition on health and wellness.                                       |
|                                                             |     |                                                                                                                            | K23                                                                     | Knowledge of gastrointestinal signs and symptoms associated with disharmony patterns.                              |
|                                                             | T18 | Identify genitourinary signs and symptoms indicating health imbalance.                                                     | K1                                                                      | Knowledge of interview techniques for obtaining information about patient health.                                  |
|                                                             |     |                                                                                                                            | K24                                                                     | Knowledge of genitourinary signs and symptoms associated with disharmony patterns.                                 |
|                                                             |     |                                                                                                                            | K27                                                                     | Knowledge of mucus characteristics in relation to disharmony patterns.                                             |
|                                                             |     |                                                                                                                            | K28                                                                     | Knowledge of phlegm characteristics in relation to disharmony patterns.                                            |
|                                                             | T19 | Identify signs and symptoms of gynecological and reproductive systems indicating health imbalance.                         | K1                                                                      | Knowledge of interview techniques for obtaining information about patient health.                                  |
|                                                             |     |                                                                                                                            | K25                                                                     | Knowledge of signs and symptoms of gynecological and reproductive functioning associated with disharmony patterns. |
|                                                             |     |                                                                                                                            | K27                                                                     | Knowledge of mucus characteristics in relation to disharmony patterns.                                             |
| K28                                                         |     |                                                                                                                            | Knowledge of phlegm characteristics in relation to disharmony patterns. |                                                                                                                    |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                              |     | <i>Task</i>                                                          |     | <i>Associated Knowledge Statement</i>                                                          |
|-------------------------------------------------------------|-----|----------------------------------------------------------------------|-----|------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%) | T20 | Identify respiratory signs and symptoms indicating health imbalance. | K1  | Knowledge of interview techniques for obtaining information about patient health.              |
|                                                             |     |                                                                      | K2  | Knowledge of observational techniques for obtaining information about patient health.          |
|                                                             |     |                                                                      | K3  | Knowledge of listening and smelling techniques for obtaining information about patient health. |
|                                                             |     |                                                                      | K11 | Knowledge of clinical manifestations of Body Fluids.                                           |
|                                                             |     |                                                                      | K26 | Knowledge of respiratory signs and symptoms associated with disharmony patterns.               |
|                                                             |     |                                                                      | K27 | Knowledge of mucus characteristics in relation to disharmony patterns.                         |
|                                                             |     |                                                                      | K28 | Knowledge of phlegm characteristics in relation to disharmony patterns.                        |
|                                                             | T21 | Identify mucus characteristics to inform pattern differentiation.    | K1  | Knowledge of interview techniques for obtaining information about patient health.              |
|                                                             |     |                                                                      | K2  | Knowledge of observational techniques for obtaining information about patient health.          |
|                                                             |     |                                                                      | K11 | Knowledge of clinical manifestations of Body Fluids.                                           |
|                                                             |     |                                                                      | K27 | Knowledge of mucus characteristics in relation to disharmony patterns.                         |
|                                                             | T22 | Identify phlegm characteristics to inform pattern differentiation.   | K1  | Knowledge of interview techniques for obtaining information about patient health.              |
|                                                             |     |                                                                      | K2  | Knowledge of observational techniques for obtaining information about patient health.          |
|                                                             |     |                                                                      | K11 | Knowledge of clinical manifestations of Body Fluids.                                           |
|                                                             |     |                                                                      | K28 | Knowledge of phlegm characteristics in relation to disharmony patterns.                        |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                             | <i>Task</i>                                                                   | <i>Associated Knowledge Statement</i>                                                             |
|--------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%)                                | T23 Identify cardiovascular signs and symptoms indicating health imbalance.   | K1 Knowledge of interview techniques for obtaining information about patient health.              |
|                                                                                            |                                                                               | K2 Knowledge of observational techniques for obtaining information about patient health.          |
|                                                                                            |                                                                               | K3 Knowledge of listening and smelling techniques for obtaining information about patient health. |
|                                                                                            |                                                                               | K29 Knowledge of cardiovascular signs and symptoms associated with disharmony patterns.           |
|                                                                                            | T24 Identify skin conditions and characteristics indicating health imbalance. | K1 Knowledge of interview techniques for obtaining information about patient health.              |
|                                                                                            |                                                                               | K2 Knowledge of observational techniques for obtaining information about patient health.          |
|                                                                                            |                                                                               | K11 Knowledge of clinical manifestations of Body Fluids.                                          |
|                                                                                            |                                                                               | K30 Knowledge of skin characteristics and conditions associated with disharmony patterns.         |
|                                                                                            | T25 Assess fever and chills to inform pattern differentiation.                | K1 Knowledge of interview techniques for obtaining information about patient health.              |
|                                                                                            |                                                                               | K2 Knowledge of observational techniques for obtaining information about patient health.          |
|                                                                                            |                                                                               | K30 Knowledge of skin characteristics and conditions associated with disharmony patterns.         |
|                                                                                            |                                                                               | K31 Knowledge of fever and chills associated with disharmony patterns.                            |
| K32 Knowledge of patient’s sensations of heat and cold associated with health imbalance.   |                                                                               |                                                                                                   |
| K33 Knowledge of conditions associated with abnormal localized temperature upon palpation. |                                                                               |                                                                                                   |
|                                                                                            | K34 Knowledge of abnormal perspiration associated with disharmony patterns.   |                                                                                                   |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                                | <i>Task</i>                                                                                     | <i>Associated Knowledge Statement</i>                                                               |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| 0101. Patient assessment using TCM methods, continued (18%)                                   | T26 Identify patient perspiration patterns to inform pattern differentiation.                   | K1 Knowledge of interview techniques for obtaining information about patient health.                |
|                                                                                               |                                                                                                 | K2 Knowledge of observational techniques for obtaining information about patient health.            |
|                                                                                               |                                                                                                 | K11 Knowledge of clinical manifestations of Body Fluids.                                            |
|                                                                                               |                                                                                                 | K34 Knowledge of abnormal perspiration associated with disharmony patterns.                         |
|                                                                                               | T27 Identify ocular and visual signs and symptoms indicating health imbalance.                  | K1 Knowledge of interview techniques for obtaining information about patient health.                |
|                                                                                               |                                                                                                 | K2 Knowledge of observational techniques for obtaining information about patient health.            |
|                                                                                               |                                                                                                 | K35 Knowledge of ocular signs and symptoms associated with disharmony patterns.                     |
|                                                                                               | T28 Identify auditory signs and symptoms indicating health imbalance.                           | K1 Knowledge of interview techniques for obtaining information about patient health.                |
|                                                                                               |                                                                                                 | K2 Knowledge of observational techniques for obtaining information about patient health.            |
|                                                                                               |                                                                                                 | K36 Knowledge of auditory signs and symptoms associated with disharmony patterns.                   |
|                                                                                               | T29 Assess patient sounds, voice quality, and vocal strength to inform pattern differentiation. | K3 Knowledge of listening and smelling techniques for obtaining information about patient health.   |
|                                                                                               |                                                                                                 | K37 Knowledge of the relationship between quality and strength of voice and patterns of disharmony. |
| T30 Assess level, nature, locations, and frequency of pain to inform pattern differentiation. | K1 Knowledge of interview techniques for obtaining information about patient health.            |                                                                                                     |
|                                                                                               | K2 Knowledge of observational techniques for obtaining information about patient health.        |                                                                                                     |
|                                                                                               | K4 Knowledge of palpation examination methods and techniques.                                   |                                                                                                     |
|                                                                                               | K38 Knowledge of methods and procedures for assessing pain.                                     |                                                                                                     |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                                                          | <i>Task</i>                                                                                       | <i>Associated Knowledge Statement</i>                                                                                                      |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 0101.<br>Patient assessment using TCM methods, continued (18%)                                          | T31 Assess patient tongue body and coating to inform pattern differentiation.                     | K2 Knowledge of observational techniques for obtaining information about patient health.                                                   |
|                                                                                                         |                                                                                                   | K3 Knowledge of listening and smelling techniques for obtaining information about patient health.                                          |
|                                                                                                         |                                                                                                   | K39 Knowledge of tongue characteristics associated with disharmony patterns.                                                               |
|                                                                                                         | T32 Assess patient pulse to inform pattern differentiation.                                       | K4 Knowledge of palpation examination methods and techniques.                                                                              |
| T33 Palpate areas of body or channels to inform pattern differentiation.                                | K40 Knowledge of radial pulse characteristics associated with patterns of disharmony.             |                                                                                                                                            |
|                                                                                                         | K41 Knowledge of methods for obtaining pulse information from various locations on the body.      |                                                                                                                                            |
| T34 Assess patient odors to inform pattern differentiation.                                             | K3 Knowledge of listening and smelling techniques for obtaining information about patient health. |                                                                                                                                            |
| 0102.<br>Patient assessment using Western medicine methods (7%)                                         | T57 Identify pharmaceuticals that the patient is taking.                                          | K1 Knowledge of interview techniques for obtaining information about patient health.                                                       |
|                                                                                                         |                                                                                                   | K82 Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. |
|                                                                                                         | T58 Identify signs and symptoms associated with the use of pharmaceuticals.                       | K1 Knowledge of interview techniques for obtaining information about patient health.                                                       |
|                                                                                                         |                                                                                                   | K82 Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. |
| K83 Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications. |                                                                                                   |                                                                                                                                            |
|                                                                                                         | K84 Knowledge of actions and side effects of commonly used supplements.                           |                                                                                                                                            |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                             | <i>Task</i>                                                                                                                                             | <i>Associated Knowledge Statement</i>                                                                                                      |
|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 0102.<br>Patient assessment using Western medicine methods, continued (7%) | T59 Perform biomedical physical examination (e.g. observation, auscultation, palpation, vital signs) on patients to determine present health condition. | K71 Knowledge of biomedical physical examination methods and techniques (e.g. observation, auscultation, palpation, vital signs).          |
|                                                                            |                                                                                                                                                         | K72 Knowledge of human anatomy, physiology, and pathology.                                                                                 |
|                                                                            |                                                                                                                                                         | K73 Knowledge of procedures for obtaining vital signs.                                                                                     |
|                                                                            |                                                                                                                                                         | K74 Knowledge of normal range of vital signs.                                                                                              |
|                                                                            |                                                                                                                                                         | K75 Knowledge of methods and procedures for assessing neuromusculoskeletal function and integrity.                                         |
|                                                                            |                                                                                                                                                         | K76 Knowledge of pathways and functions of cranial nerves for determination of neurological pathology.                                     |
|                                                                            |                                                                                                                                                         | K77 Knowledge of dermatome technique for assessment of neuromuscular pathology.                                                            |
|                                                                            |                                                                                                                                                         | K78 Knowledge of neuromusculoskeletal conditions.                                                                                          |
|                                                                            |                                                                                                                                                         | K79 Knowledge of patient genetics and heredity associated with symptom development.                                                        |
|                                                                            |                                                                                                                                                         | K80 Knowledge of clinical significance of common diagnostic and laboratory tests used for diagnostic and treatment purposes.               |
| T62 Order diagnostic tests to determine health condition.                  |                                                                                                                                                         | K81 Knowledge of common Western medical conditions, terminology, and definitions.                                                          |
|                                                                            |                                                                                                                                                         | K80 Knowledge of clinical significance of common diagnostic and laboratory tests used for diagnostic and treatment purposes.               |
|                                                                            |                                                                                                                                                         | K81 Knowledge of common Western medical conditions, terminology, and definitions.                                                          |
|                                                                            |                                                                                                                                                         | K82 Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. |

01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                             |                                                                                                | <i>Task</i>                                                                                             |     | <i>Associated Knowledge Statement</i>                                                                                         |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------|
| 0102.<br>Patient assessment using Western medicine methods, continued (7%) | T60                                                                                            | Perform neurological examination (e.g., sensation, strength) on patients to determine health condition. | K71 | Knowledge of biomedical physical examination methods and techniques (e.g. observation, auscultation, palpation, vital signs). |
|                                                                            |                                                                                                |                                                                                                         | K72 | Knowledge of human anatomy, physiology, and pathology.                                                                        |
|                                                                            |                                                                                                |                                                                                                         | K73 | Knowledge of procedures for obtaining vital signs.                                                                            |
|                                                                            |                                                                                                |                                                                                                         | K74 | Knowledge of normal range of vital signs.                                                                                     |
|                                                                            |                                                                                                |                                                                                                         | K75 | Knowledge of methods and procedures for assessing neuromusculoskeletal function and integrity.                                |
|                                                                            |                                                                                                |                                                                                                         | K76 | Knowledge of pathways and functions of cranial nerves for determination of neurological pathology.                            |
|                                                                            |                                                                                                |                                                                                                         | K77 | Knowledge of dermatome technique for assessment of neuromuscular pathology.                                                   |
|                                                                            |                                                                                                |                                                                                                         | K78 | Knowledge of neuromusculoskeletal conditions.                                                                                 |
|                                                                            |                                                                                                |                                                                                                         | K79 | Knowledge of patient genetics and heredity associated with symptom development.                                               |
|                                                                            |                                                                                                |                                                                                                         |     | T61                                                                                                                           |
| K72                                                                        | Knowledge of human anatomy, physiology, and pathology.                                         |                                                                                                         |     |                                                                                                                               |
| K75                                                                        | Knowledge of methods and procedures for assessing neuromusculoskeletal function and integrity. |                                                                                                         |     |                                                                                                                               |
| K77                                                                        | Knowledge of dermatome technique for assessment of neuromuscular pathology.                    |                                                                                                         |     |                                                                                                                               |
| K78                                                                        | Knowledge of neuromusculoskeletal conditions.                                                  |                                                                                                         |     |                                                                                                                               |
| K79                                                                        | Knowledge of patient genetics and heredity associated with symptom development.                |                                                                                                         |     |                                                                                                                               |



01. Patient assessment (27%) – This area assesses the practitioner’s knowledge of assessing patient’s chief complaint and underlying health conditions using TCM and Western medicine assessment methods, referring the patient to another health care provider if indicated by assessment results, and identifying and responding to patient emergency situations.

| <i>Subarea</i>                                                          |     | <i>Task</i>                                                                                     |     | <i>Associated Knowledge Statement</i>                                                                                                  |
|-------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------------------------------------------------|
| 0102. Patient assessment using Western medicine methods, continued (7%) | T63 | Review patient diagnostic reports to gather additional information regarding patient complaint. | K72 | Knowledge of human anatomy, physiology, and pathology.                                                                                 |
|                                                                         |     |                                                                                                 | K74 | Knowledge of normal range of vital signs.                                                                                              |
|                                                                         |     |                                                                                                 | K78 | Knowledge of neuromusculoskeletal conditions.                                                                                          |
|                                                                         |     |                                                                                                 | K80 | Knowledge of clinical significance of common diagnostic and laboratory tests used for diagnostic and treatment purposes.               |
|                                                                         |     |                                                                                                 | K81 | Knowledge of common Western medical conditions, terminology, and definitions.                                                          |
|                                                                         |     |                                                                                                 | K82 | Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. |
|                                                                         |     |                                                                                                 | K83 | Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications.                                    |
|                                                                         |     |                                                                                                 | K84 | Knowledge of actions and side effects of commonly used supplements.                                                                    |
| 0103. Referrals and emergency management (2%)                           | T55 | Refer client to other health care providers based on assessment findings.                       | K67 | Knowledge of clinical conditions that require patient referral to other health care providers.                                         |
|                                                                         |     |                                                                                                 | K68 | Knowledge of signs and symptoms of emergency conditions.                                                                               |
|                                                                         | T56 | Identify signs and symptoms that require emergency management.                                  | K68 | Knowledge of signs and symptoms of emergency conditions.                                                                               |
|                                                                         |     |                                                                                                 | K69 | Knowledge of methods for administering cardiopulmonary resuscitation.                                                                  |
|                                                                         |     |                                                                                                 | K70 | Knowledge of methods for providing first aid treatment.                                                                                |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>           | <i>Task</i>                                                                                                                                         | <i>Associated Knowledge Statement</i>                                                                          |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 0201.<br>Diagnosis (11%) | T35 Evaluate patient data to determine whether additional information is needed.                                                                    | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                          |                                                                                                                                                     | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                          |                                                                                                                                                     | K47 Knowledge of clinical indicators associated with disease of the channels.                                  |
|                          | T36 Interpret and integrate assessment findings (e.g., pulse, tongue, history, channel, diagnostic test results) to inform pattern differentiation. | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                          |                                                                                                                                                     | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                          |                                                                                                                                                     | K45 Knowledge of the relationship between the Organs and channels in disease progression and transformation.   |
|                          |                                                                                                                                                     | K46 Knowledge of the relationship between the Zang Fu and vital substances (i.e., the Liver stores the Blood). |
|                          |                                                                                                                                                     | K47 Knowledge of clinical indicators associated with disease of the channels.                                  |
|                          |                                                                                                                                                     | K48 Knowledge of the functions, distribution, and clinical significance of the channels.                       |
|                          | T37 Identify primary disharmony patterns by prioritizing patient signs and symptoms.                                                                | K50 Knowledge of methods for prioritizing indicators of disharmony to develop a differential diagnosis.        |
|                          | T38 Identify phase of pathogen progression.                                                                                                         | K42 Knowledge of disease progression from superficial to deep levels of the human body.                        |
|                          |                                                                                                                                                     | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                          |                                                                                                                                                     | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                          |                                                                                                                                                     | K45 Knowledge of the relationship between the Organs and channels in disease progression and transformation.   |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                                 | <i>Task</i>                                    | <i>Associated Knowledge Statement</i>                                                                        |
|------------------------------------------------|------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 0201.<br>Diagnosis,<br>continued (11%)         | T39 Identify affected channels.                | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.         |
|                                                |                                                | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.   |
|                                                |                                                | K45 Knowledge of the relationship between the Organs and channels in disease progression and transformation. |
|                                                |                                                | K47 Knowledge of clinical indicators associated with disease of the channels.                                |
|                                                |                                                | K48 Knowledge of the functions, distribution, and clinical significance of the channels.                     |
|                                                |                                                | K53 Knowledge of the functions of and the relationship between the Zang Fu and the channels.                 |
| T40 Identify Root and Branch condition.        | T40 Identify Root and Branch condition.        | K42 Knowledge of disease progression from superficial to deep levels of the human body.                      |
|                                                |                                                | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.         |
|                                                |                                                | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.   |
|                                                |                                                | K45 Knowledge of the relationship between the Organs and channels in disease progression and transformation. |
|                                                |                                                | K49 Knowledge of principles for treating root versus branch disharmony patterns.                             |
| T41 Identify Five Element disharmony patterns. | T41 Identify Five Element disharmony patterns. | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.         |
|                                                |                                                | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.   |
|                                                |                                                | K52 Knowledge of the interrelationships of the Five Elements and clinical indications of disharmony.         |
|                                                |                                                | K54 Knowledge of the Five Elements theory and pattern differentiation methods.                               |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                         | <i>Task</i>                                                                            | <i>Associated Knowledge Statement</i>                                                                          |
|----------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 0201.<br>Diagnosis,<br>continued (11%) | T42 Identify Zang Fu disharmony patterns.                                              | K42 Knowledge of disease progression from superficial to deep levels of the human body.                        |
|                                        |                                                                                        | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                                        |                                                                                        | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                                        |                                                                                        | K46 Knowledge of the relationship between the Zang Fu and vital substances (i.e., the Liver stores the Blood). |
|                                        |                                                                                        | K53 Knowledge of the functions of and the relationship between the Zang Fu and the channels.                   |
|                                        |                                                                                        | K59 Knowledge of the clinical indications associated with Zang Fu disharmonies.                                |
|                                        |                                                                                        | K60 Knowledge of methods for identifying simultaneous Zang Fu disharmonies.                                    |
| T43                                    | Identify Eight Principles categorization.                                              | K42 Knowledge of disease progression from superficial to deep levels of the human body.                        |
|                                        |                                                                                        | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                                        |                                                                                        | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                                        |                                                                                        | K55 Knowledge of the Eight Principles theory and pattern differentiation methods.                              |
| T44                                    | Identify disharmony pattern using Six Stages (i.e., Shang Han Lun) of differentiation. | K42 Knowledge of disease progression from superficial to deep levels of the human body.                        |
|                                        |                                                                                        | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.           |
|                                        |                                                                                        | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     |
|                                        |                                                                                        | K57 Knowledge of the Six Stages (Shang Han Lun) theory and pattern differentiation methods.                    |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                         | <i>Task</i>                                                                                          | <i>Associated Knowledge Statement</i>                                                                      |
|----------------------------------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 0201.<br>Diagnosis,<br>continued (11%) | T45 Identify disharmony pattern using Four Levels (i.e., Wei, Qi, Ying, and Xue) of differentiation. | K42 Knowledge of disease progression from superficial to deep levels of the human body.                    |
|                                        |                                                                                                      | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.       |
|                                        |                                                                                                      | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns. |
|                                        |                                                                                                      | K58 Knowledge of the Four Levels theory and pattern differentiation methods.                               |
|                                        | T46 Identify disharmony pattern using Triple Burner (i.e., San Jiao) differentiation.                | K42 Knowledge of disease progression from superficial to deep levels of the human body.                    |
|                                        |                                                                                                      | K43 Knowledge of methods for integrating assessment information to develop a differential diagnosis.       |
|                                        |                                                                                                      | K44 Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns. |
|                                        |                                                                                                      | K56 Knowledge of the Triple Burner theory and pattern differentiation methods.                             |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                         |     | <i>Task</i>                                                                  | <i>Associated Knowledge Statement</i>                                                                        |
|----------------------------------------|-----|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 0201.<br>Diagnosis,<br>continued (11%) | T47 | Develop a differential diagnosis list for identified disharmony patterns.    | K50 Knowledge of methods for prioritizing indicators of disharmony to develop a differential diagnosis.      |
|                                        |     |                                                                              | K52 Knowledge of the interrelationships of the Five Elements and clinical indications of disharmony.         |
|                                        |     |                                                                              | K53 Knowledge of the functions of and the relationship between the Zang Fu and the channels.                 |
|                                        |     |                                                                              | K54 Knowledge of the Five Elements theory and pattern differentiation methods.                               |
|                                        |     |                                                                              | K55 Knowledge of the Eight Principles theory and pattern differentiation methods.                            |
|                                        |     |                                                                              | K56 Knowledge of the Triple Burner theory and pattern differentiation methods.                               |
|                                        |     |                                                                              | K57 Knowledge of the Six Stages (Shang Han Lun) theory and pattern differentiation methods.                  |
|                                        |     |                                                                              | K58 Knowledge of the Four Levels theory and pattern differentiation methods.                                 |
|                                        |     |                                                                              | K59 Knowledge of the clinical indications associated with Zang Fu disharmonies.                              |
|                                        |     |                                                                              | K60 Knowledge of methods for identifying simultaneous Zang Fu disharmonies.                                  |
| 0202.<br>Treatment planning<br>(6%)    | T48 | Develop treatment principles (e.g., tonify, sedate, harmonize) for patients. | K61 Knowledge of functions and disharmonies associated with Vital Substances.                                |
|                                        |     |                                                                              | K62 Knowledge of development of treatment principles based on different theories of pattern differentiation. |
|                                        |     |                                                                              | K65 Knowledge of the association between stimulation techniques and treatment principles.                    |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                                    | <i>Task</i> |                                                                                                         | <i>Associated Knowledge Statement</i>                                                 |                                                                                                          |
|---------------------------------------------------|-------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| 0202.<br>Treatment<br>planning, continued<br>(6%) | T49         | Develop treatment plans by applying treatment principle (e.g., tonify, sedate, harmonize).              | K63                                                                                   | Knowledge of the effectiveness of combining treatment strategies in developing a treatment plan.         |
|                                                   |             |                                                                                                         | K64                                                                                   | Knowledge of treatment strategies for using tonification and sedation points.                            |
|                                                   | T50         | Prioritize treatment principles and management of presenting problems.                                  | K65                                                                                   | Knowledge of the association between stimulation techniques and treatment principles.                    |
|                                                   | T51         | Evaluate patient progress during follow-up visit to determine adjustments to treatment plans.           | K66                                                                                   | Knowledge of methods for evaluating patient progress.                                                    |
|                                                   | T52         | Develop a differential diagnosis list for identified disharmony patterns.                               | K62                                                                                   | Knowledge of development of treatment principles based on different theories of pattern differentiation. |
|                                                   | T53         | Identify a measurable metric for assessing treatment efficacy (e.g., outcome measures, questionnaires). | K63                                                                                   | Knowledge of the effectiveness of combining treatment strategies in developing a treatment plan.         |
|                                                   |             | K64                                                                                                     | Knowledge of treatment strategies for using tonification and sedation points.         |                                                                                                          |
|                                                   |             | K65                                                                                                     | Knowledge of the association between stimulation techniques and treatment principles. |                                                                                                          |
|                                                   |             | K66                                                                                                     | Knowledge of methods for evaluating patient progress.                                 |                                                                                                          |

02. Diagnosis and treatment planning (18%) - This area assesses the practitioner's knowledge of evaluating assessment findings to develop a diagnosis and treatment plan according to TCM theories. It also evaluates the practitioner's knowledge of monitoring and evaluating patient response to treatment at follow-up visits and modifying treatment plans based on evaluation results.

| <i>Subarea</i>                                                                     | <i>Task</i> |                                                                                                                                    | <i>Associated Knowledge Statement</i> |                                                                                                                                        |
|------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 0203.<br>Communication<br>with patients and<br>other health care<br>providers (1%) | T54         | Collaborate with primary physicians and other health care providers to identify the most effective treatment for patients.         | K85                                   | Knowledge of the relationship between Western disease diagnoses and Traditional Chinese Medicine patterns.                             |
|                                                                                    | T64         | Translate Traditional Chinese Medicine diagnostic concepts into common Western terminology for patients and health care providers. | K86                                   | Knowledge of Western medical diagnoses and physiological processes involved with disease progression.                                  |
|                                                                                    | T65         | Educate patients regarding differences between Traditional Chinese Medicine and Western medicine.                                  | K87                                   | Knowledge of techniques to communicate assessment findings, diagnoses, and treatment plans to patients or other health care providers. |
|                                                                                    | T66         | Communicate assessment findings and diagnosis to patients.                                                                         | K87                                   | Knowledge of techniques to communicate assessment findings, diagnoses, and treatment plans to patients or other health care providers. |
|                                                                                    | T67         | Communicate with patients about treatment plan and possible outcomes.                                                              |                                       |                                                                                                                                        |
|                                                                                    | T68         | Explain treatment procedures to patients before starting treatment.                                                                |                                       |                                                                                                                                        |



03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                |                                                                         | <i>Task</i>                                                 |      | <i>Associated Knowledge Statement</i>                                                                                    |
|-----------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point<br>selection (16%) | T69                                                                     | Develop a point prescription based on treatment principles. | K88  | Knowledge of the clinical actions and indications of points.                                                             |
|                                               |                                                                         |                                                             | K89  | Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                               |                                                                         |                                                             | K90  | Knowledge of principles for combining distal and proximal points.                                                        |
|                                               |                                                                         |                                                             | K91  | Knowledge of principles for choosing local points.                                                                       |
|                                               |                                                                         |                                                             | K92  | Knowledge of principles for combining points from different channels.                                                    |
|                                               |                                                                         |                                                             | K93  | Knowledge of principles for choosing points according to channel theory.                                                 |
|                                               |                                                                         |                                                             | K94  | Knowledge of treatment modification based on patient response to treatment.                                              |
|                                               |                                                                         |                                                             | K96  | Knowledge of clinical significance of the sequence in which needles are inserted.                                        |
|                                               |                                                                         |                                                             | K97  | Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. |
|                                               |                                                                         |                                                             | K98  | Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         |
|                                               |                                                                         |                                                             | K99  | Knowledge of principles for choosing points on the front and back to regulate internal Organs.                           |
|                                               |                                                                         |                                                             | K100 | Knowledge of principles for choosing points in the center to treat conditions occurring on extremities.                  |
|                                               |                                                                         |                                                             | K101 | Knowledge of principles for choosing points on the extremities to treat conditions occurring in the center.              |
| K201                                          | Knowledge of principles for selecting sedation and tonification points. |                                                             |      |                                                                                                                          |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                        | <i>Task</i>                                                         | <i>Associated Knowledge Statement</i>                                                                                        |
|-------------------------------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%) | T70 Select distal and/or proximal points.                           | K88 Knowledge of the clinical actions and indications of points.                                                             |
|                                                       |                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                                       |                                                                     | K90 Knowledge of principles for combining distal and proximal points.                                                        |
|                                                       |                                                                     | K91 Knowledge of principles for choosing local points.                                                                       |
|                                                       |                                                                     | K92 Knowledge of principles for combining points from different channels.                                                    |
|                                                       |                                                                     | K93 Knowledge of principles for choosing points according to channel theory.                                                 |
|                                                       |                                                                     | K97 Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. |
|                                                       | T71 Select local points along the affected Meridian.                | K88 Knowledge of the clinical actions and indications of points.                                                             |
|                                                       |                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                                       |                                                                     | K91 Knowledge of principles for choosing local points.                                                                       |
|                                                       |                                                                     | K92 Knowledge of principles for combining points from different channels.                                                    |
|                                                       |                                                                     | K93 Knowledge of principles for choosing points according to channel theory.                                                 |
|                                                       |                                                                     | K102 Knowledge of the therapeutic use of Ashi points.                                                                        |
|                                                       | T72 Select points from different channels to treat Root and Branch. | K88 Knowledge of the clinical actions and indications of points.                                                             |
|                                                       |                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                                       |                                                                     | K90 Knowledge of principles for combining distal and proximal points.                                                        |
|                                                       |                                                                     | K92 Knowledge of principles for combining points from different channels.                                                    |
|                                                       |                                                                     | K93 Knowledge of principles for choosing points according to channel theory.                                                 |
|                                                       |                                                                     | K98 Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>       |     | <i>Task</i>                  |      | <i>Associated Knowledge Statement</i>                                                                                    |
|----------------------|-----|------------------------------|------|--------------------------------------------------------------------------------------------------------------------------|
| 0301.                | T73 | Select points on patient's   | K88  | Knowledge of the clinical actions and indications of points.                                                             |
| Acupuncture point    |     | body using mirroring methods | K89  | Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
| selection, continued |     | (e.g., elbow-for-knee).      | K90  | Knowledge of principles for combining distal and proximal points.                                                        |
| (16%)                |     |                              | K92  | Knowledge of principles for combining points from different channels.                                                    |
|                      |     |                              | K93  | Knowledge of principles for choosing points according to channel theory.                                                 |
|                      |     |                              | K96  | Knowledge of clinical significance of the sequence in which needles are inserted.                                        |
|                      |     |                              | K97  | Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. |
|                      |     |                              | K98  | Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         |
|                      |     |                              | K99  | Knowledge of principles for choosing points on the front and back to regulate internal Organs.                           |
|                      |     |                              | K100 | Knowledge of principles for choosing points in the center to treat conditions occurring on extremities.                  |
|                      |     |                              | K101 | Knowledge of principles for choosing points on the extremities to treat conditions occurring in the center.              |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                        | <i>Task</i>                                                                                          | <i>Associated Knowledge Statement</i>                                                                                        |
|-------------------------------------------------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%) | T75 Select points on patients to balance point distribution (e.g., right and left, above and below). | K88 Knowledge of the clinical actions and indications of points.                                                             |
|                                                       |                                                                                                      | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                                       |                                                                                                      | K90 Knowledge of principles for combining distal and proximal points.                                                        |
|                                                       |                                                                                                      | K91 Knowledge of principles for choosing local points.                                                                       |
|                                                       |                                                                                                      | K92 Knowledge of principles for combining points from different channels.                                                    |
|                                                       |                                                                                                      | K97 Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. |
|                                                       |                                                                                                      | K98 Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         |
|                                                       |                                                                                                      | K99 Knowledge of principles for choosing points on the front and back to regulate internal Organs.                           |
|                                                       | K118 Knowledge of principles for choosing Mother and Son points (Four Needle Technique).             |                                                                                                                              |
|                                                       | T76 Select points from Yin and Yang channels to balance treatment prescription for patients.         | K88 Knowledge of the clinical actions and indications of points.                                                             |
|                                                       |                                                                                                      | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                                       |
|                                                       |                                                                                                      | K92 Knowledge of principles for combining points from different channels.                                                    |
|                                                       |                                                                                                      | K93 Knowledge of principles for choosing points according to channel theory.                                                 |
|                                                       |                                                                                                      | K97 Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. |
|                                                       |                                                                                                      | K98 Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         |
|                                                       |                                                                                                      | K99 Knowledge of principles for choosing points on the front and back to regulate internal Organs.                           |
|                                                       |                                                                                                      | K104 Knowledge of principles for choosing Front-Mu points in treatment.                                                      |
|                                                       | K105 Knowledge of principles for choosing Back-Shu points in treatment.                              |                                                                                                                              |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                                                       | <i>Task</i>                                                                                               | <i>Associated Knowledge Statement</i>                                                                            |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%)                                                | T77 Select points on patient extremities to treat conditions occurring in the center.                     | K88 Knowledge of the clinical actions and indications of points.                                                 |
|                                                                                                      |                                                                                                           | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                           |
|                                                                                                      |                                                                                                           | K90 Knowledge of principles for combining distal and proximal points.                                            |
|                                                                                                      |                                                                                                           | K101 Knowledge of principles for choosing points on the extremities to treat conditions occurring in the center. |
|                                                                                                      | T78 Select points on patient that are centrally located to treat conditions occurring in the extremities. | K88 Knowledge of the clinical actions and indications of points.                                                 |
|                                                                                                      |                                                                                                           | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                           |
|                                                                                                      |                                                                                                           | K100 Knowledge of principles for choosing points in the center to treat conditions occurring on extremities.     |
|                                                                                                      | T79 Select Ashi points on patients.                                                                       | K88 Knowledge of the clinical actions and indications of points.                                                 |
|                                                                                                      |                                                                                                           | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                           |
|                                                                                                      |                                                                                                           | K91 Knowledge of principles for choosing local points.                                                           |
|                                                                                                      |                                                                                                           | K102 Knowledge of the therapeutic use of Ashi points.                                                            |
|                                                                                                      |                                                                                                           | K103 Knowledge of the therapeutic use of points along the Muscle channels.                                       |
|                                                                                                      | T80 Select points along the Muscle channels.                                                              | K88 Knowledge of the clinical actions and indications of points.                                                 |
|                                                                                                      |                                                                                                           | K89 Knowledge of the interrelationships between points, channels, and internal Organs.                           |
|                                                                                                      |                                                                                                           | K103 Knowledge of the therapeutic use of points along the Muscle channels.                                       |
|                                                                                                      | T81 Select Front-Mu points on patients.                                                                   | K88 Knowledge of the clinical actions and indications of points.                                                 |
| K89 Knowledge of the interrelationships between points, channels, and internal Organs.               |                                                                                                           |                                                                                                                  |
| K104 Knowledge of principles for choosing Front-Mu points in treatment.                              |                                                                                                           |                                                                                                                  |
| K106 Knowledge of principles for combining Front-Mu points and Back-Shu points to balance treatment. |                                                                                                           |                                                                                                                  |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                                                  | <i>Task</i>                                                                         | <i>Associated Knowledge Statement</i>                                                                |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%)                                           | T82 Select Back-Shu points on patients.                                             | K88 Knowledge of the clinical actions and indications of points.                                     |
|                                                                                                 |                                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.               |
|                                                                                                 |                                                                                     | K93 Knowledge of principles for choosing points according to channel theory.                         |
|                                                                                                 |                                                                                     | K105 Knowledge of principles for choosing Back-Shu points in treatment.                              |
|                                                                                                 |                                                                                     | K106 Knowledge of principles for combining Front-Mu points and Back-Shu points to balance treatment. |
|                                                                                                 | T83 Select He-Sea points on patients to connect channels with respective Fu Organs. | K88 Knowledge of the clinical actions and indications of points.                                     |
|                                                                                                 |                                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.               |
|                                                                                                 |                                                                                     | K107 Knowledge of principles for choosing He-Sea points.                                             |
|                                                                                                 | T84 Select Five Shu (Five-Transporting) points on patients.                         | K88 Knowledge of the clinical actions and indications of points.                                     |
|                                                                                                 |                                                                                     | K89 Knowledge of the interrelationships between points, channels, and internal Organs.               |
|                                                                                                 |                                                                                     | K104 Knowledge of principles for choosing Front-Mu points in treatment.                              |
|                                                                                                 |                                                                                     | K105 Knowledge of principles for choosing Back-Shu points in treatment.                              |
|                                                                                                 |                                                                                     | K106 Knowledge of principles for combining Front-Mu points and Back-Shu points to balance treatment. |
|                                                                                                 |                                                                                     | K107 Knowledge of principles for choosing He-Sea points.                                             |
|                                                                                                 | T85 Select Confluent points of the Eight Extraordinary channels on patients.        | K88 Knowledge of the clinical actions and indications of points.                                     |
| K89 Knowledge of the interrelationships between points, channels, and internal Organs.          |                                                                                     |                                                                                                      |
| K109 Knowledge of principles for choosing Confluent points of the Eight Extraordinary channels. |                                                                                     |                                                                                                      |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                                                                   | <i>Task</i>                                                                            | <i>Associated Knowledge Statement</i>                                                  |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%)                                                            | T86 Select Extra points on patients.                                                   | K88 Knowledge of the clinical actions and indications of points.                       |
|                                                                                                                  |                                                                                        | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |
|                                                                                                                  |                                                                                        | K110 Knowledge of principles for choosing Extra points.                                |
|                                                                                                                  | T87 Select Intersecting or Crossing points on patients.                                | K88 Knowledge of the clinical actions and indications of points.                       |
|                                                                                                                  |                                                                                        | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |
|                                                                                                                  |                                                                                        | K111 Knowledge of principles for choosing Intersecting or Crossing points of channels. |
|                                                                                                                  | T88 Select Luo-Connecting points on patients.                                          | K88 Knowledge of the clinical actions and indications of points.                       |
| K89 Knowledge of the interrelationships between points, channels, and internal Organs.                           |                                                                                        |                                                                                        |
| K112 Knowledge of principles for choosing Luo-Connecting points.                                                 |                                                                                        |                                                                                        |
| T89 Select Yuan-Source points on patients.                                                                       | K88 Knowledge of the clinical actions and indications of points.                       |                                                                                        |
|                                                                                                                  | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |                                                                                        |
|                                                                                                                  | K113 Knowledge of principles for choosing Yuan-Source points.                          |                                                                                        |
| T90 Select Xi-Cleft points on patients to treat acute conditions of the related channel or corresponding Organs. | K88 Knowledge of the clinical actions and indications of points.                       |                                                                                        |
|                                                                                                                  | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |                                                                                        |
|                                                                                                                  | K114 Knowledge of principles for choosing Xi-Cleft points.                             |                                                                                        |
| T91 Select Eight Influential points on patients.                                                                 | K88 Knowledge of the clinical actions and indications of points.                       |                                                                                        |
|                                                                                                                  | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |                                                                                        |
|                                                                                                                  | K117 Knowledge of principles for choosing Eight Influential points.                    |                                                                                        |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                    | <i>Task</i>                                                                            | <i>Associated Knowledge Statement</i>                                                  |
|-------------------------------------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture<br>point<br>selection,<br>continued<br>(16%) | T92 Select points to treat muscle or joint mechanism dysfunction.                      | K88 Knowledge of the clinical actions and indications of points.                       |
|                                                                   |                                                                                        | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |
|                                                                   |                                                                                        | K102 Knowledge of the therapeutic use of Ashi points.                                  |
|                                                                   |                                                                                        | K103 Knowledge of the therapeutic use of points along the Muscle channels.             |
|                                                                   |                                                                                        | K120 Knowledge of auricular point selection principles.                                |
|                                                                   |                                                                                        | K121 Knowledge of dermatome map for point selection.                                   |
|                                                                   |                                                                                        | K123 Knowledge of principles and indications for selecting motor points.               |
|                                                                   | K124 Knowledge of principles and indications for selecting trigger points.             |                                                                                        |
|                                                                   | T93 Select points to treat a radiculopathy based on dermatome map.                     | K88 Knowledge of the clinical actions and indications of points.                       |
|                                                                   |                                                                                        | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |
|                                                                   |                                                                                        | K121 Knowledge of dermatome map for point selection.                                   |
|                                                                   | T94 Select scalp points on patients.                                                   | K88 Knowledge of the clinical actions and indications of points.                       |
|                                                                   |                                                                                        | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |
|                                                                   |                                                                                        | K119 Knowledge of scalp point selection principles.                                    |
| T95 Select auricular points on patients.                          | K88 Knowledge of the clinical actions and indications of points.                       |                                                                                        |
|                                                                   | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |                                                                                        |
|                                                                   | K120 Knowledge of auricular point selection principles.                                |                                                                                        |
| T96 Select points according to the Five Elements theory.          | K88 Knowledge of the clinical actions and indications of points.                       |                                                                                        |
|                                                                   | K89 Knowledge of the interrelationships between points, channels, and internal Organs. |                                                                                        |
|                                                                   | K122 Knowledge of point selection using the Five Elements theory.                      |                                                                                        |



03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                   |                                                                                                             | <i>Task</i>                                                                                                 |                                                                              | <i>Associated Knowledge Statement</i>                                                          |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 0301.<br>Acupuncture point selection, continued (16%)            | T97                                                                                                         | Select trigger points on patients.                                                                          | K88                                                                          | Knowledge of the clinical actions and indications of points.                                   |
|                                                                  |                                                                                                             |                                                                                                             | K89                                                                          | Knowledge of the interrelationships between points, channels, and internal Organs.             |
|                                                                  |                                                                                                             |                                                                                                             | K124                                                                         | Knowledge of principles and indications for selecting trigger points.                          |
|                                                                  | T98                                                                                                         | Select motor points on patients.                                                                            | K88                                                                          | Knowledge of the clinical actions and indications of points.                                   |
|                                                                  |                                                                                                             |                                                                                                             | K89                                                                          | Knowledge of the interrelationships between points, channels, and internal Organs.             |
|                                                                  |                                                                                                             |                                                                                                             | K123                                                                         | Knowledge of principles and indications for selecting motor points.                            |
| 0302.<br>Acupuncture point location and needling techniques (8%) | T99                                                                                                         | Locate points for needle insertion on patient by using anatomical landmarks and proportional measurements.  | K125                                                                         | Knowledge of anatomical landmarks and proportional measurements used in point location.        |
|                                                                  |                                                                                                             |                                                                                                             | K129                                                                         | Knowledge of patient positions for locating and needling acupuncture points.                   |
|                                                                  | T100                                                                                                        | Select needle length and gauge according to treatment area, patient characteristics, and patient diagnosis. | K126                                                                         | Knowledge of needle manipulation techniques.                                                   |
|                                                                  |                                                                                                             |                                                                                                             | K130                                                                         | Knowledge of recommended needling depths and angles.                                           |
|                                                                  |                                                                                                             |                                                                                                             | K135                                                                         | Knowledge of principles for selecting needles.                                                 |
|                                                                  | T101                                                                                                        | Identify needle retention time for patients to achieve optimal treatment effects.                           | K127                                                                         | Knowledge of needle retention methods for patterns of disharmony.                              |
|                                                                  |                                                                                                             |                                                                                                             | K128                                                                         | Knowledge of the impact of patient constitution and condition on duration of needle retention. |
|                                                                  |                                                                                                             |                                                                                                             | K134                                                                         | Knowledge of potential side effects of acupuncture treatment.                                  |
| T102                                                             | Select needle length and gauge according to treatment area, patient characteristics, and patient diagnosis. | K126                                                                                                        | Knowledge of needle manipulation techniques.                                 |                                                                                                |
|                                                                  |                                                                                                             | K129                                                                                                        | Knowledge of patient positions for locating and needling acupuncture points. |                                                                                                |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                              | <i>Task</i>                                                                                                          | <i>Associated Knowledge Statement</i>                                                               |
|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| 0302.<br>Acupuncture point location and needling techniques, continued (8%) | T103 Insert needle within standard depth range to stimulate point on patients.                                       | K115 Knowledge of the therapeutic use of tonification and sedation techniques.                      |
|                                                                             |                                                                                                                      | K130 Knowledge of recommended needling depths and angles.                                           |
|                                                                             |                                                                                                                      | K133 Knowledge of points and patient conditions that require needling with caution.                 |
|                                                                             |                                                                                                                      | K135 Knowledge of principles for selecting needles.                                                 |
|                                                                             | T104 Insert needle using recommended insertion angle.                                                                | K130 Knowledge of recommended needling depths and angles.                                           |
|                                                                             | T105 Manipulate needle to produce therapeutic effect in patients.                                                    | K115 Knowledge of the therapeutic use of tonification and sedation techniques.                      |
|                                                                             |                                                                                                                      | K126 Knowledge of needle manipulation techniques.                                                   |
|                                                                             | T106 Identify contraindications for needling by evaluating patient condition to avoid injury and complications.      | K126 Knowledge of needle manipulation techniques.                                                   |
|                                                                             |                                                                                                                      | K128 Knowledge of the impact of patient constitution and condition on duration of needle retention. |
|                                                                             |                                                                                                                      | K130 Knowledge of recommended needling depths and angles.                                           |
|                                                                             |                                                                                                                      | K132 Knowledge of points and patient conditions that are contraindicated for needling.              |
|                                                                             | T107 Identify points that require needling with caution (e.g., points located near arteries) to avoid complications. | K134 Knowledge of potential side effects of acupuncture treatment.                                  |
|                                                                             |                                                                                                                      | K130 Knowledge of recommended needling depths and angles.                                           |
|                                                                             |                                                                                                                      | K133 Knowledge of points and patient conditions that require needling with caution.                 |
|                                                                             | K134 Knowledge of potential side effects of acupuncture treatment.                                                   |                                                                                                     |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                                          | <i>Task</i>                                                                                                                                               | <i>Associated Knowledge Statement</i>                                                  |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 0302.<br>Acupuncture<br>point location<br>and needling<br>techniques,<br>continued (8%) | T108 Monitor patients before, during, and after treatment for adverse reactions and comfort level.                                                        | K130 Knowledge of recommended needling depths and angles.                              |
|                                                                                         |                                                                                                                                                           | K131 Knowledge of signs and symptoms of patient distress.                              |
|                                                                                         |                                                                                                                                                           | K132 Knowledge of points and patient conditions that are contraindicated for needling. |
|                                                                                         |                                                                                                                                                           | K133 Knowledge of points and patient conditions that require needling with caution.    |
|                                                                                         |                                                                                                                                                           | K134 Knowledge of potential side effects of acupuncture treatment.                     |
| 0303.<br>Adjunct<br>treatment<br>modalities (5%)                                        | T109 Apply moxibustion techniques on patients to treat indicated conditions.                                                                              | K136 Knowledge of moxibustion (i.e., direct and indirect) techniques.                  |
|                                                                                         |                                                                                                                                                           | K137 Knowledge of indications, contraindications, and side effects of moxibustion.     |
|                                                                                         | T112 Perform electrotherapy (e.g., electroacupuncture, electrostimulation, TENS) on patients to enhance effectiveness of treatment for select conditions. | K142 Knowledge of electrotherapy techniques.                                           |
|                                                                                         |                                                                                                                                                           | K143 Knowledge of indications, contraindications, and side effects of electrotherapy.  |
|                                                                                         | T113 Perform cupping techniques on patients to treat indicated conditions.                                                                                | K144 Knowledge of cupping techniques.                                                  |
|                                                                                         |                                                                                                                                                           | K145 Knowledge of indications, contraindications, and side effects of cupping.         |
|                                                                                         | T114 Perform Gua Sha techniques to treat indicated conditions.                                                                                            | K146 Knowledge of Gua Sha techniques.                                                  |
|                                                                                         |                                                                                                                                                           | K147 Knowledge of indications, contraindications, and side effects of Gua Sha.         |
|                                                                                         | T115 Perform manual therapy (e.g., Tui Na, acupressure) on patients to treat indicated conditions.                                                        | K148 Knowledge of manual therapy techniques.                                           |
|                                                                                         |                                                                                                                                                           | K149 Knowledge of indications, contraindications, and side effects of manual therapy.  |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                 | <i>Task</i>                                                                                                                     | <i>Associated Knowledge Statement</i>                                                                                                                                             |
|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 0303.<br>Adjunct<br>treatment<br>modalities,<br>continued (5%) | T116 Perform heat therapy (e.g., infrared light, heat pad) to treat indicated conditions.                                       | K150 Knowledge of heat therapy techniques.<br>K151 Knowledge of indications, contraindications, and side effects of heat therapy.                                                 |
|                                                                | T117 Apply ear seeds to treat indicated conditions.                                                                             | K152 Knowledge of the application of ear seeds.<br>K153 Knowledge of indications, contraindications, and side effects of ear seeds application.                                   |
|                                                                | T120 Educate patients regarding therapeutic exercises to treat indicated conditions.                                            | K158 Knowledge of lifestyle changes and stress reduction techniques that improve health condition.<br>K159 Knowledge of therapeutic exercises to support patient treatment goals. |
|                                                                | T121 Educate patients regarding diet and nutrition to support treatment.                                                        | K160 Knowledge of dietary modifications to support patient treatment goals.                                                                                                       |
|                                                                | T122 Educate patients regarding lifestyle changes (e.g., Qi Gong exercise, ergonomics, meditation) to improve health condition. | K158 Knowledge of lifestyle changes and stress reduction techniques that improve health condition.                                                                                |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                   | <i>Task</i>                                                                                         | <i>Associated Knowledge Statement</i>                                                                              |
|----------------------------------|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal therapy<br>(15%) | T123                                                                                                | K161 Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                  |                                                                                                     | K162 Knowledge of categories of herbs and herbal formulas.                                                         |
|                                  | T124                                                                                                | K163 Knowledge of the effects of herbs and herbal formulas on channels and Organs.                                 |
|                                  |                                                                                                     | K164 Knowledge of modifications of herbal formulas.                                                                |
|                                  | T125                                                                                                | K165 Knowledge of the synergistic and antagonist relationships of ingredients in herbal formulas.                  |
|                                  |                                                                                                     | K166 Knowledge of the hierarchical principles governing herbal formulas.                                           |
|                                  |                                                                                                     | K167 Knowledge of the association between therapeutic effects of points and herbal therapy.                        |
|                                  |                                                                                                     | K168 Knowledge of interactions between herbal therapies, supplements, and Western medications.                     |
|                                  |                                                                                                     | K169 Knowledge of cautions and contraindications related to herbs and herbal formulas.                             |
|                                  |                                                                                                     | K170 Knowledge of interactions between diet and herbal therapies.                                                  |
|                                  | K171 Knowledge of effective dosages of herbs and herbal supplements.                                |                                                                                                                    |
|                                  | K172 Knowledge of the principles and guidelines for herbal formula preparation.                     |                                                                                                                    |
|                                  | K173 Knowledge of the relationships between herbal formulas and treatment principles.               |                                                                                                                    |
|                                  | K174 Knowledge of herbs and combinations of herbs that are toxic or produce undesired side effects. |                                                                                                                    |

03. Treatment (44%) - This area assesses the practitioner's knowledge of using acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                              |                                                                                      | <i>Task</i>                                                                                                    |                                                                                                               | <i>Associated Knowledge Statement</i>                                                                         |
|---------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal therapy,<br>continued (15%) | T125,<br>cont'd                                                                      | Select or develop herbal therapies that complement patient acupuncture treatments.                             | K175                                                                                                          | Knowledge of methods for modifying herbal formulas to treat changes in patient condition.                     |
|                                             |                                                                                      |                                                                                                                | K176                                                                                                          | Knowledge of the effects of processing on efficacy and toxicity of herbs.                                     |
|                                             |                                                                                      |                                                                                                                | K177                                                                                                          | Knowledge of forms (e.g., raw, granules, pill) used for administering herbs.                                  |
|                                             |                                                                                      |                                                                                                                | K178                                                                                                          | Knowledge of herbal formula recommendations based upon patient constitution.                                  |
|                                             | T126                                                                                 | Instruct patients on use of herbs (e.g., dosage, cooking, application) to produce intended therapeutic effect. | K161                                                                                                          | Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                             |                                                                                      |                                                                                                                | K167                                                                                                          | Knowledge of the association between therapeutic effects of points and herbal therapy.                        |
|                                             |                                                                                      |                                                                                                                | K171                                                                                                          | Knowledge of effective dosages of herbs and herbal supplements.                                               |
|                                             |                                                                                      |                                                                                                                | K172                                                                                                          | Knowledge of the principles and guidelines for herbal formula preparation.                                    |
|                                             |                                                                                      |                                                                                                                | K173                                                                                                          | Knowledge of the relationships between herbal formulas and treatment principles.                              |
|                                             |                                                                                      |                                                                                                                | K176                                                                                                          | Knowledge of the effects of processing on efficacy and toxicity of herbs.                                     |
| T127                                        | Identify herbal therapy with similar or complementary action to Western medications. | K161                                                                                                           | Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |                                                                                                               |
|                                             |                                                                                      | K162                                                                                                           | Knowledge of categories of herbs and herbal formulas.                                                         |                                                                                                               |
|                                             |                                                                                      | K163                                                                                                           | Knowledge of the effects of herbs and herbal formulas on channels and Organs.                                 |                                                                                                               |
|                                             |                                                                                      | K168                                                                                                           | Knowledge of interactions between herbal therapies, supplements, and Western medications.                     |                                                                                                               |

03. Treatment (44%) - This area assesses the practitioner's knowledge of using acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                                                                  | <i>Task</i>                                                                                                     | <i>Associated Knowledge Statement</i>                                                                              |
|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal therapy,<br>continued (15%)                                                     | T128 Identify herbal therapy contraindications for the patient.                                                 | K161 Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                                                                                 |                                                                                                                 | K168 Knowledge of interactions between herbal therapies, supplements, and Western medications.                     |
|                                                                                                 |                                                                                                                 | K169 Knowledge of cautions and contraindications related to herbs and herbal formulas.                             |
|                                                                                                 |                                                                                                                 | K170 Knowledge of interactions between diet and herbal therapies.                                                  |
|                                                                                                 |                                                                                                                 | K171 Knowledge of effective dosages of herbs and herbal supplements.                                               |
|                                                                                                 |                                                                                                                 | K173 Knowledge of the relationships between herbal formulas and treatment principles.                              |
|                                                                                                 | T129 Identify contraindications for herbs when combined with Western medications to avoid adverse interactions. | K161 Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                                                                                 |                                                                                                                 | K168 Knowledge of interactions between herbal therapies, supplements, and Western medications.                     |
|                                                                                                 |                                                                                                                 | K169 Knowledge of cautions and contraindications related to herbs and herbal formulas.                             |
|                                                                                                 | T130 Monitor and evaluate patient response to herbal therapy.                                                   | K169 Knowledge of cautions and contraindications related to herbs and herbal formulas.                             |
|                                                                                                 |                                                                                                                 | K174 Knowledge of herbs and combinations of herbs that are toxic or produce undesired side effects.                |
|                                                                                                 |                                                                                                                 | K175 Knowledge of methods for modifying herbal formulas to treat changes in patient condition.                     |
|                                                                                                 |                                                                                                                 | K178 Knowledge of herbal formula recommendations based upon patient constitution.                                  |
| T131 Monitor effects of herbs when combined with Western medications to determine interactions. | K168 Knowledge of interactions between herbal therapies, supplements, and Western medications.                  |                                                                                                                    |
|                                                                                                 | K169 Knowledge of cautions and contraindications related to herbs and herbal formulas.                          |                                                                                                                    |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                              |      | <i>Task</i>                                                                          |      | <i>Associated Knowledge Statement</i>                                                          |
|---------------------------------------------|------|--------------------------------------------------------------------------------------|------|------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal therapy,<br>continued (15%) | T132 | Determine effective dosage of herbal therapy by evaluating patient condition.        | K171 | Knowledge of effective dosages of herbs and herbal supplements.                                |
|                                             |      |                                                                                      | K175 | Knowledge of methods for modifying herbal formulas to treat changes in patient condition.      |
|                                             |      |                                                                                      | K176 | Knowledge of the effects of processing on efficacy and toxicity of herbs.                      |
|                                             |      |                                                                                      | K178 | Knowledge of herbal formula recommendations based upon patient constitution.                   |
|                                             | T133 | Modify herbal prescription for patients based on patient response to herbal therapy. | K162 | Knowledge of categories of herbs and herbal formulas.                                          |
|                                             |      |                                                                                      | K163 | Knowledge of the effects of herbs and herbal formulas on channels and Organs.                  |
|                                             |      |                                                                                      | K164 | Knowledge of modifications of herbal formulas.                                                 |
|                                             |      |                                                                                      | K165 | Knowledge of the synergistic and antagonist relationships of ingredients in herbal formulas.   |
|                                             |      |                                                                                      | K166 | Knowledge of the hierarchical principles governing herbal formulas.                            |
|                                             |      |                                                                                      | K169 | Knowledge of cautions and contraindications related to herbs and herbal formulas.              |
|                                             |      |                                                                                      | K172 | Knowledge of the principles and guidelines for herbal formula preparation.                     |
|                                             |      |                                                                                      | K173 | Knowledge of the relationships between herbal formulas and treatment principles.               |
|                                             |      |                                                                                      | K174 | Knowledge of herbs and combinations of herbs that are toxic or produce undesired side effects. |
|                                             |      |                                                                                      | K175 | Knowledge of methods for modifying herbal formulas to treat changes in patient condition.      |
|                                             |      |                                                                                      | K177 | Knowledge of forms (e.g., raw, granules, pill) used for administering herbs.                   |
|                                             |      |                                                                                      | K178 | Knowledge of herbal formula recommendations based upon patient constitution.                   |



03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                    | <i>Task</i> | <i>Associated Knowledge Statement</i>                                                       |                                                                              |                                                                                                               |
|---------------------------------------------------|-------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal<br>therapy,<br>continued<br>(15%) | T134        | K177                                                                                        | Knowledge of forms (e.g., raw, granules, pill) used for administering herbs. |                                                                                                               |
|                                                   |             | K178                                                                                        | Knowledge of herbal formula recommendations based upon patient constitution. |                                                                                                               |
|                                                   | T135        | Inspect raw herbs for authenticity and purity (e.g., appearance, taste, smell, texture).    | K179                                                                         | Knowledge of methods for ensuring authenticity and purity of raw herbs.                                       |
|                                                   | T136        | Obtain certificate of authenticity for herbs from the manufacturer.                         |                                                                              |                                                                                                               |
|                                                   | T137        | Label packaging containing herbal prescriptions following legal guidelines for supplements. | K179                                                                         | Knowledge of methods for ensuring authenticity and purity of raw herbs.                                       |
|                                                   |             |                                                                                             | K180                                                                         | Knowledge of requirements for labeling of containers used for storing or dispensing of herbal preparations.   |
|                                                   | T138        | Provide information about the herbal therapy prescriptions to patients.                     | K161                                                                         | Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                                   |             |                                                                                             | K172                                                                         | Knowledge of the principles and guidelines for herbal formula preparation.                                    |
|                                                   |             |                                                                                             | K177                                                                         | Knowledge of forms (e.g., raw, granules, pill) used for administering herbs.                                  |
|                                                   |             |                                                                                             | K178                                                                         | Knowledge of herbal formula recommendations based upon patient constitution.                                  |
|                                                   |             | K179                                                                                        | Knowledge of methods for ensuring authenticity and purity of raw herbs.      |                                                                                                               |

03. Treatment (44%) - This area assesses the practitioner's knowledge of acupuncture, herbal therapy, and adjunct modalities to treat the patient's health imbalance.

| <i>Subarea</i>                                 | <i>Task</i>                                         | <i>Associated Knowledge Statement</i>                                                                              |
|------------------------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 0304.<br>Herbal therapy,<br>continued<br>(15%) | T139 Prepare raw herbs following safety guidelines. | K161 Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. |
|                                                |                                                     | K162 Knowledge of categories of herbs and herbal formulas.                                                         |
|                                                |                                                     | K176 Knowledge of the effects of processing on efficacy and toxicity of herbs.                                     |
|                                                |                                                     | K179 Knowledge of methods for ensuring authenticity and purity of raw herbs.                                       |
|                                                |                                                     | K180 Knowledge of requirements for labeling of containers used for storing or dispensing of herbal preparations.   |

04. Professional responsibilities (11%) - This area assesses the practitioner's knowledge of legal requirements, ethical guidelines, and professional standards related to the acupuncturist profession in California.

| <i>Subarea</i>                                                                | <i>Task</i>                                                                            |                                                                                                                        | <i>Associated Knowledge Statement</i>                                                                                                       |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 0401. Records, confidentiality, mandated reporting, and informed consent (3%) | T140                                                                                   | Document assessment, treatment, and patient response to treatment in accordance with legal and professional standards. | K181 Knowledge of legal requirements and professional standards pertaining to documentation of assessment, treatment, and patient response. |
|                                                                               | T141                                                                                   | Maintain patient records in accordance with legal requirements.                                                        | K182 Knowledge of professional standards for writing medical records and reports.                                                           |
|                                                                               |                                                                                        |                                                                                                                        | K183 Knowledge of legal requirements pertaining to maintenance and retention of patient records.                                            |
|                                                                               | T142                                                                                   | Maintain patient privacy and confidentiality in accordance with legal requirements.                                    | K184 Knowledge of legal requirements pertaining to confidentiality of patient information (i.e., HIPAA).                                    |
|                                                                               |                                                                                        |                                                                                                                        | K185 Knowledge of legal requirements pertaining to disclosure of patient information.                                                       |
|                                                                               |                                                                                        |                                                                                                                        | K186 Knowledge of legal requirements pertaining to reporting of child, elder, and dependent adult abuse and neglect.                        |
|                                                                               |                                                                                        |                                                                                                                        | K187 Knowledge of legal requirements pertaining to reporting of communicable disease.                                                       |
|                                                                               | T143                                                                                   | Identify and report cases of known or suspected abuse and neglect.                                                     | K186 Knowledge of legal requirements pertaining to reporting of child, elder, and dependent adult abuse and neglect.                        |
|                                                                               |                                                                                        |                                                                                                                        | K188 Knowledge of indicators of child, elder, and dependent adult abuse and neglect.                                                        |
|                                                                               | T144                                                                                   | Identify and report cases of communicable disease.                                                                     | K187 Knowledge of legal requirements pertaining to reporting of communicable disease.                                                       |
| T145                                                                          | Obtain informed consent for treatment in accordance with legal and ethical guidelines. | K189 Knowledge of legal and ethical requirements pertaining to informed consent.                                       |                                                                                                                                             |
| T146                                                                          | Assess patient capacity to make health care decisions.                                 | K190 Knowledge of methods to assess patient capacity to make health care decisions.                                    |                                                                                                                                             |

04. Professional responsibilities (11%) - This area assesses the practitioner's knowledge of legal requirements, ethical guidelines, and professional standards related to the acupuncturist profession in California.

| <i>Subarea</i>                                           |      | <i>Task</i>                                                                                       |      | <i>Associated Knowledge Statement</i>                                                                                                        |
|----------------------------------------------------------|------|---------------------------------------------------------------------------------------------------|------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 0402.<br>Infection control and environmental safety (4%) | T147 | Implement standard procedures to prevent disease transmission and minimize risk of infection.     | K191 | Knowledge of infection control guidelines.                                                                                                   |
|                                                          |      |                                                                                                   | K192 | Knowledge of the risks of infectious diseases in the practitioner and patient environment.                                                   |
|                                                          | T148 | Implement measures to safely perform acupuncture and adjunct treatments on patients.              | K193 | Knowledge of standards and procedures for the Clean Needle Technique.                                                                        |
|                                                          | T149 | Practice clean needle techniques.                                                                 | K194 | Knowledge of legal requirements for maintaining clinical environments in accordance with OSHA requirements and clinical standards.           |
|                                                          | T150 | Maintain a clinical environment that adheres to OSHA requirements and clinical standards.         |      |                                                                                                                                              |
|                                                          | T151 | Dispose of needles, contaminated material, and containers in accordance with Cal/OSHA guidelines. | K195 | Knowledge of methods for isolating used needles.                                                                                             |
|                                                          |      |                                                                                                   | K196 | Knowledge of legal requirements for disposal of contaminated materials                                                                       |
| 0403.<br>Professional conduct and ethics (4%)            | T152 | Recognize situations and behaviors that may impair ability to practice safely and competently.    | K197 | Knowledge of methods to assess patient capacity to make health care decisions.                                                               |
|                                                          | T153 | Comply with the acupuncturist legal scope of practice.                                            | K198 | Knowledge of laws and regulations pertaining to unprofessional conduct for California-licensed acupuncturists.                               |
|                                                          | T154 | Develop advertisements regarding services provided in accordance with legal guidelines.           | K199 | Knowledge of legal requirements pertaining to advertisement and dissemination of information about professional qualifications and services. |
|                                                          | T155 | Recognize situations and behaviors that constitute unprofessional conduct.                        | K198 | Knowledge of laws and regulations pertaining to unprofessional conduct for California-licensed acupuncturists.                               |

04. Professional responsibilities (11%) - This area assesses the practitioner's knowledge of legal requirements, ethical guidelines, and professional standards related to the acupuncturist profession in California.

| <i>Subarea</i>                                           | <i>Task</i> |                                                                                                                 | <i>Associated Knowledge Statement</i>                                             |
|----------------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 0403.<br>Professional conduct and ethics, continued (4%) | T156        | Recognize and evaluate potential conflict of interest situations for impact on patients or therapeutic process. | K200 Knowledge of ethical and professional standards for licensed acupuncturists. |
|                                                          | T157        | Establish and maintain professional boundaries.                                                                 |                                                                                   |
|                                                          | T158        | Safeguard patient rights to dignity.                                                                            |                                                                                   |

## CHAPTER 6 | CONCLUSION

The OA of the acupuncturist profession described in this report provides a comprehensive description of current acupuncturist practice in California. The procedures employed to perform the OA were based upon a content validation strategy to ensure that the results accurately represent acupuncturist practice.

Use of the CALE content outline included in this report ensures that the Board is compliant with Business and Professions Code §139.

This report provides all documentation necessary to verify that the analysis has been completed in accordance with legal, professional, and technical standards.



**APPENDIX A | RESPONDENTS BY REGION**



## LOS ANGELES COUNTY AND VICINITY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Los Angeles               | 851              |
| Orange                    | 299              |
| <b>TOTAL</b>              | <b>1,150</b>     |

## SAN FRANCISCO BAY AREA

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Alameda                   | 207              |
| Contra Costa              | 49               |
| Marin                     | 57               |
| Napa                      | 5                |
| San Francisco             | 163              |
| San Mateo                 | 73               |
| Santa Clara               | 245              |
| Santa Cruz                | 59               |
| Solano                    | 9                |
| <b>TOTAL</b>              | <b>867</b>       |

## SAN JOAQUIN VALLEY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Fresno                    | 9                |
| Kern                      | 9                |
| Kings                     | 1                |
| Madera                    | 1                |
| San Joaquin               | 10               |
| Stanislaus                | 7                |
| Tulare                    | 1                |
| <b>TOTAL</b>              | <b>38</b>        |

## SACRAMENTO VALLEY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Butte                     | 10               |
| Lake                      | 2                |
| Sacramento                | 38               |
| Yolo                      | 4                |
| Yuba                      | 1                |
| <b>TOTAL</b>              | <b>55</b>        |

## SAN DIEGO COUNTY AND VICINITY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Imperial                  | 3                |
| San Diego                 | 302              |
| <b>TOTAL</b>              | <b>305</b>       |

## SHASTA AND CASCADE

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Plumas                    | 1                |
| Shasta                    | 5                |
| Siskiyou                  | 2                |
| <b>TOTAL</b>              | <b>8</b>         |

## RIVERSIDE AND VICINITY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Riverside                 | 42               |
| San Bernardino            | 58               |
| <b>TOTAL</b>              | <b>100</b>       |

## SIERRA MOUNTAIN VALLEY

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Calaveras                 | 2                |
| El Dorado                 | 13               |
| Inyo                      | 2                |
| Mariposa                  | 2                |
| Nevada                    | 10               |
| Placer                    | 22               |
| Tuolumne                  | 1                |
| <b>TOTAL</b>              | <b>52</b>        |

## NORTH COAST

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Humboldt                  | 12               |
| Mendocino                 | 18               |
| Sonoma                    | 57               |
| <b>TOTAL</b>              | <b>87</b>        |

## SOUTH AND CENTRAL COAST

| <b>County of Practice</b> | <b>Frequency</b> |
|---------------------------|------------------|
| Monterey                  | 22               |
| San Benito                | 2                |
| San Luis Obispo           | 23               |
| Santa Barbara             | 33               |
| Ventura                   | 53               |
| <b>TOTAL</b>              | <b>133</b>       |

**APPENDIX B | TASK CRITICALITY INDICES**

| <b>Task Number</b> | <b>Task</b>                                                                                                            | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 151                | Dispose of needles, contaminated material, and containers in accordance with Cal/OSHA guidelines.                      | 4.87                   | 4.82                  | 23.63                         |
| 149                | Practice clean needle techniques.                                                                                      | 4.86                   | 4.80                  | 23.59                         |
| 153                | Comply with the acupuncturist legal scope of practice.                                                                 | 4.84                   | 4.76                  | 23.19                         |
| 1                  | Identify patient's chief complaint.                                                                                    | 4.86                   | 4.73                  | 23.18                         |
| 142                | Maintain patient privacy and confidentiality in accordance with legal requirements.                                    | 4.83                   | 4.76                  | 23.16                         |
| 150                | Maintain a clinical environment that adheres to OSHA requirements and clinical standards.                              | 4.79                   | 4.73                  | 22.91                         |
| 148                | Implement measures to safely perform acupuncture and adjunct treatments on patients.                                   | 4.76                   | 4.73                  | 22.76                         |
| 158                | Safeguard patient rights to dignity.                                                                                   | 4.75                   | 4.74                  | 22.74                         |
| 147                | Implement standard procedures to prevent disease transmission and minimize risk of infection.                          | 4.70                   | 4.72                  | 22.57                         |
| 141                | Maintain patient records in accordance with legal requirements.                                                        | 4.77                   | 4.65                  | 22.38                         |
| 157                | Establish and maintain professional boundaries.                                                                        | 4.71                   | 4.68                  | 22.27                         |
| 145                | Obtain informed consent for treatment in accordance with legal and ethical guidelines.                                 | 4.64                   | 4.64                  | 22.00                         |
| 107                | Identify points that require needling with caution (e.g., points located near arteries) to avoid complications.        | 4.61                   | 4.65                  | 21.84                         |
| 140                | Document assessment, treatment, and patient response to treatment in accordance with legal and professional standards. | 4.68                   | 4.58                  | 21.75                         |
| 3                  | Collect information about patient health history.                                                                      | 4.70                   | 4.49                  | 21.40                         |
| 108                | Monitor patients before, during, and after treatment for adverse reactions and comfort level.                          | 4.61                   | 4.55                  | 21.38                         |
| 106                | Identify contraindications for needling by evaluating patient condition to avoid injury and complications.             | 4.56                   | 4.57                  | 21.36                         |
| 52                 | Modify treatment plans based on patient response to treatment.                                                         | 4.54                   | 4.46                  | 20.64                         |
| 51                 | Evaluate patient progress during follow-up visit to determine adjustments to treatment plans.                          | 4.54                   | 4.43                  | 20.52                         |
| 68                 | Explain treatment procedures to patients before starting treatment.                                                    | 4.56                   | 4.40                  | 20.43                         |
| 30                 | Assess level, nature, locations, and frequency of pain to inform pattern differentiation.                              | 4.49                   | 4.35                  | 20.17                         |

| <b>Task Number</b> | <b>Task</b>                                                                                                                                     | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 67                 | Communicate with patients about treatment plan and possible outcomes.                                                                           | 4.48                   | 4.33                  | 19.79                         |
| 152                | Recognize situations and behaviors that may impair ability to practice safely and competently.                                                  | 4.16                   | 4.61                  | 19.71                         |
| 104                | Insert needle using recommended insertion angle.                                                                                                | 4.40                   | 4.31                  | 19.62                         |
| 36                 | Interpret and integrate assessment findings (e.g., pulse, tongue, history, channel, diagnostic test results) to inform pattern differentiation. | 4.39                   | 4.30                  | 19.58                         |
| 102                | Place patients into recommended position for needle insertion.                                                                                  | 4.42                   | 4.28                  | 19.50                         |
| 100                | Select needle length and gauge according to treatment area, patient characteristics, and patient diagnosis.                                     | 4.38                   | 4.27                  | 19.40                         |
| 103                | Insert needle within standard depth range to stimulate point on patients.                                                                       | 4.38                   | 4.27                  | 19.36                         |
| 11                 | Identify lifestyle factors influencing health.                                                                                                  | 4.39                   | 4.25                  | 19.13                         |
| 69                 | Develop a point prescription based on treatment principles.                                                                                     | 4.32                   | 4.20                  | 18.86                         |
| 99                 | Locate points for needle insertion on patient by using anatomical landmarks and proportional measurements.                                      | 4.30                   | 4.19                  | 18.86                         |
| 70                 | Select distal and/or proximal points.                                                                                                           | 4.38                   | 4.16                  | 18.86                         |
| 17                 | Identify gastrointestinal signs and symptoms (e.g., characteristics of bowel movements, pain) indicating health imbalance.                      | 4.33                   | 4.17                  | 18.68                         |
| 12                 | Identify patient sleep patterns to inform pattern differentiation.                                                                              | 4.36                   | 4.16                  | 18.67                         |
| 32                 | Assess patient pulse to inform pattern differentiation.                                                                                         | 4.27                   | 4.12                  | 18.46                         |
| 39                 | Identify affected channels.                                                                                                                     | 4.23                   | 4.13                  | 18.23                         |
| 50                 | Prioritize treatment principles and management of presenting problems.                                                                          | 4.22                   | 4.12                  | 18.13                         |
| 6                  | Assess emotional health to inform pattern differentiation.                                                                                      | 4.26                   | 4.09                  | 18.12                         |
| 101                | Identify needle retention time for patients to achieve optimal treatment effects.                                                               | 4.24                   | 4.09                  | 18.01                         |
| 57                 | Identify pharmaceuticals that the patient is taking.                                                                                            | 4.16                   | 4.13                  | 18.00                         |
| 66                 | Communicate assessment findings and diagnosis to patients.                                                                                      | 4.26                   | 4.08                  | 17.95                         |
| 71                 | Select local points along the affected Meridian.                                                                                                | 4.24                   | 4.07                  | 17.93                         |

| <b>Task Number</b> | <b>Task</b>                                                                                                                | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|----------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 31                 | Assess patient tongue body and coating to inform pattern differentiation.                                                  | 4.17                   | 4.08                  | 17.91                         |
| 13                 | Identify dietary habits to inform pattern differentiation.                                                                 | 4.21                   | 4.08                  | 17.80                         |
| 146                | Assess patient capacity to make health care decisions.                                                                     | 3.93                   | 4.26                  | 17.74                         |
| 4                  | Identify supplements and herbs that the patient is taking.                                                                 | 4.26                   | 3.98                  | 17.61                         |
| 130                | Monitor and evaluate patient response to herbal therapy.                                                                   | 3.94                   | 4.07                  | 17.53                         |
| 121                | Educate patients regarding diet and nutrition to support treatment.                                                        | 4.13                   | 4.08                  | 17.50                         |
| 37                 | Identify primary disharmony patterns by prioritizing patient signs and symptoms.                                           | 4.11                   | 4.03                  | 17.49                         |
| 122                | Educate patients regarding lifestyle changes (e.g., Qi Gong exercise, ergonomics, meditation) to improve health condition. | 4.11                   | 4.05                  | 17.39                         |
| 10                 | Identify external factors (e.g., stress, pollutants, noise, climate) influencing health.                                   | 4.17                   | 4.01                  | 17.39                         |
| 33                 | Palpate areas of body or channels to inform pattern differentiation.                                                       | 4.08                   | 3.99                  | 17.21                         |
| 79                 | Select Ashi points on patients.                                                                                            | 4.17                   | 3.95                  | 17.17                         |
| 155                | Recognize situations and behaviors that constitute unprofessional conduct.                                                 | 3.66                   | 4.48                  | 17.14                         |
| 48                 | Develop treatment principles (e.g., tonify, sedate, harmonize) for patients.                                               | 4.05                   | 3.96                  | 17.12                         |
| 49                 | Develop treatment plans by applying treatment principle (e.g., tonify, sedate, harmonize).                                 | 4.01                   | 3.94                  | 16.90                         |
| 7                  | Evaluate level and quality of Qi to inform pattern differentiation.                                                        | 4.06                   | 3.91                  | 16.85                         |
| 19                 | Identify signs and symptoms of gynecological and reproductive systems indicating health imbalance.                         | 4.02                   | 3.93                  | 16.75                         |
| 129                | Identify contraindications for herbs when combined with Western medications to avoid adverse interactions.                 | 3.74                   | 4.06                  | 16.72                         |
| 65                 | Educate patients regarding differences between Traditional Chinese Medicine and Western medicine.                          | 4.07                   | 3.91                  | 16.66                         |
| 156                | Recognize and evaluate potential conflict of interest situations for impact on patients or therapeutic process.            | 3.62                   | 4.33                  | 16.58                         |
| 128                | Identify herbal therapy contraindications for the patient.                                                                 | 3.74                   | 4.00                  | 16.48                         |
| 132                | Determine effective dosage of herbal therapy by evaluating patient condition.                                              | 3.78                   | 3.93                  | 16.42                         |

| <b>Task Number</b> | <b>Task</b>                                                                                                                        | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 40                 | Identify Root and Branch condition.                                                                                                | 3.90                   | 3.88                  | 16.32                         |
| 133                | Modify herbal prescription for patients based on patient response to herbal therapy.                                               | 3.73                   | 3.94                  | 16.29                         |
| 9                  | Assess patient physical characteristics to inform pattern differentiation.                                                         | 4.03                   | 3.82                  | 16.26                         |
| 35                 | Evaluate patient data to determine whether additional information is needed.                                                       | 3.99                   | 3.85                  | 16.20                         |
| 20                 | Identify respiratory signs and symptoms indicating health imbalance.                                                               | 3.96                   | 3.88                  | 16.12                         |
| 5                  | Identify signs and symptoms associated with use of supplements and herbs.                                                          | 3.93                   | 3.84                  | 16.06                         |
| 105                | Manipulate needle to produce therapeutic effect in patients.                                                                       | 3.91                   | 3.85                  | 16.00                         |
| 116                | Perform heat therapy (e.g., infrared light, heat pad) to treat indicated conditions.                                               | 3.99                   | 3.70                  | 15.96                         |
| 72                 | Select points from different channels to treat Root and Branch.                                                                    | 3.89                   | 3.82                  | 15.95                         |
| 131                | Monitor effects of herbs when combined with Western medications to determine interactions.                                         | 3.63                   | 3.92                  | 15.93                         |
| 58                 | Identify signs and symptoms associated with the use of pharmaceuticals.                                                            | 3.79                   | 3.93                  | 15.84                         |
| 23                 | Identify cardiovascular signs and symptoms indicating health imbalance.                                                            | 3.85                   | 3.88                  | 15.81                         |
| 138                | Provide information about the herbal therapy prescriptions to patients.                                                            | 3.71                   | 3.78                  | 15.76                         |
| 42                 | Identify Zang Fu disharmony patterns.                                                                                              | 3.84                   | 3.77                  | 15.71                         |
| 126                | Instruct patients on use of herbs (e.g., dosage, cooking, application) to produce intended therapeutic effect.                     | 3.65                   | 3.82                  | 15.70                         |
| 92                 | Select points to treat muscle or joint mechanism dysfunction.                                                                      | 3.89                   | 3.79                  | 15.68                         |
| 8                  | Assess Shen to inform pattern differentiation.                                                                                     | 3.87                   | 3.75                  | 15.66                         |
| 56                 | Identify signs and symptoms that require emergency management.                                                                     | 3.42                   | 4.36                  | 15.63                         |
| 64                 | Translate Traditional Chinese Medicine diagnostic concepts into common Western terminology for patients and health care providers. | 3.85                   | 3.73                  | 15.42                         |
| 18                 | Identify genitourinary signs and symptoms indicating health imbalance.                                                             | 3.83                   | 3.72                  | 15.17                         |



| <b>Task Number</b> | <b>Task</b>                                                                                                                                         | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 82                 | Select Back-Shu points on patients.                                                                                                                 | 3.81                   | 3.72                  | 15.15                         |
| 53                 | Identify a measurable metric for assessing treatment efficacy (e.g., outcome measures, questionnaires).                                             | 3.72                   | 3.75                  | 15.14                         |
| 77                 | Select points on patient extremities to treat conditions occurring in the center.                                                                   | 3.81                   | 3.67                  | 15.05                         |
| 25                 | Assess fever and chills to inform pattern differentiation.                                                                                          | 3.69                   | 3.75                  | 14.90                         |
| 59                 | Perform biomedical physical examination (e.g. observation, auscultation, palpation, vital signs) on patients to determine present health condition. | 3.64                   | 3.72                  | 14.90                         |
| 120                | Educate patients regarding therapeutic exercises to treat indicated conditions.                                                                     | 3.73                   | 3.73                  | 14.89                         |
| 63                 | Review patient diagnostic reports to gather additional information regarding patient complaint.                                                     | 3.68                   | 3.73                  | 14.71                         |
| 154                | Develop advertisements regarding services provided in accordance with legal guidelines.                                                             | 3.24                   | 3.76                  | 14.68                         |
| 2                  | Collect information about family health history.                                                                                                    | 3.97                   | 3.49                  | 14.56                         |
| 123                | Select or develop herbal formulas for patients based on treatment principle (e.g., tonify, sedate, harmonize).                                      | 3.51                   | 3.72                  | 14.55                         |
| 16                 | Assess thirst and fluid intake to inform pattern differentiation.                                                                                   | 3.76                   | 3.59                  | 14.47                         |
| 125                | Select or develop herbal therapies that complement patient acupuncture treatments.                                                                  | 3.50                   | 3.65                  | 14.29                         |
| 43                 | Identify Eight Principles categorization.                                                                                                           | 3.60                   | 3.57                  | 14.29                         |
| 124                | Select or develop herbal formula based on patient constitution.                                                                                     | 3.44                   | 3.65                  | 14.15                         |
| 38                 | Identify phase of pathogen progression.                                                                                                             | 3.51                   | 3.57                  | 13.77                         |
| 113                | Perform cupping techniques on patients to treat indicated conditions.                                                                               | 3.52                   | 3.52                  | 13.72                         |
| 14                 | Identify food and drink flavor preferences, cravings, and aversions to inform pattern differentiation.                                              | 3.64                   | 3.49                  | 13.71                         |
| 95                 | Select auricular points on patients.                                                                                                                | 3.60                   | 3.49                  | 13.71                         |
| 134                | Identify type of herbal therapy indicated for the patient (e.g., powder, granular, raw herb, decoction, patent).                                    | 3.40                   | 3.44                  | 13.65                         |
| 86                 | Select Extra points on patients.                                                                                                                    | 3.62                   | 3.50                  | 13.64                         |
| 24                 | Identify skin conditions and characteristics indicating health imbalance.                                                                           | 3.61                   | 3.53                  | 13.62                         |
| 89                 | Select Yuan-Source points on patients.                                                                                                              | 3.55                   | 3.48                  | 13.55                         |

| <b>Task Number</b> | <b>Task</b>                                                                                                                                     | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 80                 | Select points along the Muscle channels.                                                                                                        | 3.51                   | 3.46                  | 13.46                         |
| 47                 | Develop a differential diagnosis list for identified disharmony patterns.                                                                       | 3.45                   | 3.44                  | 13.45                         |
| 22                 | Identify phlegm characteristics to inform pattern differentiation.                                                                              | 3.52                   | 3.50                  | 13.38                         |
| 76                 | Select points from Yin and Yang channels to balance treatment prescription for patients.                                                        | 3.50                   | 3.42                  | 13.31                         |
| 55                 | Refer client to other health care providers based on assessment findings.                                                                       | 3.37                   | 3.73                  | 13.30                         |
| 15                 | Identify preferences and aversions related to temperature of food and drinks to inform pattern differentiation.                                 | 3.57                   | 3.41                  | 13.24                         |
| 97                 | Select trigger points on patients.                                                                                                              | 3.40                   | 3.39                  | 13.07                         |
| 115                | Perform manual therapy (e.g., Tui Na, acupressure) on patients to treat indicated conditions.                                                   | 3.35                   | 3.38                  | 13.03                         |
| 75                 | Select points on patients to balance point distribution (e.g., right and left, above and below).                                                | 3.47                   | 3.32                  | 12.95                         |
| 26                 | Identify patient perspiration patterns to inform pattern differentiation.                                                                       | 3.45                   | 3.44                  | 12.93                         |
| 84                 | Select Five Shu (Five-Transporting) points on patients.                                                                                         | 3.38                   | 3.40                  | 12.89                         |
| 73                 | Select points on patient's body using mirroring methods (e.g., elbow-for-knee).                                                                 | 3.41                   | 3.36                  | 12.88                         |
| 137                | Label packaging containing herbal prescriptions following legal guidelines for supplements.                                                     | 3.00                   | 3.14                  | 12.88                         |
| 21                 | Identify mucus characteristics to inform pattern differentiation.                                                                               | 3.41                   | 3.41                  | 12.82                         |
| 85                 | Select Confluent points of the Eight Extraordinary channels on patients.                                                                        | 3.40                   | 3.40                  | 12.81                         |
| 81                 | Select Front-Mu points on patients.                                                                                                             | 3.41                   | 3.41                  | 12.80                         |
| 83                 | Select Lower He-Sea points on patients to connect channels with respective Fu Organs.*                                                          | 3.40                   | 3.38                  | 12.67                         |
| 61                 | Perform orthopedic examination on patients to determine health condition.                                                                       | 3.22                   | 3.40                  | 12.55                         |
| 112                | Perform electrotherapy (e.g., electroacupuncture, electrostimulation,) on patients to enhance effectiveness of treatment for select conditions. | 3.20                   | 3.30                  | 12.46                         |

\*NOTE: SMEs changed the task statement to read: "Select He-Sea points on patients to connect channels with respective Fu Organs" (Chapter 5).

| <b>Task Number</b> | <b>Task</b>                                                                                                                | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|----------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 29                 | Assess patient sounds, voice quality, and vocal strength to inform pattern differentiation.                                | 3.38                   | 3.28                  | 12.25                         |
| 60                 | Perform neurological examination (e.g., sensation, strength) on patients to determine health condition.                    | 3.10                   | 3.36                  | 11.95                         |
| 27                 | Identify ocular and visual signs and symptoms indicating health imbalance.                                                 | 3.25                   | 3.28                  | 11.82                         |
| 94                 | Select scalp points on patients.                                                                                           | 3.15                   | 3.31                  | 11.61                         |
| 41                 | Identify Five Element disharmony patterns.                                                                                 | 3.08                   | 3.17                  | 11.59                         |
| 88                 | Select Luo-Connecting points on patients.                                                                                  | 3.23                   | 3.22                  | 11.56                         |
| 90                 | Select Xi-Cleft points on patients to treat acute conditions of the related channel or corresponding Organs.               | 3.18                   | 3.23                  | 11.51                         |
| 91                 | Select Eight Influential points on patients.                                                                               | 3.15                   | 3.19                  | 11.34                         |
| 127                | Identify herbal therapy with equivalent action to Western medications.*                                                    | 2.93                   | 3.14                  | 11.17                         |
| 93                 | Select points to treat a radiculopathy based on dermatome map.                                                             | 2.99                   | 3.10                  | 11.15                         |
| 78                 | Select points on patient that are centrally located to treat conditions occurring in the extremities.                      | 3.09                   | 3.12                  | 11.11                         |
| 28                 | Identify auditory signs and symptoms indicating health imbalance.                                                          | 3.14                   | 3.17                  | 11.10                         |
| 45                 | Identify disharmony pattern using Four Levels (i.e., Wei, Qi, Ying, and Xue) of differentiation.                           | 3.02                   | 3.14                  | 11.04                         |
| 143                | Identify and report cases of known or suspected abuse and neglect.                                                         | 2.36                   | 4.26                  | 10.88                         |
| 87                 | Select Intersecting or Crossing points on patients.                                                                        | 3.06                   | 3.11                  | 10.77                         |
| 136                | Obtain certificate of authenticity for herbs from the manufacturer.                                                        | 2.52                   | 2.97                  | 10.59                         |
| 54                 | Collaborate with primary physicians and other health care providers to identify the most effective treatment for patients. | 2.84                   | 3.27                  | 10.58                         |
| 144                | Identify and report cases of communicable disease.                                                                         | 2.28                   | 4.14                  | 10.44                         |
| 96                 | Select points according to the Five Elements theory.                                                                       | 2.86                   | 3.00                  | 10.42                         |
| 98                 | Select motor points on patients.                                                                                           | 2.89                   | 2.99                  | 10.41                         |

\*NOTE: SMEs changed the task statement to read: "Identify herbal therapy with similar and complementary action to Western medications" (Chapter 5).

| <b>Task Number</b> | <b>Task</b>                                                                                                                                    | <b>Mean Importance</b> | <b>Mean Frequency</b> | <b>Task Criticality Index</b> |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|-------------------------------|
| 44                 | Identify disharmony pattern using Six Stages (i.e., Shang Han Lun) of differentiation.                                                         | 2.83                   | 3.04                  | 10.23                         |
| 117                | Apply ear seeds to treat indicated conditions.                                                                                                 | 2.88                   | 2.91                  | 9.83                          |
| 34                 | Assess patient odors to inform pattern differentiation.                                                                                        | 2.85                   | 2.94                  | 9.69                          |
| 109                | Apply moxibustion techniques on patients to treat indicated conditions.                                                                        | 2.54                   | 3.00                  | 9.48                          |
| 46                 | Identify disharmony pattern using Triple Burner (i.e., San Jiao) differentiation.                                                              | 2.60                   | 2.81                  | 9.09                          |
| 135                | Inspect raw herbs for authenticity and purity (e.g., appearance, taste, smell, texture).                                                       | 2.12                   | 2.47                  | 8.69                          |
| 114                | Perform Gua Sha techniques to treat indicated conditions.                                                                                      | 2.44                   | 2.72                  | 8.60                          |
| 139                | Prepare raw herbs following safety guidelines.                                                                                                 | 1.97                   | 2.37                  | 8.52                          |
| 62                 | Order diagnostic tests to determine health condition.                                                                                          | 2.23                   | 2.79                  | 8.17                          |
| 118                | Apply herbal plaster therapy to treat indicated conditions.                                                                                    | 1.89                   | 2.28                  | 6.28                          |
| 74                 | Select points on patient in accordance with midnight-noon ebb-flow principles (e.g., chrono-acupuncture, Zi Wu Liu Zhu theory, Horary points). | 1.91                   | 2.25                  | 6.23                          |
| 110                | Apply intradermal needles to treat indicated conditions.                                                                                       | 1.48                   | 1.87                  | 4.74                          |
| 119                | Apply kinesiology tape to patients to treat indicated conditions.                                                                              | 1.23                   | 1.61                  | 3.89                          |
| 111                | Perform laser acupuncture to treat indicated conditions.                                                                                       | 0.57                   | 0.95                  | 1.86                          |

NOTE: Shaded task statements were not included on the examination outline (Chapter 4).



**APPENDIX C | KNOWLEDGE MEAN IMPORTANCE RATINGS**

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                                             | <b>Mean Importance</b> |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 68            | Knowledge of signs and symptoms of emergency conditions.                                                                               | 4.65                   |
| 193           | Knowledge of standards and procedures for the Clean Needle Technique.                                                                  | 4.64                   |
| 195           | Knowledge of methods for isolating used needles.                                                                                       | 4.63                   |
| 196           | Knowledge of legal requirements for disposal of contaminated materials.                                                                | 4.63                   |
| 197           | Knowledge of laws and regulations that define scope of practice and professional competence for acupuncturists.                        | 4.63                   |
| 192           | Knowledge of the risks of infectious diseases in the practitioner and patient environment.                                             | 4.62                   |
| 198           | Knowledge of laws and regulations pertaining to unprofessional conduct for California-licensed acupuncturists.                         | 4.62                   |
| 200           | Knowledge of ethical and professional standards for licensed acupuncturists.                                                           | 4.62                   |
| 184           | Knowledge of legal requirements pertaining to confidentiality of patient information (i.e., HIPAA).                                    | 4.61                   |
| 133           | Knowledge of points and patient conditions that require needling with caution.                                                         | 4.60                   |
| 185           | Knowledge of legal requirements pertaining to disclosure of patient information.                                                       | 4.59                   |
| 194           | Knowledge of legal requirements for maintaining clinical environments in accordance with OSHA requirements and clinical standards.     | 4.59                   |
| 132           | Knowledge of points and patient conditions that are contraindicated for needling.                                                      | 4.58                   |
| 189           | Knowledge of legal and ethical requirements pertaining to informed consent.                                                            | 4.58                   |
| 191           | Knowledge of infection control guidelines.                                                                                             | 4.58                   |
| 183           | Knowledge of legal requirements pertaining to maintenance and retention of patient records.                                            | 4.54                   |
| 181           | Knowledge of legal requirements and professional standards pertaining to documentation of assessment, treatment, and patient response. | 4.53                   |
| 131           | Knowledge of signs and symptoms of patient distress.                                                                                   | 4.52                   |
| 134           | Knowledge of potential side effects of acupuncture treatment.                                                                          | 4.52                   |
| 1             | Knowledge of interview techniques for obtaining information about patient health.                                                      | 4.50                   |
| 186           | Knowledge of legal requirements pertaining to reporting of child, elder, and dependent adult abuse and neglect.                        | 4.50                   |
| 182           | Knowledge of professional standards for writing medical records and reports.                                                           | 4.48                   |
| 2             | Knowledge of observational techniques for obtaining information about patient health.                                                  | 4.46                   |
| 72            | Knowledge of human anatomy, physiology, and pathology.                                                                                 | 4.46                   |

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                                                   | <b>Mean Importance</b> |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 187           | Knowledge of legal requirements pertaining to reporting of communicable disease.                                                             | 4.46                   |
| 188           | Knowledge of indicators of child, elder, and dependent adult abuse and neglect.                                                              | 4.46                   |
| 199           | Knowledge of legal requirements pertaining to advertisement and dissemination of information about professional qualifications and services. | 4.43                   |
| 130           | Knowledge of recommended needling depths and angles.                                                                                         | 4.41                   |
| 94            | Knowledge of treatment modification based on patient response to treatment.                                                                  | 4.40                   |
| 190           | Knowledge of methods to assess patient capacity to make health care decisions.                                                               | 4.40                   |
| 67            | Knowledge of clinical conditions that require patient referral to other health care providers.                                               | 4.39                   |
| 88            | Knowledge of the clinical actions and indications of points.                                                                                 | 4.38                   |
| 69            | Knowledge of methods for administering cardiopulmonary resuscitation.                                                                        | 4.37                   |
| 4             | Knowledge of palpation examination methods and techniques.                                                                                   | 4.36                   |
| 70            | Knowledge of methods for providing first aid treatment.                                                                                      | 4.36                   |
| 66            | Knowledge of methods for evaluating patient progress.                                                                                        | 4.34                   |
| 38            | Knowledge of methods and procedures for assessing pain.                                                                                      | 4.33                   |
| 125           | Knowledge of anatomical landmarks and proportional measurements used in point location.                                                      | 4.33                   |
| 16            | Knowledge of effects of lifestyle factors on health.                                                                                         | 4.32                   |
| 18            | Knowledge of effects of dietary habits and nutrition on health and wellness.                                                                 | 4.32                   |
| 89            | Knowledge of the interrelationships between points, channels, and internal Organs.                                                           | 4.32                   |
| 135           | Knowledge of principles for selecting needles.                                                                                               | 4.32                   |
| 17            | Knowledge of sleep patterns indicating health imbalance.                                                                                     | 4.31                   |
| 129           | Knowledge of patient positions for locating and needling acupuncture points.                                                                 | 4.30                   |
| 74            | Knowledge of normal range of vital signs.                                                                                                    | 4.29                   |
| 91            | Knowledge of principles for choosing local points.                                                                                           | 4.26                   |
| 158           | Knowledge of lifestyle changes and stress reduction techniques that improve health condition.                                                | 4.26                   |
| 174           | Knowledge of herbs and combinations of herbs that are toxic or produce undesired side effects.                                               | 4.25                   |
| 160           | Knowledge of dietary modifications to support patient treatment goals.                                                                       | 4.24                   |
| 169           | Knowledge of cautions and contraindications related to herbs and herbal formulas.                                                            | 4.24                   |



| <b>Number</b> | <b>Knowledge Statement</b>                                                                                                             | <b>Mean Importance</b> |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 161           | Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas.                          | 4.23                   |
| 87            | Knowledge of techniques to communicate assessment findings, diagnoses, and treatment plans to patients or other health care providers. | 4.21                   |
| 90            | Knowledge of principles for combining distal and proximal points.                                                                      | 4.21                   |
| 81            | Knowledge of common Western medical conditions, terminology, and definitions.                                                          | 4.20                   |
| 92            | Knowledge of principles for combining points from different channels.                                                                  | 4.19                   |
| 15            | Knowledge of external factors (e.g., stress, pollutants, noise, climate) that affect health.                                           | 4.18                   |
| 23            | Knowledge of gastrointestinal signs and symptoms associated with disharmony patterns.                                                  | 4.17                   |
| 73            | Knowledge of procedures for obtaining vital signs.                                                                                     | 4.17                   |
| 102           | Knowledge of the therapeutic use of Ashi points.                                                                                       | 4.17                   |
| 145           | Knowledge of indications, contraindications, and side effects of cupping.                                                              | 4.17                   |
| 6             | Knowledge of signs and symptoms associated with use of supplements and herbs.                                                          | 4.16                   |
| 43            | Knowledge of methods for integrating assessment information to develop a differential diagnosis.                                       | 4.16                   |
| 93            | Knowledge of principles for choosing points according to channel theory.                                                               | 4.16                   |
| 159           | Knowledge of therapeutic exercises to support patient treatment goals.                                                                 | 4.16                   |
| 14            | Knowledge of emotions associated with disharmony patterns.                                                                             | 4.15                   |
| 83            | Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications.                                    | 4.15                   |
| 171           | Knowledge of effective dosages of herbs and herbal supplements.                                                                        | 4.15                   |
| 39            | Knowledge of tongue characteristics associated with disharmony patterns.                                                               | 4.14                   |
| 40            | Knowledge of radial pulse characteristics associated with patterns of disharmony.                                                      | 4.14                   |
| 44            | Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.                                 | 4.14                   |
| 8             | Knowledge of clinical indicators of the level and quality of Qi.                                                                       | 4.13                   |
| 84            | Knowledge of actions and side effects of commonly used supplements.                                                                    | 4.13                   |
| 168           | Knowledge of interactions between herbal therapies, supplements, and Western medications.                                              | 4.13                   |
| 63            | Knowledge of the effectiveness of combining treatment strategies in developing a treatment plan.                                       | 4.12                   |

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                                             | <b>Mean Importance</b> |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 25            | Knowledge of signs and symptoms of gynecological and reproductive functioning associated with disharmony patterns.                     | 4.11                   |
| 29            | Knowledge of cardiovascular signs and symptoms associated with disharmony patterns.                                                    | 4.11                   |
| 48            | Knowledge of the functions, distribution, and clinical significance of the channels.                                                   | 4.11                   |
| 78            | Knowledge of neuromusculoskeletal conditions.                                                                                          | 4.11                   |
| 85            | Knowledge of the relationship between Western disease diagnoses and Traditional Chinese Medicine patterns.                             | 4.11                   |
| 46            | Knowledge of the relationship between the Zang Fu and vital substances (i.e., the Liver stores the Blood).                             | 4.10                   |
| 86            | Knowledge of Western medical diagnoses and physiological processes involved with disease progression.                                  | 4.10                   |
| 126           | Knowledge of needle manipulation techniques.                                                                                           | 4.10                   |
| 162           | Knowledge of categories of herbs and herbal formulas.                                                                                  | 4.10                   |
| 5             | Knowledge of effects of patient and family health history on current health status.                                                    | 4.08                   |
| 50            | Knowledge of methods for prioritizing indicators of disharmony to develop a differential diagnosis.                                    | 4.08                   |
| 82            | Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. | 4.08                   |
| 128           | Knowledge of the impact of patient constitution and condition on duration of needle retention.                                         | 4.08                   |
| 173           | Knowledge of the relationships between herbal formulas and treatment principles.                                                       | 4.08                   |
| 151           | Knowledge of indications, contraindications, and side effects of heat therapy.                                                         | 4.07                   |
| 7             | Knowledge of clinical indicators of the level and quality of Blood.                                                                    | 4.06                   |
| 75            | Knowledge of methods and procedures for assessing neuromusculoskeletal function and integrity.                                         | 4.06                   |
| 45            | Knowledge of the relationship between the Organs and channels in disease progression and transformation.                               | 4.05                   |
| 47            | Knowledge of clinical indicators associated with disease of the channels.                                                              | 4.05                   |
| 13            | Knowledge of signs and symptoms of psychosocial dysfunction associated with disharmony patterns.                                       | 4.04                   |
| 71            | Knowledge of biomedical physical examination methods and techniques (e.g. observation, auscultation, palpation, vital signs).          | 4.04                   |
| 163           | Knowledge of the effects of herbs and herbal formulas on channels and Organs.                                                          | 4.04                   |

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                               | <b>Mean Importance</b> |
|---------------|--------------------------------------------------------------------------------------------------------------------------|------------------------|
| 32            | Knowledge of patient's sensations of heat and cold associated with health imbalance.                                     | 4.03                   |
| 178           | Knowledge of herbal formula recommendations based upon patient constitution.                                             | 4.03                   |
| 144           | Knowledge of cupping techniques.                                                                                         | 4.02                   |
| 175           | Knowledge of methods for modifying herbal formulas to treat changes in patient condition.                                | 4.02                   |
| 10            | Knowledge of clinical manifestations of Shen.                                                                            | 4.01                   |
| 12            | Knowledge of the associations between patient physical characteristics and disharmony patterns.                          | 4.01                   |
| 26            | Knowledge of respiratory signs and symptoms associated with disharmony patterns.                                         | 4.01                   |
| 170           | Knowledge of interactions between diet and herbal therapies.                                                             | 4.01                   |
| 176           | Knowledge of the effects of processing on efficacy and toxicity of herbs.                                                | 4.01                   |
| 105           | Knowledge of principles for choosing Back-Shu points in treatment.                                                       | 4.00                   |
| 143           | Knowledge of indications, contraindications, and side effects of electrotherapy.                                         | 4.00                   |
| 31            | Knowledge of fever and chills associated with disharmony patterns.                                                       | 3.99                   |
| 49            | Knowledge of principles for treating root versus branch disharmony patterns.                                             | 3.99                   |
| 149           | Knowledge of indications, contraindications, and side effects of manual therapy.                                         | 3.99                   |
| 24            | Knowledge of genitourinary signs and symptoms associated with disharmony patterns.                                       | 3.97                   |
| 164           | Knowledge of modifications of herbal formulas.                                                                           | 3.97                   |
| 3             | Knowledge of listening and smelling techniques for obtaining information about patient health.                           | 3.96                   |
| 59            | Knowledge of the clinical indications associated with Zang Fu disharmonies.                                              | 3.95                   |
| 80            | Knowledge of clinical significance of common diagnostic and laboratory tests used for diagnostic and treatment purposes. | 3.95                   |
| 165           | Knowledge of the synergistic and antagonist relationships of ingredients in herbal formulas.                             | 3.95                   |
| 11            | Knowledge of clinical manifestations of Body Fluids.                                                                     | 3.93                   |
| 33            | Knowledge of conditions associated with abnormal localized temperature upon palpation.                                   | 3.93                   |
| 9             | Knowledge of clinical indicators of Essence.                                                                             | 3.92                   |
| 53            | Knowledge of the functions of and the relationship between the Zang Fu and the channels.                                 | 3.92                   |

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                   | <b>Mean Importance</b> |
|---------------|--------------------------------------------------------------------------------------------------------------|------------------------|
| 127           | Knowledge of needle retention methods for patterns of disharmony.                                            | 3.92                   |
| 60            | Knowledge of methods for identifying simultaneous Zang Fu disharmonies.                                      | 3.91                   |
| 62            | Knowledge of development of treatment principles based on different theories of pattern differentiation.     | 3.91                   |
| 172           | Knowledge of the principles and guidelines for herbal formula preparation.                                   | 3.91                   |
| 101           | Knowledge of principles for choosing points on the extremities to treat conditions occurring in the center.  | 3.90                   |
| 42            | Knowledge of disease progression from superficial to deep levels of the human body.                          | 3.89                   |
| 110           | Knowledge of principles for choosing Extra points.                                                           | 3.89                   |
| 150           | Knowledge of heat therapy techniques.                                                                        | 3.89                   |
| 64            | Knowledge of treatment strategies for using tonification and sedation points.                                | 3.88                   |
| 137           | Knowledge of indications, contraindications, and side effects of moxibustion.                                | 3.88                   |
| 103           | Knowledge of the therapeutic use of points along the Muscle channels.                                        | 3.87                   |
| 30            | Knowledge of skin characteristics and conditions associated with disharmony patterns.                        | 3.86                   |
| 65            | Knowledge of the association between stimulation techniques and treatment principles.                        | 3.86                   |
| 76            | Knowledge of pathways and functions of cranial nerves for determination of neurological pathology.           | 3.86                   |
| 104           | Knowledge of principles for choosing Front-Mu points in treatment.                                           | 3.86                   |
| 177           | Knowledge of forms (e.g., raw, granules, pill) used for administering herbs.                                 | 3.86                   |
| 28            | Knowledge of phlegm characteristics in relation to disharmony patterns.                                      | 3.85                   |
| 34            | Knowledge of abnormal perspiration associated with disharmony patterns.                                      | 3.84                   |
| 120           | Knowledge of auricular point selection principles.                                                           | 3.84                   |
| 142           | Knowledge of electrotherapy techniques.                                                                      | 3.84                   |
| 99            | Knowledge of principles for choosing points on the front and back to regulate internal Organs.               | 3.83                   |
| 148           | Knowledge of manual therapy techniques.                                                                      | 3.83                   |
| 19            | Knowledge of food and drink flavor preferences, cravings, and aversions associated with disharmony patterns. | 3.82                   |
| 167           | Knowledge of the association between therapeutic effects of points and herbal therapy.                       | 3.82                   |
| 21            | Knowledge of thirst characteristics associated with patterns of disharmony.                                  | 3.81                   |
| 22            | Knowledge of relationship between fluid intake and disharmony patterns.                                      | 3.81                   |

| <b>Number</b> | <b>Knowledge Statement</b>                                                                                               | <b>Mean Importance</b> |
|---------------|--------------------------------------------------------------------------------------------------------------------------|------------------------|
| 115           | Knowledge of the therapeutic use of tonification and sedation techniques.                                                | 3.81                   |
| 27            | Knowledge of mucus characteristics in relation to disharmony patterns.                                                   | 3.80                   |
| 77            | Knowledge of dermatome technique for assessment of neuromuscular pathology.                                              | 3.80                   |
| 55            | Knowledge of the Eight Principles theory and pattern differentiation methods.                                            | 3.79                   |
| 97            | Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. | 3.78                   |
| 109           | Knowledge of principles for choosing Confluent points of the Eight Extraordinary channels.                               | 3.78                   |
| 106           | Knowledge of principles for combining Front-Mu points and Back-Shu points to balance treatment.                          | 3.77                   |
| 108           | Knowledge of principles for choosing Five Shu (Five-Transporting) points.                                                | 3.77                   |
| 113           | Knowledge of principles for choosing Yuan-Source points.                                                                 | 3.77                   |
| 153           | Knowledge of indications, contraindications, and side effects of ear seeds application.                                  | 3.77                   |
| 166           | Knowledge of the hierarchical principles governing herbal formulas.                                                      | 3.77                   |
| 20            | Knowledge of food and drink temperature preferences and aversions associated with disharmony patterns.                   | 3.76                   |
| 98            | Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         | 3.76                   |
| 107           | Knowledge of principles for choosing Lower He-Sea points.*                                                               | 3.73                   |
| 147           | Knowledge of indications, contraindications, and side effects of Gua Sha.                                                | 3.70                   |
| 35            | Knowledge of ocular signs and symptoms associated with disharmony patterns.                                              | 3.68                   |
| 36            | Knowledge of auditory signs and symptoms associated with disharmony patterns.                                            | 3.67                   |
| 114           | Knowledge of principles for choosing Xi-Cleft points.                                                                    | 3.67                   |
| 61            | Knowledge of functions and disharmonies associated with Vital Substances.                                                | 3.66                   |
| 124           | Knowledge of principles and indications for selecting trigger points.                                                    | 3.66                   |
| 136           | Knowledge of moxibustion (i.e., direct and indirect) techniques.                                                         | 3.66                   |
| 180           | Knowledge of requirements for labeling of containers used for storing or dispensing of herbal preparations.              | 3.66                   |
| 37            | Knowledge of the relationship between quality and strength of voice and patterns of disharmony.                          | 3.65                   |
| 117           | Knowledge of principles for choosing Eight Influential points.                                                           | 3.63                   |

\*NOTE: SMEs changed the knowledge statement to read: "Knowledge of principles for choosing He-Sea points" (Chapter 5).

| <b>Number</b> | <b>Knowledge Statement</b>                                                                              | <b>Mean Importance</b> |
|---------------|---------------------------------------------------------------------------------------------------------|------------------------|
| 79            | Knowledge of patient genetics and heredity associated with symptom development.                         | 3.62                   |
| 119           | Knowledge of scalp point selection principles.                                                          | 3.61                   |
| 152           | Knowledge of the application of ear seeds.                                                              | 3.61                   |
| 112           | Knowledge of principles for choosing Luo-Connecting points.                                             | 3.60                   |
| 100           | Knowledge of principles for choosing points in the center to treat conditions occurring on extremities. | 3.57                   |
| 41            | Knowledge of methods for obtaining pulse information from various locations on the body.                | 3.56                   |
| 179           | Knowledge of methods for ensuring authenticity and purity of raw herbs.                                 | 3.55                   |
| 96            | Knowledge of clinical significance of the sequence in which needles are inserted.                       | 3.51                   |
| 54            | Knowledge of the Five Elements theory and pattern differentiation methods.                              | 3.50                   |
| 52            | Knowledge of the interrelationships of the Five Elements and clinical indications of disharmony.        | 3.49                   |
| 123           | Knowledge of principles and indications for selecting motor points.                                     | 3.48                   |
| 146           | Knowledge of Gua Sha techniques.                                                                        | 3.48                   |
| 121           | Knowledge of dermatome map for point selection.                                                         | 3.47                   |
| 111           | Knowledge of principles for choosing Intersecting or Crossing points of channels.                       | 3.43                   |
| 116           | Knowledge of principles for choosing Four Seas points.                                                  | 3.43                   |
| 57            | Knowledge of the Six Stages (Shang Han Lun) theory and pattern differentiation methods.                 | 3.41                   |
| 122           | Knowledge of point selection using the Five Elements theory.                                            | 3.38                   |
| 58            | Knowledge of the Four Levels theory and pattern differentiation methods.                                | 3.37                   |
| 118           | Knowledge of principles for choosing Mother and Son points (Four Needle Technique).                     | 3.27                   |
| 56            | Knowledge of the Triple Burner theory and pattern differentiation methods.                              | 3.26                   |
| 155           | Knowledge of indications, contraindications, and side effects of herbal plaster therapy.                | 3.23                   |
| 51            | Knowledge of the Five Spirits theory and pattern differentiation methods.                               | 3.14                   |
| 139           | Knowledge of indications, contraindications, and side effects of application of intradermal needles.    | 3.14                   |
| 95            | Knowledge of clinical significance of selecting points based upon specific time of day.                 | 3.08                   |
| 154           | Knowledge of the application of herbal plaster.                                                         | 3.00                   |

NOTE: Shaded knowledge statements were not included on the examination outline (Chapter 4).

| <b>Number</b> | <b>Knowledge Statement</b>                                                                     | <b>Mean Importance</b> |
|---------------|------------------------------------------------------------------------------------------------|------------------------|
| 138           | Knowledge of application of intradermal needles.                                               | 2.89                   |
| 157           | Knowledge of indications, contraindications, and side effects of kinesiology tape application. | 2.70                   |
| 156           | Knowledge of the application of kinesiology tape to patient's body.                            | 2.47                   |
| 141           | Knowledge of indications, contraindications, and side effects of laser acupuncture.            | 2.30                   |
| 140           | Knowledge of methods and procedures for laser acupuncture.                                     | 2.02                   |

NOTE: Shaded knowledge statements were not included on the examination outline (Chapter 4).

**APPENDIX D | INVITATION TO PRACTITIONERS**





CALIFORNIA  
ACUPUNCTURE  
BOARD

1747 North Market Blvd., Suite 180  
Sacramento, CA 95834  
T 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



March 1, 2021

Dear Licensed Acupuncturist,

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

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

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

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

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

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

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

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

Sincerely,

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

Acupuncture Board President

**APPENDIX E | QUESTIONNAIRE**



## 2021 Acupuncturist Occupational Analysis Survey

### Message from the California Acupuncture Board

Dear Licensed Acupuncturist:

Thank you for participating in this study of the acupuncture profession in California, a project of the California Acupuncture Board (Board). For completing all questions on this survey, you will receive 4 continuing education credits.\*

The Board is conducting an occupational analysis of the acupuncturist practice in California. The Board is collecting information about the tasks performed by acupuncturists in California and the knowledge required to perform those tasks. We will use this information to ensure that the examination used for licensure of acupuncturists reflects current acupuncture practice in California.

Please take the time to complete the survey as it relates to your work as an acupuncturist.

For your convenience, you do not have to complete the survey in a single session. You can resume where you stopped as long as you reopen the survey from the same computer and use the same web browser. Before you exit, complete the page that you are on. The program will save responses only on completed pages. The weblink is available 24 hours a day, 7 days a week.

Your responses will be kept confidential. They will not be tied to your license or personal information. Individual responses will be combined with responses from other acupuncturists and only group data will be analyzed.

If you have any questions or need assistance, please send an email to [acupuncturistOA@dca.ca.gov](mailto:acupuncturistOA@dca.ca.gov).

To begin the survey, click **Next**. Please submit the completed survey by **May 5, 2021**.

\*The Board will issue 4 hours of Category 1 Distance Continuing Education for **fully completed surveys only**. Credits will be issued within 4-6 weeks after the survey closes. You will be asked to submit your name, license number, and a current email address at the end of the survey so that the Board can issue your credits. The information you provide here will be used only to issue your credits and will not be linked to your survey responses.

We welcome your feedback and appreciate your time!

Thank you!

The California Acupuncture Board



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

**Complete this survey only if you are currently licensed as an acupuncturist in California.**

The Board recognizes that every acupuncturist may not perform all of the tasks and use all of the knowledge contained in this survey. However, your participation is essential to the success of this study, and your contributions will help establish standards for safe and effective acupuncturist practice in the State of California.

The information you provide here is voluntary and confidential. It will be treated as personal information subject to the Information Practices Act (Civil Code section 1798 et seq.) and will be used only for the purpose of analyzing the data from this survey.

\* 1. Are you currently licensed as an acupuncturist in California?

- Yes
- No



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

\* 2. Are you currently working as an acupuncturist?

Yes

No



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

\* 3. Have you worked as an acupuncturist within the past 18 months?

Yes

No



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

\* 4. How long have you been licensed as an acupuncturist in California?

- 0 to 5 years
- 6 to 10 years
- 11 to 15 years
- 16 to 20 years
- 21 to 25 years
- 26 to 30 years
- More than 30 years

5. On average, how many hours per week do you work as a licensed acupuncturist?

- 0 to 10 hours
- 11 to 20 hours
- 21 to 30 hours
- 31 to 40 hours
- 41 or more hours

6. On average, how many patients do you see per week as a licensed acupuncturist?

- 0 to 10 patients
- 11 to 20 patients
- 21 to 30 patients
- 31 to 50 patients
- 51 or more patients

7. Which best describes the location of your primary work setting?

- Urban (more than 50,000 people)
- Rural (fewer than 50,000 people)

\* 8. How would you describe your primary practice setting?

- Sole proprietor
- Group acupuncture practice
- Group multidisciplinary practice
- Community acupuncture clinic
- Acupuncture medical group (Inc. or LLC)
- Hospital
- Spa
- Mobile practice (house calls / home visits)
- Multiple settings
- Telehealth
- Educational institution (e.g., instructor)
- Other (please specify)





## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

#### 9. How would you describe your employment status?

- Self-employed
- Independent contractor
- Hourly employee
- Salaried employee
- Commissioned employee

#### 10. In your primary practice setting, what is the primary way your patients pay for services?

(Select all that apply.)

- Cash
- Health insurance (e.g., HMO, PPO)
- Workers' compensation
- Medicaid/Medicare
- Personal injury
- Veterans affairs
- Other (please specify)

11. Over the past 12 months, what percentage of your time spent providing patient care involved providing telehealth services?

- None, I did not use telehealth to provide patient care.
- 0 to 5 percent
- 6 to 10 percent
- 11 to 20 percent
- 21 to 30 percent
- 31 to 50 percent
- 51 to 75 percent
- 76 to 95 percent
- 96 to 100 percent

\* 12. Which of the following treatment categories best describes the primary focus of your acupuncture practice? (Select up to 3 options.)

- |                                                     |                                           |                                          |
|-----------------------------------------------------|-------------------------------------------|------------------------------------------|
| <input type="checkbox"/> Addiction                  | <input type="checkbox"/> Geriatrics       | <input type="checkbox"/> Pain management |
| <input type="checkbox"/> Cardiovascular             | <input type="checkbox"/> Immune disorders | <input type="checkbox"/> Pediatrics      |
| <input type="checkbox"/> Dermatological or cosmetic | <input type="checkbox"/> Men's health     | <input type="checkbox"/> Respiratory     |
| <input type="checkbox"/> Endocrine health           | <input type="checkbox"/> Mental health    | <input type="checkbox"/> Sports medicine |
| <input type="checkbox"/> Fertility                  | <input type="checkbox"/> Neurological     | <input type="checkbox"/> Women's health  |
| <input type="checkbox"/> Gastrointestinal           | <input type="checkbox"/> Oncology support |                                          |
| <input type="checkbox"/> General                    | <input type="checkbox"/> Orthopedics      |                                          |
| <input type="checkbox"/> Other (please specify)     |                                           |                                          |

13. Over the last 12 months, which of the following treatment categories have you applied most often with your patients? (Select one.)

- |                                                  |                                        |                                       |
|--------------------------------------------------|----------------------------------------|---------------------------------------|
| <input type="radio"/> Addiction                  | <input type="radio"/> Geriatrics       | <input type="radio"/> Pain management |
| <input type="radio"/> Cardiovascular             | <input type="radio"/> Immune disorders | <input type="radio"/> Pediatrics      |
| <input type="radio"/> Dermatological or cosmetic | <input type="radio"/> Men's health     | <input type="radio"/> Respiratory     |
| <input type="radio"/> Endocrine health           | <input type="radio"/> Mental health    | <input type="radio"/> Sports medicine |
| <input type="radio"/> Fertility                  | <input type="radio"/> Neurological     | <input type="radio"/> Women's health  |
| <input type="radio"/> Gastrointestinal           | <input type="radio"/> Oncology support |                                       |
| <input type="radio"/> General                    | <input type="radio"/> Orthopedics      |                                       |
| <input type="radio"/> Other (please specify)     |                                        |                                       |

14. Which of the following treatment modalities do you use as an acupuncturist? (Select all that apply.)

- |                                                 |                                           |                                            |
|-------------------------------------------------|-------------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Acupuncture            | <input type="checkbox"/> Exercise         | <input type="checkbox"/> Kinesiology tape  |
| <input type="checkbox"/> Breathing techniques   | <input type="checkbox"/> Gua Sha          | <input type="checkbox"/> Laser acupuncture |
| <input type="checkbox"/> Cupping                | <input type="checkbox"/> Heat therapy     | <input type="checkbox"/> Manual therapy    |
| <input type="checkbox"/> Diet and nutrition     | <input type="checkbox"/> Herbal plaster   | <input type="checkbox"/> Moxibustion       |
| <input type="checkbox"/> Ear seeds              | <input type="checkbox"/> Herbal therapy   |                                            |
| <input type="checkbox"/> Electroacupuncture     | <input type="checkbox"/> Infrared therapy |                                            |
| <input type="checkbox"/> Other (please specify) |                                           |                                            |

15. What treatment modality have you used most often in your practice over the last 12 months? (Select one.)

- |                                              |                                        |                                         |
|----------------------------------------------|----------------------------------------|-----------------------------------------|
| <input type="radio"/> Acupuncture            | <input type="radio"/> Exercise         | <input type="radio"/> Kinesiology tape  |
| <input type="radio"/> Breathing techniques   | <input type="radio"/> Gua Sha          | <input type="radio"/> Laser acupuncture |
| <input type="radio"/> Cupping                | <input type="radio"/> Heat therapy     | <input type="radio"/> Manual therapy    |
| <input type="radio"/> Diet and nutrition     | <input type="radio"/> Herbal plaster   | <input type="radio"/> Moxibustion       |
| <input type="radio"/> Ear seeds              | <input type="radio"/> Herbal therapy   |                                         |
| <input type="radio"/> Electroacupuncture     | <input type="radio"/> Infrared therapy |                                         |
| <input type="radio"/> Other (please specify) |                                        |                                         |

16. What is your native language?

- English
- Chinese
- Korean
- Spanish
- Other (please specify)



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

17. What language is spoken by the majority of your patients?

- English
- Chinese
- Korean
- Spanish
- Other (please specify)

18. What is the highest level of education you have achieved in acupuncture or Asian medicine?

- Associate degree
- Bachelor's degree
- Master's degree
- Doctorate
- Certificate
- Other formal education (please specify)

19. Do you hold any other professional license issued by the State of California?

- Chiropractor
- Naturopathic Doctor
- Physician
- Veterinarian
- Registered Veterinary Technician
- Registered Nurse or Nurse Practitioner
- Massage Therapist
- Physical Therapist
- Esthetician
- Athletic trainer
- Psychologist, LMFT, LPCC, LCSW
- Other (please specify)

20. What is the approximate gross annual income generated from your employment as a licensed acupuncturist?

- Under \$15,000
- Between \$15,000 and \$29,999
- Between \$30,000 and \$49,999
- Between \$50,000 and \$74,999
- Between \$75,000 and \$99,999
- Between \$100,000 and \$149,999
- Between \$150,000 and \$200,000
- Over \$200,000

21. Do you feel that you are able to earn a living wage from your employment as a licensed acupuncturist?

- Yes
- No

22. How was your income from acupuncture practice affected by the COVID-19 pandemic?

- My income increased significantly
- My income increased slightly
- My income remained the same as before
- My income decreased slightly
- My income decreased significantly

23. Do you feel that your acupuncture training program prepared you for your first year in practice?

- Yes
- No

24. During your education and training, what subjects would have been beneficial to adequately prepare you for your first year in practice?

- Practice management and business skills
- Patient education and counseling
- Additional clinical practice hours
- Clinical experience in diverse practice settings
- Clinical experience with diverse patient populations
- Insurance billing
- Other (please specify)

25. What reference materials are most useful to you during your daily acupuncture practice activities? Please specify.



## 2021 Acupuncturist Occupational Analysis Survey

### Part I – Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

\* 26. Where do you perform the majority of your work?

California

U.S. state other than California

Outside of the U.S. (please specify the country)



## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

\* 27. In what California county do you perform the majority of your work?

- |                                    |                                       |                                     |
|------------------------------------|---------------------------------------|-------------------------------------|
| <input type="radio"/> Alameda      | <input type="radio"/> Marin           | <input type="radio"/> San Mateo     |
| <input type="radio"/> Alpine       | <input type="radio"/> Mariposa        | <input type="radio"/> Santa Barbara |
| <input type="radio"/> Amador       | <input type="radio"/> Mendocino       | <input type="radio"/> Santa Clara   |
| <input type="radio"/> Butte        | <input type="radio"/> Merced          | <input type="radio"/> Santa Cruz    |
| <input type="radio"/> Calaveras    | <input type="radio"/> Modoc           | <input type="radio"/> Shasta        |
| <input type="radio"/> Colusa       | <input type="radio"/> Mono            | <input type="radio"/> Sierra        |
| <input type="radio"/> Contra Costa | <input type="radio"/> Monterey        | <input type="radio"/> Siskiyou      |
| <input type="radio"/> Del Norte    | <input type="radio"/> Napa            | <input type="radio"/> Solano        |
| <input type="radio"/> El Dorado    | <input type="radio"/> Nevada          | <input type="radio"/> Sonoma        |
| <input type="radio"/> Fresno       | <input type="radio"/> Orange          | <input type="radio"/> Stanislaus    |
| <input type="radio"/> Glenn        | <input type="radio"/> Placer          | <input type="radio"/> Sutter        |
| <input type="radio"/> Humboldt     | <input type="radio"/> Plumas          | <input type="radio"/> Tehama        |
| <input type="radio"/> Imperial     | <input type="radio"/> Riverside       | <input type="radio"/> Trinity       |
| <input type="radio"/> Inyo         | <input type="radio"/> Sacramento      | <input type="radio"/> Tulare        |
| <input type="radio"/> Kern         | <input type="radio"/> San Benito      | <input type="radio"/> Tuolumne      |
| <input type="radio"/> Kings        | <input type="radio"/> San Bernardino  | <input type="radio"/> Ventura       |
| <input type="radio"/> Lake         | <input type="radio"/> San Diego       | <input type="radio"/> Yolo          |
| <input type="radio"/> Lassen       | <input type="radio"/> San Francisco   | <input type="radio"/> Yuba          |
| <input type="radio"/> Los Angeles  | <input type="radio"/> San Joaquin     |                                     |
| <input type="radio"/> Madera       | <input type="radio"/> San Luis Obispo |                                     |





## 2021 Acupuncturist Occupational Analysis Survey

### Part I - Personal Data

If you currently work as a licensed acupuncturist, please answer the questions as they pertain to your current work.

If you previously answered that you do not currently work as a licensed acupuncturist, then answer the questions as they pertain to the most recent employment you held as a licensed acupuncturist.

\* 28. In what U.S. state or district do you perform the majority of your work?

- |                                              |                                      |                                      |
|----------------------------------------------|--------------------------------------|--------------------------------------|
| <input type="radio"/> Alabama                | <input type="radio"/> Kentucky       | <input type="radio"/> North Dakota   |
| <input type="radio"/> Alaska                 | <input type="radio"/> Louisiana      | <input type="radio"/> Ohio           |
| <input type="radio"/> Arizona                | <input type="radio"/> Maine          | <input type="radio"/> Oklahoma       |
| <input type="radio"/> Arkansas               | <input type="radio"/> Maryland       | <input type="radio"/> Oregon         |
| <input type="radio"/> California             | <input type="radio"/> Massachusetts  | <input type="radio"/> Pennsylvania   |
| <input type="radio"/> Colorado               | <input type="radio"/> Michigan       | <input type="radio"/> Rhode Island   |
| <input type="radio"/> Connecticut            | <input type="radio"/> Minnesota      | <input type="radio"/> South Carolina |
| <input type="radio"/> Delaware               | <input type="radio"/> Mississippi    | <input type="radio"/> South Dakota   |
| <input type="radio"/> District of Columbia   | <input type="radio"/> Missouri       | <input type="radio"/> Tennessee      |
| <input type="radio"/> Florida                | <input type="radio"/> Montana        | <input type="radio"/> Texas          |
| <input type="radio"/> Georgia                | <input type="radio"/> Nebraska       | <input type="radio"/> Utah           |
| <input type="radio"/> Hawaii                 | <input type="radio"/> Nevada         | <input type="radio"/> Vermont        |
| <input type="radio"/> Idaho                  | <input type="radio"/> New Hampshire  | <input type="radio"/> Virginia       |
| <input type="radio"/> Illinois               | <input type="radio"/> New Jersey     | <input type="radio"/> Washington     |
| <input type="radio"/> Indiana                | <input type="radio"/> New Mexico     | <input type="radio"/> West Virginia  |
| <input type="radio"/> Iowa                   | <input type="radio"/> New York       | <input type="radio"/> Wisconsin      |
| <input type="radio"/> Kansas                 | <input type="radio"/> North Carolina | <input type="radio"/> Wyoming        |
| <input type="radio"/> Other (please specify) |                                      |                                      |



## 2021 Acupuncturist Occupational Analysis Survey

### Part II - Task Ratings

#### INSTRUCTIONS FOR RATING TASK STATEMENTS

This part of the survey contains **158** task statements. Please rate each task as it relates to your most recent practice as a licensed acupuncturist.

The boxes for rating the **Frequency** and **Importance** of each task have drop-down lists. Click on the "down" arrow in each box to see the rating options, and then select the value that applies to your practice.

If the task is not part of your practice, rate the task "0" (zero) frequency and "0" (zero) importance.

29. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

### ASSESSMENT AND DIAGNOSIS

|                                                                                                                                | Frequency            | Importance           |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 1. Identify patient's chief complaint.                                                                                         | <input type="text"/> | <input type="text"/> |
| 2. Collect information about family health history.                                                                            | <input type="text"/> | <input type="text"/> |
| 3. Collect information about patient health history.                                                                           | <input type="text"/> | <input type="text"/> |
| 4. Identify supplements and herbs that the patient is taking.                                                                  | <input type="text"/> | <input type="text"/> |
| 5. Identify signs and symptoms associated with use of supplements and herbs.                                                   | <input type="text"/> | <input type="text"/> |
| 6. Assess emotional health to inform pattern differentiation.                                                                  | <input type="text"/> | <input type="text"/> |
| 7. Evaluate level and quality of Qi to inform pattern differentiation.                                                         | <input type="text"/> | <input type="text"/> |
| 8. Assess Shen to inform pattern differentiation.                                                                              | <input type="text"/> | <input type="text"/> |
| 9. Assess patient physical characteristics to inform pattern differentiation.                                                  | <input type="text"/> | <input type="text"/> |
| 10. Identify external factors (e.g., stress, pollutants, noise, climate) influencing health.                                   | <input type="text"/> | <input type="text"/> |
| 11. Identify lifestyle factors influencing health.                                                                             | <input type="text"/> | <input type="text"/> |
| 12. Identify patient sleep patterns to inform pattern differentiation.                                                         | <input type="text"/> | <input type="text"/> |
| 13. Identify dietary habits to inform pattern differentiation.                                                                 | <input type="text"/> | <input type="text"/> |
| 14. Identify food and drink flavor preferences, cravings, and aversions to inform pattern differentiation.                     | <input type="text"/> | <input type="text"/> |
| 15. Identify preferences and aversions related to temperature of food and drinks to inform pattern differentiation.            | <input type="text"/> | <input type="text"/> |
| 16. Assess thirst and fluid intake to inform pattern differentiation.                                                          | <input type="text"/> | <input type="text"/> |
| 17. Identify gastrointestinal signs and symptoms (e.g., characteristics of bowel movements, pain) indicating health imbalance. | <input type="text"/> | <input type="text"/> |
| 18. Identify genitourinary signs and symptoms indicating health imbalance.                                                     | <input type="text"/> | <input type="text"/> |
| 19. Identify signs and symptoms of gynecological and reproductive systems indicating health imbalance.                         | <input type="text"/> | <input type="text"/> |
| 20. Identify respiratory signs and symptoms indicating health imbalance.                                                       | <input type="text"/> | <input type="text"/> |

30. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

**ASSESSMENT AND DIAGNOSIS (CONTINUED)**

|                                                                                                                                                     | Frequency            | Importance           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 21. Identify mucus characteristics to inform pattern differentiation.                                                                               | <input type="text"/> | <input type="text"/> |
| 22. Identify phlegm characteristics to inform pattern differentiation.                                                                              | <input type="text"/> | <input type="text"/> |
| 23. Identify cardiovascular signs and symptoms indicating health imbalance.                                                                         | <input type="text"/> | <input type="text"/> |
| 24. Identify skin conditions and characteristics indicating health imbalance.                                                                       | <input type="text"/> | <input type="text"/> |
| 25. Assess fever and chills to inform pattern differentiation.                                                                                      | <input type="text"/> | <input type="text"/> |
| 26. Identify patient perspiration patterns to inform pattern differentiation.                                                                       | <input type="text"/> | <input type="text"/> |
| 27. Identify ocular and visual signs and symptoms indicating health imbalance.                                                                      | <input type="text"/> | <input type="text"/> |
| 28. Identify auditory signs and symptoms indicating health imbalance.                                                                               | <input type="text"/> | <input type="text"/> |
| 29. Assess patient sounds, voice quality, and vocal strength to inform pattern differentiation.                                                     | <input type="text"/> | <input type="text"/> |
| 30. Assess level, nature, locations, and frequency of pain to inform pattern differentiation.                                                       | <input type="text"/> | <input type="text"/> |
| 31. Assess patient tongue body and coating to inform pattern differentiation.                                                                       | <input type="text"/> | <input type="text"/> |
| 32. Assess patient pulse to inform pattern differentiation.                                                                                         | <input type="text"/> | <input type="text"/> |
| 33. Palpate areas of body or channels to inform pattern differentiation.                                                                            | <input type="text"/> | <input type="text"/> |
| 34. Assess patient odors to inform pattern differentiation.                                                                                         | <input type="text"/> | <input type="text"/> |
| 35. Evaluate patient data to determine whether additional information is needed.                                                                    | <input type="text"/> | <input type="text"/> |
| 36. Interpret and integrate assessment findings (e.g., pulse, tongue, history, channel, diagnostic test results) to inform pattern differentiation. | <input type="text"/> | <input type="text"/> |
| 37. Identify primary disharmony patterns by prioritizing patient signs and symptoms.                                                                | <input type="text"/> | <input type="text"/> |
| 38. Identify phase of pathogen progression.                                                                                                         | <input type="text"/> | <input type="text"/> |
| 39. Identify affected channels.                                                                                                                     | <input type="text"/> | <input type="text"/> |
| 40. Identify Root and Branch condition.                                                                                                             | <input type="text"/> | <input type="text"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part II - Task Ratings

31. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

#### ASSESSMENT AND DIAGNOSIS (CONTINUED)

|                                                                                                             | Frequency            | Importance           |
|-------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 41. Identify Five Element disharmony patterns.                                                              | <input type="text"/> | <input type="text"/> |
| 42. Identify Zang Fu disharmony patterns.                                                                   | <input type="text"/> | <input type="text"/> |
| 43. Identify Eight Principles categorization.                                                               | <input type="text"/> | <input type="text"/> |
| 44. Identify disharmony pattern using Six Stages (i.e., Shang Han Lun) of differentiation.                  | <input type="text"/> | <input type="text"/> |
| 45. Identify disharmony pattern using Four Levels (i.e., Wei, Qi, Ying, and Xue) of differentiation.        | <input type="text"/> | <input type="text"/> |
| 46. Identify disharmony pattern using Triple Burner (i.e., San Jiao) differentiation.                       | <input type="text"/> | <input type="text"/> |
| 47. Develop a differential diagnosis list for identified disharmony patterns.                               | <input type="text"/> | <input type="text"/> |
| 48. Develop treatment principles (e.g., tonify, sedate, harmonize) for patients.                            | <input type="text"/> | <input type="text"/> |
| 49. Develop treatment plans by applying treatment principle (e.g., tonify, sedate, harmonize).              | <input type="text"/> | <input type="text"/> |
| 50. Prioritize treatment principles and management of presenting problems.                                  | <input type="text"/> | <input type="text"/> |
| 51. Evaluate patient progress during follow-up visit to determine adjustments to treatment plans.           | <input type="text"/> | <input type="text"/> |
| 52. Modify treatment plans based on patient response to treatment.                                          | <input type="text"/> | <input type="text"/> |
| 53. Identify a measurable metric for assessing treatment efficacy (e.g., outcome measures, questionnaires). | <input type="text"/> | <input type="text"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part II - Task Ratings

32. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

#### ASSESSMENT AND DIAGNOSIS (CONTINUED)

|                                                                                                                                                         | Frequency            | Importance           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 54. Collaborate with primary physicians and other health care providers to identify the most effective treatment for patients.                          | <input type="text"/> | <input type="text"/> |
| 55. Refer client to other health care providers based on assessment findings.                                                                           | <input type="text"/> | <input type="text"/> |
| 56. Identify signs and symptoms that require emergency management.                                                                                      | <input type="text"/> | <input type="text"/> |
| 57. Identify pharmaceuticals that the patient is taking.                                                                                                | <input type="text"/> | <input type="text"/> |
| 58. Identify signs and symptoms associated with the use of pharmaceuticals.                                                                             | <input type="text"/> | <input type="text"/> |
| 59. Perform biomedical physical examination (e.g. observation, auscultation, palpation, vital signs) on patients to determine present health condition. | <input type="text"/> | <input type="text"/> |
| 60. Perform neurological examination (e.g., sensation, strength) on patients to determine health condition.                                             | <input type="text"/> | <input type="text"/> |
| 61. Perform orthopedic examination on patients to determine health condition.                                                                           | <input type="text"/> | <input type="text"/> |
| 62. Order diagnostic tests to determine health condition.                                                                                               | <input type="text"/> | <input type="text"/> |
| 63. Review patient diagnostic reports to gather additional information regarding patient complaint.                                                     | <input type="text"/> | <input type="text"/> |
| 64. Translate Traditional Chinese Medicine diagnostic concepts into common Western terminology for patients and health care providers.                  | <input type="text"/> | <input type="text"/> |
| 65. Educate patients regarding differences between Traditional Chinese Medicine and Western medicine.                                                   | <input type="text"/> | <input type="text"/> |
| 66. Communicate assessment findings and diagnosis to patients.                                                                                          | <input type="text"/> | <input type="text"/> |
| 67. Communicate with patients about treatment plan and possible outcomes.                                                                               | <input type="text"/> | <input type="text"/> |
| 68. Explain treatment procedures to patients before starting treatment.                                                                                 | <input type="text"/> | <input type="text"/> |

33. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

**TREATMENT MODALITIES - ACUPUNCTURE**

|                                                                                                                                                    | Frequency            | Importance           |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 69. Develop a point prescription based on treatment principles.                                                                                    | <input type="text"/> | <input type="text"/> |
| 70. Select distal and/or proximal points.                                                                                                          | <input type="text"/> | <input type="text"/> |
| 71. Select local points along the affected Meridian.                                                                                               | <input type="text"/> | <input type="text"/> |
| 72. Select points from different channels to treat Root and Branch.                                                                                | <input type="text"/> | <input type="text"/> |
| 73. Select points on patient's body using mirroring methods (e.g., elbow-for-knee).                                                                | <input type="text"/> | <input type="text"/> |
| 74. Select points on patient in accordance with midnight-noon ebb-flow principles (e.g., chrono-acupuncture, Zi Wu Liu Zhu theory, Horary points). | <input type="text"/> | <input type="text"/> |
| 75. Select points on patients to balance point distribution (e.g., right and left, above and below).                                               | <input type="text"/> | <input type="text"/> |
| 76. Select points from Yin and Yang channels to balance treatment prescription for patients.                                                       | <input type="text"/> | <input type="text"/> |
| 77. Select points on patient extremities to treat conditions occurring in the center.                                                              | <input type="text"/> | <input type="text"/> |
| 78. Select points on patient that are centrally located to treat conditions occurring in the extremities.                                          | <input type="text"/> | <input type="text"/> |
| 79. Select Ashi points on patients.                                                                                                                | <input type="text"/> | <input type="text"/> |
| 80. Select points along the Muscle channels.                                                                                                       | <input type="text"/> | <input type="text"/> |
| 81. Select Front-Mu points on patients.                                                                                                            | <input type="text"/> | <input type="text"/> |
| 82. Select Back-Shu points on patients.                                                                                                            | <input type="text"/> | <input type="text"/> |
| 83. Select Lower He-Sea points on patients to connect channels with respective Fu Organs.                                                          | <input type="text"/> | <input type="text"/> |
| 84. Select Five Shu (Five-Transporting) points on patients.                                                                                        | <input type="text"/> | <input type="text"/> |
| 85. Select Confluent points of the Eight Extraordinary channels on patients.                                                                       | <input type="text"/> | <input type="text"/> |
| 86. Select Extra points on patients.                                                                                                               | <input type="text"/> | <input type="text"/> |
| 87. Select Intersecting or Crossing points on patients.                                                                                            | <input type="text"/> | <input type="text"/> |
| 88. Select Luo-Connecting points on patients.                                                                                                      | <input type="text"/> | <input type="text"/> |
| 89. Select Yuan-Source points on patients.                                                                                                         | <input type="text"/> | <input type="text"/> |

34. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

**TREATMENT MODALITIES - ACUPUNCTURE**

|                                                                                                                      | Frequency            | Importance           |
|----------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 90. Select Xi-Cleft points on patients to treat acute conditions of the related channel or corresponding Organs.     | <input type="text"/> | <input type="text"/> |
| 91. Select Eight Influential points on patients.                                                                     | <input type="text"/> | <input type="text"/> |
| 92. Select points to treat muscle or joint mechanism dysfunction.                                                    | <input type="text"/> | <input type="text"/> |
| 93. Select points to treat a radiculopathy based on dermatome map.                                                   | <input type="text"/> | <input type="text"/> |
| 94. Select scalp points on patients.                                                                                 | <input type="text"/> | <input type="text"/> |
| 95. Select auricular points on patients.                                                                             | <input type="text"/> | <input type="text"/> |
| 96. Select points according to the Five Elements theory.                                                             | <input type="text"/> | <input type="text"/> |
| 97. Select trigger points on patients.                                                                               | <input type="text"/> | <input type="text"/> |
| 98. Select motor points on patients.                                                                                 | <input type="text"/> | <input type="text"/> |
| 99. Locate points for needle insertion on patient by using anatomical landmarks and proportional measurements.       | <input type="text"/> | <input type="text"/> |
| 100. Select needle length and gauge according to treatment area, patient characteristics, and patient diagnosis.     | <input type="text"/> | <input type="text"/> |
| 101. Identify needle retention time for patients to achieve optimal treatment effects.                               | <input type="text"/> | <input type="text"/> |
| 102. Place patients into recommended position for needle insertion.                                                  | <input type="text"/> | <input type="text"/> |
| 103. Insert needle within standard depth range to stimulate point on patients.                                       | <input type="text"/> | <input type="text"/> |
| 104. Insert needle using recommended insertion angle.                                                                | <input type="text"/> | <input type="text"/> |
| 105. Manipulate needle to produce therapeutic effect in patients.                                                    | <input type="text"/> | <input type="text"/> |
| 106. Identify contraindications for needling by evaluating patient condition to avoid injury and complications.      | <input type="text"/> | <input type="text"/> |
| 107. Identify points that require needling with caution (e.g., points located near arteries) to avoid complications. | <input type="text"/> | <input type="text"/> |
| 108. Monitor patients before, during, and after treatment for adverse reactions and comfort level.                   | <input type="text"/> | <input type="text"/> |





## 2021 Acupuncturist Occupational Analysis Survey

### Part II - Task Ratings

35. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

#### ADJUNCT TREATMENT MODALITIES

|                                                                                                                                                      | Frequency            | Importance           |
|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 109. Apply moxibustion techniques on patients to treat indicated conditions.                                                                         | <input type="text"/> | <input type="text"/> |
| 110. Apply intradermal needles to treat indicated conditions.                                                                                        | <input type="text"/> | <input type="text"/> |
| 111. Perform laser acupuncture to treat indicated conditions.                                                                                        | <input type="text"/> | <input type="text"/> |
| 112. Perform electrotherapy (e.g., electroacupuncture, electrostimulation,) on patients to enhance effectiveness of treatment for select conditions. | <input type="text"/> | <input type="text"/> |
| 113. Perform cupping techniques on patients to treat indicated conditions.                                                                           | <input type="text"/> | <input type="text"/> |
| 114. Perform Gua Sha techniques to treat indicated conditions.                                                                                       | <input type="text"/> | <input type="text"/> |
| 115. Perform manual therapy (e.g., Tui Na, acupressure) on patients to treat indicated conditions.                                                   | <input type="text"/> | <input type="text"/> |
| 116. Perform heat therapy (e.g., infrared light, heat pad) to treat indicated conditions.                                                            | <input type="text"/> | <input type="text"/> |
| 117. Apply ear seeds to treat indicated conditions.                                                                                                  | <input type="text"/> | <input type="text"/> |
| 118. Apply herbal plaster therapy to treat indicated conditions.                                                                                     | <input type="text"/> | <input type="text"/> |
| 119. Apply kinesiology tape to patients to treat indicated conditions.                                                                               | <input type="text"/> | <input type="text"/> |
| 120. Educate patients regarding therapeutic exercises to treat indicated conditions.                                                                 | <input type="text"/> | <input type="text"/> |
| 121. Educate patients regarding diet and nutrition to support treatment.                                                                             | <input type="text"/> | <input type="text"/> |
| 122. Educate patients regarding lifestyle changes (e.g., Qi Gong exercise, ergonomics, meditation) to improve health condition.                      | <input type="text"/> | <input type="text"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part II - Task Ratings

36. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

#### TREATMENT MODALITIES - HERBAL THERAPY

|                                                                                                                       | Frequency            | Importance           |
|-----------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 123. Select or develop herbal formulas for patients based on treatment principle (e.g., tonify, sedate, harmonize).   | <input type="text"/> | <input type="text"/> |
| 124. Select or develop herbal formula based on patient constitution.                                                  | <input type="text"/> | <input type="text"/> |
| 125. Select or develop herbal therapies that complement patient acupuncture treatments.                               | <input type="text"/> | <input type="text"/> |
| 126. Instruct patients on use of herbs (e.g., dosage, cooking, application) to produce intended therapeutic effect.   | <input type="text"/> | <input type="text"/> |
| 127. Identify herbal therapy with equivalent action to Western medications.                                           | <input type="text"/> | <input type="text"/> |
| 128. Identify herbal therapy contraindications for the patient.                                                       | <input type="text"/> | <input type="text"/> |
| 129. Identify contraindications for herbs when combined with Western medications to avoid adverse interactions.       | <input type="text"/> | <input type="text"/> |
| 130. Monitor and evaluate patient response to herbal therapy.                                                         | <input type="text"/> | <input type="text"/> |
| 131. Monitor effects of herbs when combined with Western medications to determine interactions.                       | <input type="text"/> | <input type="text"/> |
| 132. Determine effective dosage of herbal therapy by evaluating patient condition.                                    | <input type="text"/> | <input type="text"/> |
| 133. Modify herbal prescription for patients based on patient response to herbal therapy.                             | <input type="text"/> | <input type="text"/> |
| 134. Identify type of herbal therapy indicated for the patient (e.g., powder, granular, raw herb, decoction, patent). | <input type="text"/> | <input type="text"/> |
| 135. Inspect raw herbs for authenticity and purity (e.g., appearance, taste, smell, texture).                         | <input type="text"/> | <input type="text"/> |
| 136. Obtain certificate of authenticity for herbs from the manufacturer.                                              | <input type="text"/> | <input type="text"/> |
| 137. Label packaging containing herbal prescriptions following legal guidelines for supplements.                      | <input type="text"/> | <input type="text"/> |
| 138. Provide information about the herbal therapy prescriptions to patients.                                          | <input type="text"/> | <input type="text"/> |
| 139. Prepare raw herbs following safety guidelines.                                                                   | <input type="text"/> | <input type="text"/> |

37. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance of your practice (Importance).

### 3. LEGAL AND PROFESSIONAL RESPONSIBILITIES

|                                                                                                                             | Frequency            | Importance           |
|-----------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| 140. Document assessment, treatment, and patient response to treatment in accordance with legal and professional standards. | <input type="text"/> | <input type="text"/> |
| 141. Maintain patient records in accordance with legal requirements.                                                        | <input type="text"/> | <input type="text"/> |
| 142. Maintain patient privacy and confidentiality in accordance with legal requirements.                                    | <input type="text"/> | <input type="text"/> |
| 143. Identify and report cases of known or suspected abuse and neglect.                                                     | <input type="text"/> | <input type="text"/> |
| 144. Identify and report cases of communicable disease.                                                                     | <input type="text"/> | <input type="text"/> |
| 145. Obtain informed consent for treatment in accordance with legal and ethical guidelines.                                 | <input type="text"/> | <input type="text"/> |
| 146. Assess patient capacity to make health care decisions.                                                                 | <input type="text"/> | <input type="text"/> |
| 147. Implement standard procedures to prevent disease transmission and minimize risk of infection.                          | <input type="text"/> | <input type="text"/> |
| 148. Implement measures to safely perform acupuncture and adjunct treatments on patients.                                   | <input type="text"/> | <input type="text"/> |
| 149. Practice clean needle techniques.                                                                                      | <input type="text"/> | <input type="text"/> |
| 150. Maintain a clinical environment that adheres to OSHA requirements and clinical standards.                              | <input type="text"/> | <input type="text"/> |
| 151. Dispose of needles, contaminated material, and containers in accordance with Cal/OSHA guidelines.                      | <input type="text"/> | <input type="text"/> |
| 152. Recognize situations and behaviors that may impair ability to practice safely and competently.                         | <input type="text"/> | <input type="text"/> |
| 153. Comply with the acupuncturist legal scope of practice.                                                                 | <input type="text"/> | <input type="text"/> |
| 154. Develop advertisements regarding services provided in accordance with legal guidelines.                                | <input type="text"/> | <input type="text"/> |
| 155. Recognize situations and behaviors that constitute unprofessional conduct.                                             | <input type="text"/> | <input type="text"/> |
| 156. Recognize and evaluate potential conflict of interest situations for impact on patients or therapeutic process.        | <input type="text"/> | <input type="text"/> |
| 157. Establish and maintain professional boundaries.                                                                        | <input type="text"/> | <input type="text"/> |
| 158. Safeguard patient rights to dignity.                                                                                   | <input type="text"/> | <input type="text"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

#### INSTRUCTIONS FOR RATING KNOWLEDGE STATEMENTS

This part of the survey contains 200 knowledge statements. Please rate each knowledge statement based on how important you believe the knowledge is for effective performance of your most recent practice as a licensed acupuncturist.

If the knowledge is not required for effective performance of your most recent practice, rate the statement "Does not apply."

38. How important is this knowledge for effective performance of tasks in your practice?

#### ASSESSMENT AND DIAGNOSIS

|                                                                                                   | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|---------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 1. Knowledge of interview techniques for obtaining information about patient health.              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Knowledge of observational techniques for obtaining information about patient health.          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Knowledge of listening and smelling techniques for obtaining information about patient health. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Knowledge of palpation examination methods and techniques.                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Knowledge of effects of patient and family health history on current health status.            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Knowledge of signs and symptoms associated with use of supplements and herbs.                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Knowledge of clinical indicators of the level and quality of Blood.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Knowledge of clinical indicators of the level and quality of Qi.                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Knowledge of clinical indicators of Essence.                                                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Knowledge of clinical manifestations of Shen.                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 11. Knowledge of clinical manifestations of Body Fluids.                                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

|                                                                                                                        | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 12. Knowledge of the associations between patient physical characteristics and disharmony patterns.                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 13. Knowledge of signs and symptoms of psychosocial dysfunction associated with disharmony patterns.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 14. Knowledge of emotions associated with disharmony patterns.                                                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 15. Knowledge of external factors (e.g., stress, pollutants, noise, climate) that affect health.                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 16. Knowledge of effects of lifestyle factors on health.                                                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 17. Knowledge of sleep patterns indicating health imbalance.                                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 18. Knowledge of effects of dietary habits and nutrition on health and wellness.                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 19. Knowledge of food and drink flavor preferences, cravings, and aversions associated with disharmony patterns.       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 20. Knowledge of food and drink temperature preferences and aversions associated with disharmony patterns.             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 21. Knowledge of thirst characteristics associated with patterns of disharmony.                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 22. Knowledge of relationship between fluid intake and disharmony patterns.                                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 23. Knowledge of gastrointestinal signs and symptoms associated with disharmony patterns.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 24. Knowledge of genitourinary signs and symptoms associated with disharmony patterns.                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 25. Knowledge of signs and symptoms of gynecological and reproductive functioning associated with disharmony patterns. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

39. How important is this knowledge for effective performance of tasks in your practice?

#### ASSESSMENT AND DIAGNOSIS (CONTINUED)

|                                                                                                     | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|-----------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 26. Knowledge of respiratory signs and symptoms associated with disharmony patterns.                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 27. Knowledge of mucus characteristics in relation to disharmony patterns.                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 28. Knowledge of phlegm characteristics in relation to disharmony patterns.                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 29. Knowledge of cardiovascular signs and symptoms associated with disharmony patterns.             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 30. Knowledge of skin characteristics and conditions associated with disharmony patterns.           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 31. Knowledge of fever and chills associated with disharmony patterns.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 32. Knowledge of patient's sensations of heat and cold associated with health imbalance.            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 33. Knowledge of conditions associated with abnormal localized temperature upon palpation.          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 34. Knowledge of abnormal perspiration associated with disharmony patterns.                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 35. Knowledge of ocular signs and symptoms associated with disharmony patterns.                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 36. Knowledge of auditory signs and symptoms associated with disharmony patterns.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 37. Knowledge of the relationship between quality and strength of voice and patterns of disharmony. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 38. Knowledge of methods and procedures for assessing pain.                                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 39. Knowledge of tongue characteristics associated with disharmony patterns.                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

|                                                                                                                | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|----------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 40. Knowledge of radial pulse characteristics associated with patterns of disharmony.                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 41. Knowledge of methods for obtaining pulse information from various locations on the body.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 42. Knowledge of disease progression from superficial to deep levels of the human body.                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 43. Knowledge of methods for integrating assessment information to develop a differential diagnosis.           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 44. Knowledge of methods for integrating tongue and pulse characteristics to identify disharmony patterns.     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 45. Knowledge of the relationship between the Organs and channels in disease progression and transformation.   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 46. Knowledge of the relationship between the Zang Fu and vital substances (i.e., the Liver stores the Blood). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 47. Knowledge of clinical indicators associated with disease of the channels.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 48. Knowledge of the functions, distribution, and clinical significance of the channels.                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 49. Knowledge of principles for treating root versus branch disharmony patterns.                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 50. Knowledge of methods for prioritizing indicators of disharmony to develop a differential diagnosis.        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

40. How important is this knowledge for effective performance of tasks in your practice?

**ASSESSMENT AND DIAGNOSIS (CONTINUED)**

|                                                                                                              | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|--------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 51. Knowledge of the Five Spirits theory and pattern differentiation methods.                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 52. Knowledge of the interrelationships of the Five Elements and clinical indications of disharmony.         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 53. Knowledge of the functions of and the relationship between the Zang Fu and the channels.                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 54. Knowledge of the Five Elements theory and pattern differentiation methods.                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 55. Knowledge of the Eight Principles theory and pattern differentiation methods.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 56. Knowledge of the Triple Burner theory and pattern differentiation methods.                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 57. Knowledge of the Six Stages (Shang Han Lun) theory and pattern differentiation methods.                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 58. Knowledge of the Four Levels theory and pattern differentiation methods.                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 59. Knowledge of the clinical indications associated with Zang Fu disharmonies.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 60. Knowledge of methods for identifying simultaneous Zang Fu disharmonies.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 61. Knowledge of functions and disharmonies associated with Vital Substances.                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 62. Knowledge of development of treatment principles based on different theories of pattern differentiation. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 63. Knowledge of the effectiveness of combining treatment strategies in developing a treatment plan.         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 64. Knowledge of treatment strategies for using tonification and sedation points.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 65. Knowledge of the association between stimulation techniques and treatment principles.                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 66. Knowledge of methods for evaluating patient progress.                                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 67. Knowledge of clinical conditions that require patient referral to other health care providers.           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 68. Knowledge of signs and symptoms of emergency conditions.                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 69. Knowledge of methods for administering cardiopulmonary resuscitation.                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 70. Knowledge of methods for providing first aid treatment.                                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



41. How important is this knowledge for effective performance of tasks in your practice?

**ASSESSMENT AND DIAGNOSIS (CONTINUED)**

|                                                                                                                                            | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 71. Knowledge of biomedical physical examination methods and techniques (e.g. observation, auscultation, palpation, vital signs).          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 72. Knowledge of human anatomy, physiology, and pathology.                                                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 73. Knowledge of procedures for obtaining vital signs.                                                                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 74. Knowledge of normal range of vital signs.                                                                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 75. Knowledge of methods and procedures for assessing neuromusculoskeletal function and integrity.                                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 76. Knowledge of pathways and functions of cranial nerves for determination of neurological pathology.                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 77. Knowledge of dermatome technique for assessment of neuromuscular pathology.                                                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 78. Knowledge of neuromusculoskeletal conditions.                                                                                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 79. Knowledge of patient genetics and heredity associated with symptom development.                                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 80. Knowledge of clinical significance of common diagnostic and laboratory tests used for diagnostic and treatment purposes.               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 81. Knowledge of common Western medical conditions, terminology, and definitions.                                                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 82. Knowledge of the classification, clinical indications, contraindications, and side effects of commonly prescribed Western medications. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 83. Knowledge of interactions between commonly used supplements, herbs, foods, and Western medications.                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 84. Knowledge of actions and side effects of commonly used supplements.                                                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 85. Knowledge of the relationship between Western disease diagnoses and Traditional Chinese Medicine patterns.                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 86. Knowledge of Western medical diagnoses and physiological processes involved with disease progression.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 87. Knowledge of techniques to communicate assessment findings, diagnoses, and treatment plans to patients or other health care providers. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

42. How important is this knowledge for effective performance of tasks in your practice?

#### TREATMENT MODALITIES - ACUPUNCTURE

|                                                                                                                              | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 88. Knowledge of the clinical actions and indications of points.                                                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 89. Knowledge of the interrelationships between points, channels, and internal Organs.                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 90. Knowledge of principles for combining distal and proximal points.                                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 91. Knowledge of principles for choosing local points.                                                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 92. Knowledge of principles for combining points from different channels.                                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 93. Knowledge of principles for choosing points according to channel theory.                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 94. Knowledge of treatment modification based on patient response to treatment.                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 95. Knowledge of clinical significance of selecting points based upon specific time of day.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 96. Knowledge of clinical significance of the sequence in which needles are inserted.                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 97. Knowledge of therapeutic effects of needling points on the opposite side of the body from the location of the condition. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 98. Knowledge of the principles for balancing the points on the upper part of the body with those of the lower part.         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 99. Knowledge of principles for choosing points on the front and back to regulate internal Organs.                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 100. Knowledge of principles for choosing points in the center to treat conditions occurring on extremities.                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 101. Knowledge of principles for choosing points on the extremities to treat conditions occurring in the center.             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 102. Knowledge of the therapeutic use of Ashi points.                                                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

|                                                                                                      | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 103. Knowledge of the therapeutic use of points along the Muscle channels.                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 104. Knowledge of principles for choosing Front-Mu points in treatment.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 105. Knowledge of principles for choosing Back-Shu points in treatment.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 106. Knowledge of principles for combining Front-Mu points and Back-Shu points to balance treatment. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 107. Knowledge of principles for choosing Lower He-Sea points.                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 108. Knowledge of principles for choosing Five Shu (Five-Transporting) points.                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 109. Knowledge of principles for choosing Confluent points of the Eight Extraordinary channels.      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 110. Knowledge of principles for choosing Extra points.                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

43. How important is this knowledge for effective performance of tasks in your practice?

#### TREATMENT MODALITIES - ACUPUNCTURE (CONTINUED)

|                                                                                              | Does not apply        | Not important         | Of minor importance   | Moderately important             | Very important                   | Critically important             |
|----------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|----------------------------------|----------------------------------|----------------------------------|
| 111. Knowledge of principles for choosing Intersecting or Crossing points of channels.       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/>            | <input type="radio"/>            |
| 112. Knowledge of principles for choosing Luo-Connecting points.                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/>            | <input type="radio"/>            |
| 113. Knowledge of principles for choosing Yuan-Source points.                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 114. Knowledge of principles for choosing Xi-Cleft points.                                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/>            | <input type="radio"/>            |
| 115. Knowledge of the therapeutic use of tonification and sedation techniques.               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 116. Knowledge of principles for choosing Four Seas points.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input type="radio"/>            | <input checked="" type="radio"/> |
| 117. Knowledge of principles for choosing Eight Influential points.                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 118. Knowledge of principles for choosing Mother and Son points (Four Needle Technique).     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 119. Knowledge of scalp point selection principles.                                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 120. Knowledge of auricular point selection principles.                                      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 121. Knowledge of dermatome map for point selection.                                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 122. Knowledge of point selection using the Five Elements theory.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 123. Knowledge of principles and indications for selecting motor points.                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 124. Knowledge of principles and indications for selecting trigger points.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 125. Knowledge of anatomical landmarks and proportional measurements used in point location. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 126. Knowledge of needle manipulation techniques.                                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |
| 127. Knowledge of needle retention methods for patterns of disharmony.                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/>            |

|                                                                                                     | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|-----------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 128. Knowledge of the impact of patient constitution and condition on duration of needle retention. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 129. Knowledge of patient positions for locating and needling acupuncture points.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 130. Knowledge of recommended needling depths and angles.                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 131. Knowledge of signs and symptoms of patient distress.                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 132. Knowledge of points and patient conditions that are contraindicated for needling.              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 133. Knowledge of points and patient conditions that require needling with caution.                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 134. Knowledge of potential side effects of acupuncture treatment.                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 135. Knowledge of principles for selecting needles.                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

44. How important is this knowledge for effective performance of tasks in your practice?

#### TREATMENT MODALITIES - ADJUNCT

|                                                                                                           | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|-----------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 136. Knowledge of moxibustion (i.e., direct and indirect) techniques.                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 137. Knowledge of indications, contraindications, and side effects of moxibustion.                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 138. Knowledge of application of intradermal needles.                                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 139. Knowledge of indications, contraindications, and side effects of application of intradermal needles. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 140. Knowledge of methods and procedures for laser acupuncture.                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 141. Knowledge of indications, contraindications, and side effects of laser acupuncture.                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 142. Knowledge of electrotherapy techniques.                                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 143. Knowledge of indications, contraindications, and side effects of electrotherapy.                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 144. Knowledge of cupping techniques.                                                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 145. Knowledge of indications, contraindications, and side effects of cupping.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 146. Knowledge of Gua Sha techniques.                                                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 147. Knowledge of indications, contraindications, and side effects of Gua Sha.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 148. Knowledge of manual therapy techniques.                                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 149. Knowledge of indications, contraindications, and side effects of manual therapy.                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 150. Knowledge of heat therapy techniques.                                                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 151. Knowledge of indications, contraindications, and side effects of heat therapy.                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

|                                                                                                     | Does<br>not<br>apply  | Not<br>important      | Of minor<br>importance | Moderately<br>important | Very<br>important     | Critically<br>important |
|-----------------------------------------------------------------------------------------------------|-----------------------|-----------------------|------------------------|-------------------------|-----------------------|-------------------------|
| 152. Knowledge of the application of ear seeds.                                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 153. Knowledge of indications, contraindications, and side effects of ear seeds application.        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 154. Knowledge of the application of herbal plaster.                                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 155. Knowledge of indications, contraindications, and side effects of herbal plaster therapy.       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 156. Knowledge of the application of kinesiology tape to patient's body.                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 157. Knowledge of indications, contraindications, and side effects of kinesiology tape application. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 158. Knowledge of lifestyle changes and stress reduction techniques that improve health condition.  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 159. Knowledge of therapeutic exercises to support patient treatment goals.                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |
| 160. Knowledge of dietary modifications to support patient treatment goals.                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>   | <input type="radio"/> | <input type="radio"/>   |



## 2021 Acupuncturist Occupational Analysis Survey

### Part III - Knowledge Ratings

45. How important is this knowledge for effective performance of tasks in your practice?

#### TREATMENT MODALITIES - HERBAL THERAPY

|                                                                                                                    | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|--------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 161. Knowledge of therapeutic uses, indications, contraindications, and side effects of herbs and herbal formulas. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 162. Knowledge of categories of herbs and herbal formulas.                                                         | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 163. Knowledge of the effects of herbs and herbal formulas on channels and Organs.                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 164. Knowledge of modifications of herbal formulas.                                                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 165. Knowledge of the synergistic and antagonist relationships of ingredients in herbal formulas.                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 166. Knowledge of the hierarchical principles governing herbal formulas.                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 167. Knowledge of the association between therapeutic effects of points and herbal therapy.                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 168. Knowledge of interactions between herbal therapies, supplements, and Western medications.                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 169. Knowledge of cautions and contraindications related to herbs and herbal formulas.                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 170. Knowledge of interactions between diet and herbal therapies.                                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 171. Knowledge of effective dosages of herbs and herbal supplements.                                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 172. Knowledge of the principles and guidelines for herbal formula preparation.                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 173. Knowledge of the relationships between herbal formulas and treatment principles.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 174. Knowledge of herbs and combinations of herbs that are toxic or produce undesired side effects.                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



|                                                                                                                  | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 175. Knowledge of methods for modifying herbal formulas to treat changes in patient condition.                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 176. Knowledge of the effects of processing on efficacy and toxicity of herbs.                                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 177. Knowledge of forms (e.g., raw, granules, pill) used for administering herbs.                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 178. Knowledge of herbal formula recommendations based upon patient constitution.                                | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 179. Knowledge of methods for ensuring authenticity and purity of raw herbs.                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 180. Knowledge of requirements for labeling of containers used for storing or dispensing of herbal preparations. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

46. How important is this knowledge for effective performance of tasks in your practice?

|                                                                                                                                                   | Does not apply        | Not important         | Of minor importance   | Moderately important  | Very important        | Critically important  |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 181. Knowledge of legal requirements and professional standards pertaining to documentation of assessment, treatment, and patient response.       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 182. Knowledge of professional standards for writing medical records and reports.                                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 183. Knowledge of legal requirements pertaining to maintenance and retention of patient records.                                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 184. Knowledge of legal requirements pertaining to confidentiality of patient information (i.e., HIPAA).                                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 185. Knowledge of legal requirements pertaining to disclosure of patient information.                                                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 186. Knowledge of legal requirements pertaining to reporting of child, elder, and dependent adult abuse and neglect.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 187. Knowledge of legal requirements pertaining to reporting of communicable disease.                                                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 188. Knowledge of indicators of child, elder, and dependent adult abuse and neglect.                                                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 189. Knowledge of legal and ethical requirements pertaining to informed consent.                                                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 190. Knowledge of methods to assess patient capacity to make health care decisions.                                                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 191. Knowledge of infection control guidelines.                                                                                                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 192. Knowledge of the risks of infectious diseases in the practitioner and patient environment.                                                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 193. Knowledge of standards and procedures for the Clean Needle Technique.                                                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 194. Knowledge of legal requirements for maintaining clinical environments in accordance with OSHA requirements and clinical standards.           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 195. Knowledge of methods for isolating used needles.                                                                                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 196. Knowledge of legal requirements for disposal of contaminated materials.                                                                      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 197. Knowledge of laws and regulations that define scope of practice and professional competence for acupuncturists.                              | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 198. Knowledge of laws and regulations pertaining to unprofessional conduct for California-licensed acupuncturists.                               | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 199. Knowledge of legal requirements pertaining to advertisement and dissemination of information about professional qualifications and services. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 200. Knowledge of ethical and professional standards for licensed acupuncturists.                                                                 | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |



## 2021 Acupuncturist Occupational Analysis Survey

### Continuing Education Credits

If you have completed **all questions on this survey**, you will receive 4 continuing education credits.

To issue the credits, the California Acupuncture Board (Board) needs to know your name, license number, and email address. Your personal information will be kept confidential and will not be linked to your responses on this survey.

The Board will issue the continuing education certificates approximately 4-6 weeks after the survey closes.

47. Please enter your first and last name.

48. Please enter your California acupuncturist license number.

49. Please enter your email address.



## 2021 Acupuncturist Occupational Analysis Survey

### Thank you!

Thank you for taking the time to complete this survey. The California Acupuncture Board values your contribution to this study.

Please remember that you will receive CE credits **only if you completed all questions on the survey** and provided your name, license number, and email information on the previous page.

Please click "Done" to submit your responses. **After you click "Done," you will no longer be able to edit your responses.**

If you have questions about this survey, please send an email to [acupuncturistOA@dca.ca.gov](mailto:acupuncturistOA@dca.ca.gov).



## 13 - Informed Consent



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|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>DATE</b>    | December 9-10, 2021                                                      |
| <b>TO</b>      | Acupuncture Board Members                                                |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator<br>David Bruggeman, Policy Analyst |
| <b>SUBJECT</b> | DCA healing arts licensees and informed consent                          |

This memo outlines the guidance for licensees of several Department of Consumer Affairs healing arts boards with respect to informed consent for medical treatment. This memo does not cover informed consent laws, regulations and other state guidance for other purposes, such as participation in research studies.

This memo covers the following licensee types:

| Licensee* Type          | Regulatory Board                | Informed Consent Referenced in laws/regulations?                                 | Informed Consent Forms Referenced? |
|-------------------------|---------------------------------|----------------------------------------------------------------------------------|------------------------------------|
| Acupuncturists          | Acupuncture Board               | Yes, CCR §1399.425, .426, .430 and .431                                          | No                                 |
| Physicians and Surgeons | Medical Board                   | Yes, HSC §§ 1418.9, 1690, 109275, 109280, 109282; BPC §§ 2078, 2281, WIC §14191, | No                                 |
| Osteopaths              | Osteopathic Medical Board       | No                                                                               | No                                 |
| Chiropractors           | Board of Chiropractic Examiners | Yes, CCR §318 and 319.1                                                          | No                                 |
| Physician Assistants    | Physician Assistant Board       | Yes, BPC §2023.5, 2250, 2257, CCR §1399.536, .538 and .545                       | No                                 |

| Licensee* Type       | Regulatory Board                | Informed Consent Referenced in laws/regulations?                        | Informed Consent Forms Referenced?                         |
|----------------------|---------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------|
| Registered Nurses    | Board of Registered Nursing     | Yes, CCR § 1443.5                                                       | No                                                         |
| Nurse Practitioners  | Board of Registered Nursing     | Yes, CCR § 1443.5, HSC § 1645                                           | No                                                         |
| Nurse-midwives       | Board of Registered Nursing     | Yes, CCR § 1443.5 HSC § 1645                                            | No                                                         |
| Midwives             | Medical Board                   | Yes. BPC §§ 2507, 2508, CCR §1379.19(b) (clients with prior C-sections) | Yes, sample form on Medical Board website for all patients |
| Physical Therapists  | Physical Therapy Board          | Yes, BPC § 2660.1                                                       | No                                                         |
| Massage Therapists * | Massage Therapy Council         |                                                                         | No                                                         |
| Naturopaths          | Naturopathic Medicine Committee | Yes, CCR §4232                                                          | No                                                         |

\*In California massage therapists are currently certified, not licensed, and such certification is voluntary.

**Background**

California courts have weighed in on informed consent for medical treatment. In Cobbs v. Grant 8 Cal. 3d.229 (1972) the California Supreme Court ruled that a patient must “receive sufficient information to make a meaningful decision.” Informed consent is defined in Judicial Council of California Civil Jury instruction 532. “A patient gives “informed consent” only after the (type of medical practitioner) has adequately explained the proposed treatment or procedure.”

There are informed consent laws referring to specific medical procedures. These include the treatment of breast cancer (Business and Professions Code § 2257, Health and Safety Code § 109275), silicone implants (BPC § 2259), collagen injections (BPC § 2259.5), transfer of sperm or ova (BPC § 2260), blood transfusions (HSC 1603.1(a)), the pelvic examination of an unconscious patient (BPC §2281)and the donation of organs, tissues and/or bodily fluids (HSC §1644.5). The laws usually just mention requiring informed consent without describing a form or listing specific requirements. However, some laws will include provisions to include in the informed consent.

Some of these laws require that the patient be provided a written document outlining the procedure(s) involved and the associated risks. Such laws are written so that providing the document is not explicitly considered a substitute for informed consent, though such a document could help ensure that a patient can give informed consent for the relevant treatment(s).

BPC § 2290.5(b) requires health care providers offering telehealth to inform patients of the provision of telehealth services and obtain written or verbal consent for the patient.

## Summary

For the licensees covered in this memo, legal and regulatory guidance on informed consent varies. The laws and regulations that address require informed consent fall into three general categories:

- general guidance and best practices (typically primary care)
- for specific procedures, delegated to other license types, and
- procedures requiring supervision; trainee types

### 1) General Guidance and Best Practices for Primary Care/No Referral Required

#### Medical Board

The Medical Board is responsible for licensing physicians and surgeons (one category); midwives; polysomnographic trainees, technicians and technologists; research psychoanalysts and student research psychoanalysts.

Polysomnographic licensees must be supervised by physicians or surgeons.

Research psychoanalyst regulations are silent with respect to informed consent.

As a result, this memo will cover only physicians and surgeons, as well as midwives.

#### Physicians and Surgeons

The Medical Board publication, *Guide to the Laws Governing the Practice of Medicine by Physicians and Surgeons* (2013 edition), addresses informed consent in the context of the prescription and use of controlled substances for pain management (**boldface added**). **“The physician and surgeon should discuss the risks and benefits of the use of controlled substances and other treatment modalities with the patient, caregiver, or guardian.”** It does not require the informed consent to be in writing but suggests it would help in documenting treatment. (Page 58, <https://www.mbc.ca.gov/Download/Documents/laws-guide.pdf>)

There are several procedures for which California law explicitly requires physicians to obtain informed consent. These include alternative treatment options for breast cancer (Health and Safety Code §109275), alternative prostate cancer treatment options (HSC §§ 109280, 109282), pelvic exams on unconscious female patients (BPC § 2281), hysterectomies (HSC § 1690),



sterilizations (Welfare and Institutions Code §14191), prescribing, ordering or reordering an antipsychotic for a resident of a care facility (HSC § 1418.9) and treatments with dimethyl sulfoxide (DMSO) (BPC § 2078),

In some situations, physicians and surgeons are required to provide a publication that summarizes or otherwise discusses the risks and benefits of the procedures at issue. It does not appear to substitute for informed consent but is a legally required part of the informed consent discussion.

### **Osteopathic Board**

There are no laws or regulations specific to Osteopaths dealing with informed consent. Both the Osteopathic Medical Board and the California Medical Board have the same sections of California law referenced on their websites. This may be a function of Business and Professions Code §2453, which says in part "It is the policy of this state that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons. It may be reasonable to assume that osteopaths would have similar obligations with respect to informed consent. Regardless, much like the Medical Board with respect to physicians and surgeons, there is no detailed guidance on informed consent and osteopaths from the Osteopathic Board.

### **Chiropractic Board**

16 CCR Section 318 is titled "Chiropractic Patient Records/Accountable Billings." Subsection (a)(7) notes that chiropractic patient records must include "signed written informed consent as specified in Section 319.1."

16 CCR Section 319.1 is titled "Informed Consent." Subsection (a) reads in part (**boldface added**)

"A licensed doctor of chiropractic shall **verbally and in writing inform each patient of the material risks of proposed care.**

"Material" shall be defined as a procedure inherently involving known risk of serious bodily harm. The chiropractor shall **obtain the patient's written informed consent prior to initiating clinical care. The signed written consent shall become part of the patient's record."**

There is no reference in Chiropractic Board laws and regulations for what should be in an informed consent document, nor is there a specific form described for such a document.

## **2) Specific Procedures Delegated to Other License Types**

### **Physician's Assistant Board**

Physician's Assistants (PAs) are required to have a supervising physician available in person or by electronic communication at all times when they are caring for patients. The supervising physician may adopt protocols to govern the

performance of a PA for some or all tasks. At a minimum, the protocols shall include that the PA provide education to the patient and shall **state the information to be given the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the follow-up care.** (CCR §1399.545(e)(3))

In an approved preceptorship (supervised clinical practice phase) trainees are required to inform a patient of the services that will be rendered by the trainee except for in emergencies. In cases where a trainee will assist in a surgical procedure (except emergencies), the patient is required to consent in writing to the patient receiving care from a trainee prior to the performance of surgery. It is the responsibility of the approved program to assure the instructors or physician preceptors have obtained necessary consent. (CCR §1399.536, .538)

PAs in conjunction with physicians and registered nurses are required to include patient education, instruction, and informed consent when reviewing the issues surrounding the use of laser or intense light pulse devices for elective cosmetic procedures. (BPC § 2023.5)

### **Medical Board - Midwives**

Compared to nurse-midwives, midwives are more limited in their scope of practice. Business and Professions Code § 2507 limits licensed midwives to “attending cases of normal pregnancy and childbirth, ...and to provide prenatal, intrapartum and postpartum care, including family-planning care, for the mother, and immediate care for the newborn.”

Licensed midwives must disclose the following to prospective clients and obtain their informed consent for all of the following (BPC § 2508):

- The provisions of BPC §2507 (which describe what qualifies as ‘normal pregnancy and childbirth).
- The client is retaining a licensed midwife, not a certified nurse-midwife, and the licensed midwife is not supervised by a physician and surgeon.
- The midwife’s current licensure status and license number.
- The practice settings in which the licensed midwife practices.
- Whether or not he or she has liability coverage for the practice of midwifery.
- The fact that many physicians do not have liability insurance coverage for services provided to someone having a planned out-of-hospital birth.
- Acknowledgement that if the client is advised to consult with a physician, failure to do so may affect the client’s legal rights in any professional negligence actions against a physician, licensed health care professional, or hospital.

- There are conditions that are outside the scope of practice of a licensed midwife that will result in a referral for a consultation from, or transfer of care to, a physician.
- The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary, and recommendations for preregistration at a hospital that has obstetric emergency services and is most likely to receive the transfer.
- If, during the course of care, the client is informed that she has or may have a condition indicating the need for a mandatory transfer, the licensed midwife must initiate the transfer.
- The laws regulating licensed midwifery practices and the procedure for reporting complaints to the Medical Board of California, and that these are available on the Medical Board of California's website.
- Consultation with a physician does not alone create a physician-patient relationship or any other relationship with the physician. The informed consent must specifically state that the licensed midwife and the consulting physician are not employees, partners, associates, agents, or principals of one another. The licensed midwife must inform the patient that he or she is independently licensed and practicing midwifery and in that regard is solely responsible for the services he or she provides.

The disclosure and consent form must be signed by both the licensed midwife and the client. The Medical Board website has a sample form online that complies with the above requirements -

<https://www.mbc.ca.gov/Download/Forms/midwives-disclosure.pdf>

Additionally, Title 16 California Code of Regulations § 1379.19(b) requires additional informed consent for a patient who has previously had a C-section but otherwise meets the criteria for treatment set forth in "Standard of Care for California Licensed Midwives." Such written informed consent must include the following:

- The current statement by the American College of Obstetricians and Gynecologists regarding its recommendations for vaginal birth after caesarean section ("VBAC").
- A description of the licensed midwife's level of clinical experience and history with VBACs and any advanced training or education in the clinical management of VBACs.
- A list of educational materials provided to the client.
- The client's agreement to: provide a copy of the dictated operative report regarding the prior C-section; permit increased monitoring; and, upon request of the midwife, transfer to a hospital at any time or if labor does not unfold in a normal manner.

- A detailed description of the material risks and benefits of VBAC and elective repeat C-section.

## **Board of Registered Nursing**

The Board of Registered Nursing handles licensing for Registered Nurses, Public Health Nurses, and advanced practice nurses. This last category includes Nurse Practitioners (NP), Nurse Anesthetists, Psychiatric/Mental Health Nurses, Clinical Nurse Specialists and Certified Nurse-Midwives (CNW). The Registered Nurse license is required before obtaining certification in any of these specialties.

### Registered Nurses

Title 16 California Code of Regulations §1443.5 describes standards of competence in applying the nursing process. One of them addresses informed consent, though it isn't mentioned by name (**boldface added**):

**(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.**

Registered nurses (RN) are not required to take informed consent directly but do need to ensure that such consent has been covered by the supervising physician and surgeon. There is no general procedure or form for informed consent taken by registered nurses of any category in statute or regulations. It can be the case that the health care facility where the registered nurse works has policies in place that cover informed consent. In those circumstances, a registered nurse could take informed consent if they follow a Standardized Procedure (a formal procedure established by the nurse, the supervising physician, and the health care organization).

### Nurse Practitioners

Both Nurse Practitioners and Certified Nurse-Midwives are permitted to take informed consent for blood transfusions. (Health and Safety Code § 1645)

### Nurse-Midwives

Certified Nurse-Midwives (CNM) are a type of advanced practice registered nurse trained in nursing and midwifery. They are under the supervision of a physician and surgeon, but that person need not be physically present. Per Business and Professions Code § 2746.54, CNMs must disclose the following orally and in writing and obtain informed consent from their patients unless the intended site of birth is the hospital setting.

- The patient is retaining a certified nurse-midwife and the certified nurse-midwife is not supervised by a physician and surgeon.
- The certified nurse-midwife's current licensure status and license number.
- The practice settings in which the certified nurse-midwife practices.

- If the certified nurse-midwife does not have liability coverage for the practice of midwifery, the certified nurse-midwife shall disclose that fact.
- There are conditions that are outside of the scope of practice of a certified nurse-midwife that will result in a referral for a consultation from, or transfer of care to, a physician and surgeon.
- The specific arrangements for the referral of complications to a physician and surgeon for consultation. The certified nurse-midwife shall not be required to identify a specific physician and surgeon.
- The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary, and recommendations for preregistration at a hospital that has obstetric emergency services and is most likely to receive the transfer.
- If, during the course of care, the patient is informed that the patient has or may have a condition indicating the need for a mandatory transfer, the certified nurse-midwife shall initiate the transfer.
- The availability of the text of laws regulating certified nurse-midwifery practices and the procedure for reporting complaints to the Board of Registered Nursing, which may be found on the Board of Registered Nursing's internet website.
- Consultation with a physician and surgeon does not alone create a physician-patient relationship or any other relationship with the physician and surgeon. The certified nurse-midwife shall inform the patient that certified nurse-midwife is independently licensed and practicing midwifery and in that regard is solely responsible for the services the certified nurse-midwife provides.

Both the nurse-midwife and the patient sign the disclosure and consent form. The Nurse-Midwifery Advisory Committee may recommend to the Board the form for the written disclosure and informed consent statement required to be used. Unlike with licensed midwives, there does not appear to be a sample form available from the Nursing Board for CNMs.

### **Physical Therapy Board**

Business and Professions Code § 2660.1 is the only law that refers to informed consent and physical therapists. It stipulates that a client is not able to provide informed consent for sexual activity with a licensed physical therapist that would violate BPC § 726.

The Physical Therapy Board's *Progress Notes* publication addresses informed consent in the Winter 2017 issue. While it notes that informed consent is not required by the Physical Therapy Act, from an ethical and professional

perspective, informed consent is considered a best practice. The APTA Guide for Professional Conduct states that “Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapy care or participation in clinical research.”

### **Massage Therapy Council**

Certification in massage therapy is voluntary. The main benefit of certification is that it allowed certificate holders to practice without having to comply with a host of local rules and regulations. (BPC § 460)

The Massage Therapy Act (BPC § 4600-4621) has a single mention of consent. BPC § 4609(a)(1)(F) considers massage of female breasts to be unprofessional conduct for a certificate holder or applicant unless the recipient provides written consent and has a referral from a licensed California health care provider.

### **3) Requiring Supervision; Trainees Types**

#### **Naturopathic Board**

Title 16 of California Code of Regulations § 4232 is the sole reference in laws or regulations addressing informed consent for naturopaths. It is narrow in focus, applying only to students in approved naturopathic schools and to those who hold a certificate of registration with the Board rather than a license. People in either category must inform a patient that they are receiving treatment from someone in one of those categories (rather than a licensed naturopath). Those receiving treatment from students must be informed and consent in writing. There are no references to informed consent forms in laws or regulations for naturopaths.

#### **Acupuncture Board**

References to informed consent in the Acupuncture laws and regulations are found only in the regulations covering acupuncture tutorials. To comply with CCR §1399.425(g), Trainees are required to obtain consent from their patients (**boldface added**).

- (g) The acupuncture services provided by the trainee shall be done so in a manner which does not endanger the health and welfare of patients receiving such services. No trainee shall render acupuncture services to any patient unless the patient **has been informed that such services will be rendered by that trainee**. The patient on each occasion of treatment **shall be informed of the procedure to be performed by the trainee under the supervision of the supervising acupuncturist and have consented in writing prior to performance** to permit such rendering of the acupuncture procedure by the trainee. The foregoing requirements shall also be

applied to those instances wherein the trainee is to assist the supervisor in the rendering of acupuncture services.

Supervisors are responsible for ensuring informed consent is obtained whenever appropriate (§1399.426) and both the trainee and their supervisor could have their registration disciplined for failing to comply with informed consent regulations (§1399.430, .431).

There is no reference in Acupuncture Board laws and regulations for what should be in an informed consent document, nor is there a specific form described for such a document.

Note:

If the Board is seeking examples of explicit informed consent terms and forms, the professions of midwives, nurse-midwives, and naturopaths may be the most useful as they do spell out disclosure and consent requirements. In these examples, emphasis is placed on describing the bounds of what the practitioner can and cannot do according to law, and on making sure that the patient is clear on the status and/or training of the practitioner seeking to treat them. Some procedure-specific laws and regulations on informed consent may also be informative, as they list specific items to include in the consent.



**14**

**Disciplinary  
Guidelines  
Regulations**





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|                |                                                                                                                                                                                                                                                                                                         |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | December 9 - 10, 2021                                                                                                                                                                                                                                                                                   |
| <b>TO</b>      | Board Members, Acupuncture Board                                                                                                                                                                                                                                                                        |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator                                                                                                                                                                                                                                                                   |
| <b>SUBJECT</b> | Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees |

### **Background**

At its March 28, 2019 meeting, the Board approved regulatory language to update its Disciplinary Guidelines and implement the following:

- SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), Uniform Standards Related to Substance Abusing Licensees;
- SB 1448 (Hill, Chapter 570, Statutes of 2018), Healing arts licensees: probation status: disclosure; and
- AB 2138 (Chiu, Chapter 995, Statutes of 2018), Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

The Board last reviewed the proposed language to update its Disciplinary Guidelines and implement the Uniform Standards Related to Substance Abusing Licensees at its December 2020 public meeting. At that time, the changes were minimal consisting of updating the sections of the Guidelines related to AB 2138 Substantial Relationship Criteria and Criteria of Rehabilitation. Since then, staff has been developing the draft rulemaking documents and submitted them to the Department's Regulatory Unit for review in early June.

After review and counsel from the Regulatory Unit's attorneys, there have been extensive edits made to the proposed language and the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees document. Please recall that the last complete Legal review of this rulemaking was with prior Legal Counsel.

### **Discussion:**

#### **Changes to the text of Title 16, California Code of Regulations (CCR) §1399.469 (Options 1 and 2):**

The amendments of Title 16, CCR §1399.469 to update the Disciplinary Guidelines and implement the Uniform Standards have been changed since the Board's December 2020 meeting. The prior amendments presented to the Board established a presumption that the licensee is a substance abusing licensee if the conduct found to be grounds for discipline involves drugs and/or alcohol. This would give notice to the licensee that they have the burden of rebutting that presumption.

During counsel from the Board's regulatory attorneys, the cons of rebuttable presumption (option 2) were further elaborated, with emphasis on the Board's discretion being taken away as the major drawback to this option. The only pro is the burden of proof is shifted to the licensee, which makes pleading a case for the Office of the Attorney General easier. However, it has always been the role of the Board to establish evidence, having the burden of proof to initiate discipline against a license. This is the main purpose of the Board's Enforcement staff, the Division of Investigation, and the Deputy Attorneys General.

Option 1's proposed language establishes that a licensee is a substance abusing licensee through hearing, placing the burden on the Board to prove the licensee is a substance abusing licensee. The only con associated with this option is the burden of proof remains with the Board as referenced above. However, most importantly, with this option the Board gets to retain its discretion over which cases are sent for discipline and which are not. With the Board's licensee population generally not having major substance use issues, keeping its ability to make decisions on the appropriate action given the merits of the case, and not a one-size-fits-all approach, is key.

Previously, the Board explored a third option of establishing a licensee as a substance abusing licensee by route of a clinical diagnostic evaluation. However, this option was rejected because it relies on a clinical diagnostic evaluation which may create a lack of clarity and be problematic for an Administrative Law Judge (ALJ) when faced with a violation that involves drugs and/or alcohol when sufficient rehabilitation has been provided by the licensee.

Staff has also incorporated the "Quarterly Report" form as new subsection (e), made some minor edits for clarity and accurate citation reference to the other areas of the proposed language, which are the same for both options. All of the changes since last Board review are in yellow highlight.

#### **Recommendation:**

Staff is recommending the Board adopt proposed language Option 1 given that it is the best option for retaining discretion in order to continue its decision-making powers over appropriate discipline on licensees with consumer protection always at the forefront.

#### **Changes to the 'Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees', incorporated by reference into CCR §1399.469:**

On advice from the Board's regulatory attorneys and Legal Counsel, many edits to the entire document have occurred. The majority of the edits are to provide more clarity, remove redundancy or errors, and improve the document as a whole. There have also been some grammatical edits, updates, and changes to any gender-specific pronouns throughout the document. Additions to the document are in yellow highlight. Below is an overview of the changes and the reasons for each.

#### **Cover Page (Page 2):**

Revision date updated to December 2021 to reflect a proposed adoption date to occur at the December 2021 Board meeting.

#### **Table of Contents (Page 3):**

Edits to better describe sections of the Guidelines.

#### **Introduction (Page 4):**

The section of the introduction that explained the three categories of terms and conditions was removed due to redundancy and it being explained further down under the Terms and Conditions section.

#### General Considerations (Page 5):

- Section was re-titled for better description
- Explanation of appropriate deviations from the Guidelines when a case necessitates it and direction to Deputy Attorneys General (DAG) and ALJs regarding describing deviations and omissions of the Guidelines was reworded for clarity.
- Direction on improving the clarity of proposed decisions and stipulated settlements was added. Direction to include cost recovery was also added.
- Information was added regarding a Board's authority to discipline in circumstances where the license has expired, cancelled, or surrendered as long as it can be renewed, restored, reissued, or reinstated. Reference to the Board's laws relating to license cancellation was included for context and to improve a DAG's understanding.
- A note about all Board's disciplinary actions posted to the website pursuant to Business and Professions Code (BPC) section 27 was added.

#### Terms and Conditions (Page 7):

Changes to references to the special terms and conditions, and when they shall be used, were updated to reflect option 1 proposed language when a licensee is established as a substance abusing licensee as a result of a hearing.

#### List of All Terms and Conditions (Page 8):

- Updates to Terms and Conditions titles were made to reflect changes for clarity.
- Standard Term and Condition #12 Severability was removed. Therefore, renumbering of all terms and conditions from #12 and on occurred.
- Special Term and Condition #41 Violation of Probation Condition for Substance Abusing Licensees was removed and so the list of all terms reflects that change.

#### Accusations, Statements of Issues, Stipulated Settlements (Page 9):

Language concerning license denials for any act or conduct that would warrant a license denial under Stipulated Settlements was updated since the enactment of AB 2138 and the approval of the Board's corresponding regulations. Additionally, an error in the 1996 Guidelines language referencing proposed decisions under the stipulated settlements section was corrected to read stipulated settlements.

#### Model Language for Probation Orders (Page 10):

Two new model language orders that require a Respondent to take and pass the exam prior to a license being issued were added for when an applicant is granted a license on probation or a petitioner is granted reinstatement on probation.

#### Factors in Consideration of Penalty (Page 13):

Section was re-titled from General Considerations for better description.

#### Substantial Relationship Criteria (Page 14)

Language was replaced with the final order of adoption language from Title 16, CCR section 1399.469.4, which took effect September 2, 2021.

#### Criteria of Rehabilitation (Page 15):

Language was replaced with the final order of adoption language from Title 16, CCR section 1399.469.5, which took effect September 2, 2021.

#### Suspensions or Revocations (Page 16):

Language was replaced with the final order of adoption language from Title 16, CCR section 1399.469.6, which took effect September 2, 2021.

#### Reinstatement/Penalty Relief Hearings (Page 17):

- Reference to Title 16, CCR section 1399.469.6 (b) was added so the user can refer to the applicable regulation for criteria of rehabilitation in cases of petitions for reinstatement.
- A note to the ALJ regarding any other evidence of rehabilitation permitted under Title 16, CCR section 1399.469.6 (b) (7) shall be detailed in the findings of the order.
- Examples of rehabilitative efforts that a petitioner could provide the Board in a penalty relief hearing was added for better understanding.
- Redundant examples of rehabilitation were removed.
- Additional directions for the petitioner and attorneys involved in a penalty relief hearing were added to improve understanding and provide a clearer process.

#### Evidence of Mitigation and Rehabilitation (Page 19):

- Rehabilitation was added to the section title to better describe the content of the section.
- The purpose of a Respondent's role in a disciplinary hearing and settlement process was further elaborated to explain that Respondent may provide mitigating circumstances and has the burden of demonstrating rehabilitation.
- Two additional forms of rehabilitation and admittance of wrongdoing were added to the list of examples of mitigation and rehabilitation.

#### Evidence of Aggravation (Page 20):

- The phrase "act of dishonesty" was used to replace "patient's trust" to better describe the aggravating circumstances within the context of language recognized within the Acupuncture Licensure Act.
- False and misleading information provided to the Board was used to replace perjury on forms since that is a criminal offense and not an administrative violation for discipline.
- Board probation violation as an aggravating factor was further clarified by specifying multiple minor violations of probation since Board probation violations are generally determined to be grounds for revocation.

#### Proposed Decisions (Page 21):

- Findings regarding aggravation, mitigation, and rehabilitation were added to the list of requested items to include in a proposed decision for thoroughness.
- Cost recovery was added to the list of requested items to include in a proposed decision as BPC section 4959 authorizes the Board to recover costs of investigation and prosecution.
- Special terms were elaborated upon by adding conditions applying the Uniform Standards Regarding Substance Abusing Licensees to provide more clarity.

#### Term #2 Quarterly Reports (Page 22):

The name of the quarterly report form and date were incorporated into Title 16, CCR section 1399.469 to meet the Administrative Procedure Act (APA) standards.

#### Term #6 Tolling of Probation (Page 23):

Language was added to indicate that any obligation imposed by the Board's order shall not be suspended by out-of-state residency or practice unless directed by the Board in writing. This provides more authority to the Board over the probationer and serves as a deterrent to licensees moving out of state or ceasing practice just to get out of following the terms of their probation.

#### Term #7 Restriction on Employing and Supervision of Trainees; Prohibition on Teaching (Page 24):

Prohibition on teaching was added to the title of the term to better describe and be more inclusive of the term.

#### Term #11 License Surrender (Page 25):

Instructions and requirements for a probationer to surrender their license was added to the term to provide clarity to the process.

#### Term #12 Severability Clause (Page 25):

This term was removed per advice from Regulatory counsel indicating the court will likely tell the Board what is valid and enforceable if any part of an order is legally challenged. Additionally, the Board may not have authority to make such a declaration.

#### Term #13 Disclosure of Probation Status (Page 25):

- The term conservator was added in parenthesis to better describe a lesser known term of healthcare surrogate used by the authorizing statute related to this term.
- Additional clarifying information was added to the requirements of the written disclosure to improve the language.
- A clause was added to prohibit Respondent from practicing acupuncture until they receive Board approval of their written disclosure.
- Direction of how to alternatively provide disclosure of probation status to patients when a circumstance occurs that is an exception was added for the process to be more complete.
- An example of a licensee who is exempted from disclosure when they do not have direct contact with a patient was included to provide more of an understanding for the reader.

#### Term #17 Psychological Evaluation (Page 28):

A note was added directing the DAG or ALJ to always include probation terms 20, Psychotherapy, and 31, Supervised Practice, when term 17 is included in an order. This was added to address the scenario of when an evaluation finds that a licensee is not fit to practice on their own. By having the supervision term in the order ready to be utilized, if required, resolves the implementation and mechanics of how the supervision will work.

#### Term #19 Practice/Billing Monitor (Page 30):

- Current and unrestricted license was added to the requirements of a monitor to strengthen the term.

- Language was added about the types of records the monitor will have access to and is required to be available for inspection and copying by the Board for more clarity.
- Language was added to provide more specificity and improve understanding of the conditions associated with this term.

Term #20 Psychotherapy (Page 32):

- Timeline to comply with term has been changed from 15 days to 30 days to align with Term #17 Psychological Evaluation.
- Current and active license was added to the requirements of the psychologist or psychotherapist to strengthen the term.
- Language was added to provide more specificity and improve understanding of the conditions associated with this term.

Term #21 Restrictions on Patient Population or Practice Setting (Page 33):

- Examples have been added for types of patient groups and settings that would be restricted to improve understanding.
- Strengthened term by requiring Respondent to provide copies of policies and procedures along with their written plan to implement the restriction(s).
- Language explicitly stating that Respondent is to cease practice prior to receiving approval of their plan to implement or follow restriction(s) was added for clarity.
- Strengthened enforcement of term by requiring Respondent to provide patient records and copies of policies and procedures when requested by the Board or its designee.

Term #22 No Solo Practice (Page 33):

- Language was added to provide more specificity and improve understanding of the conditions associated with this term.
- Examples were added for the types of appropriate practice settings to comply with a no solo practice restriction.
- Language was added to provide more specificity on the mechanics of how the term operates regarding when Respondent fails to secure a practice setting in compliance with the no solo practice restriction for clarity.
- Examples of practice setting changes have been added to improve understanding.

Term #23 Restrictions on Practice Techniques and Modalities (Page 34):

- Examples of the types of modalities or techniques that are subject to restriction have been added to improve understanding.
- Strengthened term by requiring Respondent to provide copies of policies and procedures along with their written plan to implement the restriction.
- Language was added for clarity that states, Respondent is to cease practice prior to receiving approval of their written plan on implementation of the ordered restriction(s).
- Strengthened enforcement of term by requiring Respondent to provide patient records and copies of policies and procedures when requested by the Board or its designee.

Term #24 Examination(s) (Page 34):

- Provided clarification on the current exam by including reference to BPC section 4938, the statute that identifies the exam required for acupuncture licensure.

Term #25 Restitution (Page 35):

- Added the types of proof of payment the Board will accept from the respondent for clarity.

Term #26 Alcohol and Drug Abuse Treatment Program (Page 35):

- "Or licensed therapist" was added to the term to allow for other qualified license types to oversee treatment programs in addition to psychologists.
- The note was updated with the option 1 proposed language where a licensee is determined to be a substance abusing licensee through the hearing process.
- A sub-heading and additional note were added to make it clear that the special terms and conditions are to be used in lieu of other similar terms (such as this optional term) when a licensee is determined to be a substance abusing licensee.

Term #27 Attend Chemical Dependency Support and Recovery Groups (Page 36):

- Language was added to explicitly state that Respondent is required to pay all chemical dependency support group meeting costs.
- The note was updated with the option 1 proposed language where a licensee is determined to be a substance abusing licensee through the hearing process.
- A note was added to make it clear that the special term and condition 37, Substance Abuse Support Group Meetings be used in lieu of this optional term when a licensee is determined to be a substance abusing licensee, as well as all of the other special terms and conditions.

Term #28 Abstain from Drugs and Alcohol and Submit to Tests and Samples (Page 37):

- Language was added to provide more specificity on the process for Respondent to provide documentation of legitimately prescribed medication information to the Board to strengthen the term and enforcement of the term.
- The note was updated with the option 1 proposed language where a licensee is determined to be a substance abusing licensee through the hearing process.
- A sub-heading and additional note were added to make it clear that the special terms and conditions are to be used in lieu of other similar terms (such as this optional term) when a licensee is determined to be a substance abusing licensee. Special terms and conditions 36 and 39 (biological fluid testing and abstain from drugs and alcohol) were specifically called out to be used in lieu of Term 28.

Term #29 Coursework (Page 38):

- The term was changed from previously having the Board or its designee provide the coursework requirements and number of hours outside of the Decision to providing blanks where the ALJ or DAG insert the coursework area(s) and hours required. By doing this it allows for upfront transparency and consent (if part of a stipulated order) from Respondent.
- Examples of types of coursework areas have been added to improve understanding.
- Specific requirements of the coursework plan have been added for clarity and increased enforcement of the term.

Term #30 Community Service (Page 38):

Language was added to provide more specificity and improve understanding of the conditions associated with this term.

Term #31 Supervised Practice (Page 39):

- Examples of population of patients that may be restricted to treating under supervision was added to improve understanding.
- Current and unrestricted license was added to the requirements of an acupuncturist required for supervision to strengthen the term.
- Changes were made to the language shifting the responsibility of submitting the supervisor's report to the Board to the responsibility of submission falling on Respondent.
- Levels of supervision through three options have been added to strengthen the term and improve clarity.
- A note was added to include this term in cases where incompetence, repeated acts of negligence, or gross negligence violations occurred and/or every time a psychological evaluation is included as part of the probationary order.

Term #32 Notification of Probationer Status to Employers (Page 40):

- A 10-day deadline was added to require Respondent to provide their employer with a copy of their Accusation, Initial Probation License Order, or Decision and Order to provide more enforcement over the term.
- Examples of population of patients that may be restricted to treating under supervision was added to improve understanding.
- Current and unrestricted license was added to the requirements of an acupuncturist required for supervision to strengthen the term.
- Levels of supervision through three options have been added to strengthen the term and improve clarity.

Term #33 Notification of Probationer Status to Employees (Page 41):

Timelines have been added and language improved on the requirements of how Respondent reports employee information to the Board and provides their employee(s)' acknowledgment of Respondent's terms and conditions to improve the operation of the term.

Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (Page 43):

- The title of the section has been expanded to add the terms apply the Uniform Standards Regarding Substance Abusing Licensees for more clarity.
- The introduction has been edited to incorporate reference to the most current edition of the Uniform Standards document from March 2019.
- The introduction was updated with the option 1 proposed language where a licensee is determined to be a substance abusing licensee through the hearing process.
- A note was added to the introduction indicating that there is no prohibition on including other optional terms and conditions to address a substance abusing licensee through settlement terms to provide more clarity.

Term #34 Clinical Diagnostic Evaluations and Reports (Page 43):



- Language was added to provide more specificity and improve understanding of the conditions associated with this term.
- The recommendation of the clinical evaluation report was added as a factor for the Board to consider whether Respondent is safe to return to practice full time or with restrictions.
- A note stating all costs associated with completion of a drug or alcohol abuse treatment program shall be paid by the Respondent was added for clarity.

Term #35 Notice of Employer or Supervisor Information (Page 45):

Deadline was changed from 14 days to 30 days for consistency with other terms of probation.

Term #36 Biological Fluid Testing (Page 46):

- Updates from Uniform Standard #4 from the revised March 2019 version of the Uniform Standards document were included in this term. Specifically, there are now factors to consider where the frequency of testing can be reduced.
- A subheading was added to the term delineating the language of the term that calls out the process and consequences for positive test results so it is clear there is no action required by Respondent, but is relevant for transparency and reference to the Uniform Standards language.
- A note about requiring prior approval from the Board when an alternate testing schedule is requested was added for clarity and enforcement purposes.

Term #37 Substance Abuse Support Group Meetings (Page 49):

- Criteria from Uniform Standard #5 was added to take under consideration when the Board determines frequency and duration of group meeting attendance to make the term more complete.
- A 15-day deadline to start participation in support group meetings was added for enforcement purposes and more clarity.

Term #39 Abstain from Drugs and Alcohol (Page 51):

The majority of language from optional term #29, Abstain from Drugs and Alcohol and Submit to Tests and Samples, was made into its own new special term and condition to be used for substance abusing licensees. This new term now explicitly addresses the fact that substance abusing licensees need to abstain from non-prescribed drugs and alcohol as part of their probation when the other special terms and conditions are applied. Language was added for clarification on the procedure for when the Board receives a positive test for Respondent and makes reference to the biological fluid testing special term and condition which elaborates on the process more.

Term #41 Violation of Probation Condition for Substance Abusing Licensees (Page 51):

This term was removed per advice from regulatory counsel indicating the term does not act as a probationary term and condition, and, is not necessary for inclusion in the Disciplinary Guidelines.

Index of Violations (Page 54):

Title references to each code section were edited to ensure the titles are original and do not utilize any copyright published titles.

Recommended Action by Violation of General California Business and Professions Code Provisions (Page 56):

- All violation section titles were updated to correspond with the changes made on the Index of Violations.
- Throughout the entire section wherever probation is recommended, the preface, “with the following conditions” was added for clarity.

**Recommendation:**

Staff is recommending the Board adopt each of the proposed edits to the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees as presented today.

**Motion**

Approve Option One (1) Proposed Language:

Move to:

- Rescind the Board’s December 2020 order to initiate a rulemaking for this proposal and instead authorize a rulemaking using Option One (1) proposed language with all of the changes to Division 13.7, Articles 6.1, 6.2, and 1399.469, including the incorporated disciplinary guidelines and quarterly report presented at this meeting. The Board authorizes initiation and possible adoption of new text as follows:

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

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

Adopt the amendments to title of Division 13.7 of Title 16 of the California Code of Regulations (CCR) and Section 1399.469 and adopt new Articles 6.1 and 6.2 of Division 13.7 of Title 16 of CCR as noticed.

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

Approve Option One (1) Proposed Language as Amended:

Move to approve the proposed regulatory text as amended:

---

Note the amendments

---

... 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,

Adopt the amendments to title of Division 13.7 of Title 16 of the California Code of Regulations (CCR) and Section 1399.469 and adopt new Articles 6.1 and 6.2 of Division 13.7 of Title 16 of CCR as noticed.

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



**Proposed  
Language**

## Option 1 Proposed Language

### Acupuncture Board Update to Disciplinary Guidelines and Implementation of Uniform Standards Related to Substance-Abusing Licensees

Changes proposed are underlined to denote new text and ~~strikethrough~~ to denote removed text. Text in **highlight** indicates changes applied since last Board review.

---

**Amend the title of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:**

Division 13.7. Acupuncture Board ~~Examining Committee of the Board of Medical Quality Assurance~~

**Adopt new Article 6.1 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.463, 1399.464, 1399.465, 1399.466, 1399.467, and 1399.468. The text of these sections would not change. The title and article would read as follows:**

Article 6.1. Citations

**Adopt new Article 6.2 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.469, 1399.469.1, 1399.469.2, and 1399.469.3. The text of these sections would not change, except for § 1399.469 detailed below. The title and article would read as follows:**

Article 6.2 Enforcement

**Amend Section 1399.469 of Article 6.2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:**

§ 1399.469. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the Acupuncture Board shall consider the disciplinary guidelines entitled "~~Department of Consumer Affairs, Acupuncture Board 'Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees' 1996 (Revised December 2021),~~" which are hereby incorporated by reference. ~~Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where~~

the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subdivisions (a) and (c), the board shall apply the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees in the disciplinary guidelines (“special terms and conditions”) without deviation whenever this subdivision applies in a particular case. If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee.

(c) Deviation from the disciplinary guidelines and the orders referenced therein, including the standard terms of probation, is appropriate where the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(d) Nothing in subdivision (b) shall be construed to prohibit the Acupuncture Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Acupuncture Board’s disciplinary guidelines referenced in subsection (a) in any order that the Acupuncture Board determines would provide greater public protection.

(e) All probationers shall submit completed quarterly reports to the Board. The report “Quarterly Report (New 12/2021)” shall be obtained from the Board and is hereby incorporated by reference.

NOTE: Authority cited: Sections 315, 4928, and 4933, Business and Professions Code; and Sections 11400.20, and 11425.50(e) and 11400.21, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code. Sections 11400.20, 11400.21 and 11425.50(e) of the Government Code.

## Option 2 Proposed Language

### Acupuncture Board Update to Disciplinary Guidelines and Implementation of Uniform Standards Related to Substance-Abusing Licensees

Changes proposed are underlined to denote new text and ~~strikethrough~~ to denote removed text. Text in **highlight** indicates changes applied since last Board review.

---

**Amend the title of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:**

Division 13.7. Acupuncture Board ~~Examining Committee of the Board of Medical Quality Assurance~~

**Adopt new Article 6.1 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.463, 1399.464, 1399.465, 1399.466, 1399.467, and 1399.468. The text of these sections would not change. The title and article would read as follows:**

Article 6.1. Citations

**Adopt new Article 6.2 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.469, 1399.469.1, 1399.469.2, and 1399.469.3. The text of these sections would not change, except for § 1399.469 detailed below. The title and article would read as follows:**

Article 6.2 Enforcement

**Amend Section 1399.469 of Article 6.2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:**

§ 1399.469. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the Acupuncture Board shall consider the disciplinary guidelines entitled "~~Department of Consumer Affairs, Acupuncture Board 'Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees' 1996 (Revised December 2021),~~" which are hereby incorporated by reference. ~~Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where~~

the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subdivisions (a) and (c), the board shall apply the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees (“special terms and conditions”) in the disciplinary guidelines without deviation whenever this subdivision applies in a particular case. If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees, the special terms and conditions shall apply as written and be used in the order placing the license on probation.

(c) Deviation from the disciplinary guidelines and the orders referenced therein, including the standard terms of probation, is appropriate where the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(d) Nothing in subdivision (b) shall be construed to prohibit the Acupuncture Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Acupuncture Board’s disciplinary guidelines referenced in subsection (a) in any order that the Acupuncture Board determines would provide greater public protection.

(e) All probationers shall submit completed quarterly reports to the Board. The report “Quarterly Report (New 12/2021)” shall be obtained from the Board and is hereby incorporated by reference.

NOTE: Authority cited: Sections 315, 4928, and 4933, Business and Professions Code; and Sections 11400.20, and 11425.50(e) and 11400.21, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; Sections 11400.20, 11400.21 and 11425.50(e) of the Government Code.





# Disciplinary Guidelines

~~Department of Consumer Affairs~~

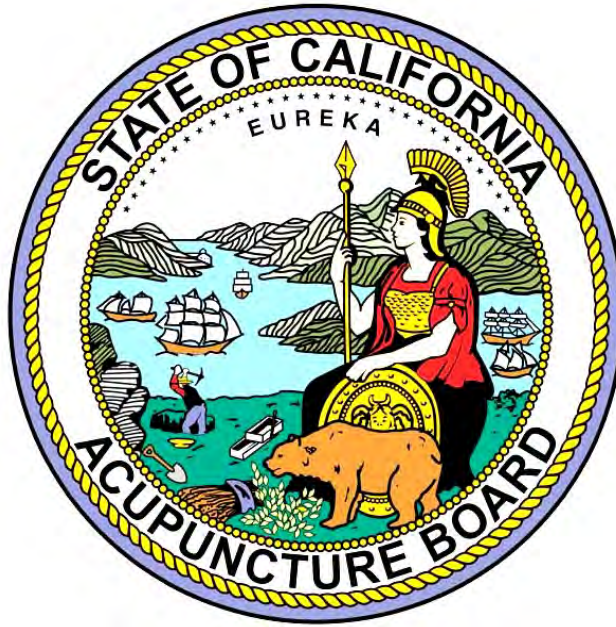
~~Medical Board of California~~

~~ACUPUNCTURE  
COMMITTEE~~

~~DISCIPLINARY  
GUIDELINES~~

~~1996~~

# Acupuncture Board



## Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees

Revised **December 2021**

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov).

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## Introduction

The ~~Acupuncture Committee (AC) Board (Board)~~ is a consumer protection agency with the primary mission of protecting consumers of acupuncture services from potentially harmful licensees. In keeping with its obligation to protect the consumer, the ~~AC Board~~ has adopted the following recommended “Acupuncture Board Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (Revised June 2018)” (hereafter “Guidelines”) for disciplinary orders and conditions of probation for violations of the Acupuncture Licensure Act.

~~The AC recognizes that a rare individual case may necessitate a departure from these Guidelines for disciplinary order. However, in such a rare case, the mitigating circumstances must be detailed in the "Findings of Fact" which is in every Proposed Decision or Stipulation.~~

These Guidelines are designed for use by attorneys, administrative law judges, acupuncturists, others involved in the disciplinary process, and ultimately the Board. They may be revised from time to time and shall be distributed to interested parties upon request.

These Guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

## GENERAL CONSIDERATIONS

Selecting conditions of discipline appropriate to individual cases may necessitate deviations from these guidelines, including taking into account particular mitigating or aggravating circumstances. However, absent significant extenuating or mitigating circumstances, the penalty and probation provisions of these guidelines should be followed by those individuals representing the Board in disciplinary actions.

Whenever a Proposed Decision or stipulation varies from the conditions contained in the following guidelines, the Board encourages both the deputy attorney general who negotiated the stipulation or the administrative law judge who heard the case to explain any deviations or omissions from the guidelines. The Board will then be better informed and understand the circumstances and reasons for any changes or deviations from these disciplinary guidelines. As the Board's highest priority in exercising its disciplinary function is public protection pursuant to Business and Professions Code section 4928.1, these guidelines should not be construed as prohibiting an Administrative Law Judge or the Board from imposing additional terms and conditions of probation which would provide greater public protection.

To enhance the clarity of a Proposed Decision or stipulation-stipulated settlement, the AG Board requests the following:

- a. that ~~a~~ All optional-standard conditions that are being imposed be listed first in sequence followed immediately by all of the ~~standard-optional and special~~ terms and conditions that are being imposed.
- b. When suspension or probation is recommended, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the guidelines is clearly set forth in the findings and supported by the evidence.
- c. Reimbursement to the Board for costs of investigation and prosecution as warranted pursuant to Business and Professions Code section 4959 or a clear explanation why cost recovery is not included in the Disciplinary Order. (Section 4959 does not preclude the Board from seeking recovery of costs through stipulations; thus, it does not change the Board's policy of requesting and recovering costs where appropriate in stipulated settlements.)

If at the time of hearing, the Administrative Law Judge finds that the respondent, for any reason, is not capable of safe practice, the AG Board expects outright revocation of the license. This is particularly true in cases of patient sexual abuse or bodily harm. In less egregious cases, a stayed revocation with probation pursuant to the ~~attached~~ Penalty Guidelines ~~would be~~ is expected.

The Board has jurisdiction to impose discipline in the following circumstances:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. (Bus. & Prof. Code, § 118.)

Note that Business and Professions Code section 4966 allows a license that has expired to be renewed at any time within three (3) years after its expiration by filing of an application for renewal on a form provided by the board, paying all accrued and unpaid renewal fees, and providing proof of completing continuing education requirements. Business and Professions Code section 4967 prohibits a person who failed to renew their license within three (3) years from renewing it, and the license may not be restored, reissued, or reinstated thereafter.

All disciplinary actions will be published pursuant to Board policy and the requirements of Business and Professions Code section 27.

~~The Board has adopted the "Department of Consumer Affairs, Acupuncture Board, Disciplinary Guidelines, 1996" as an administrative regulation pursuant to the Administrative Procedures Act. (Government Code Section 11400.20, 11400.21 and 11425.50, Sub. (E); Operative 7/1/97 [Statutes of 1995, Chapter 938, Section 98].)~~

## Terms and Conditions

~~Terms and conditions of probation are divided into two categories. The first category consists of optional terms and conditions that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the standard terms and conditions which must appear in all proposed decisions and proposed stipulated settlements.~~

The terms and conditions of probation are divided into three general categories:

1. Standard Conditions are those conditions of probation which should be used in all cases.
2. Optional Conditions are those conditions of probation which may be used to address the sustained violations and any significant mitigating or aggravating circumstances of a particular case.
3. Special terms and conditions are those terms and conditions of probation applicable to substance-abusing licensees and shall be applied as set forth in Title 16, California Code of Regulations section 1399.469(b), which provides, in part:

The Board shall apply the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees in the disciplinary guidelines (“special terms and conditions”) without deviation whenever this subdivision applies in a particular case. If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee.



# **List of all Terms and Conditions**

## **Standard Terms and Conditions**

- |          |                                                                        |           |                                                                                  |
|----------|------------------------------------------------------------------------|-----------|----------------------------------------------------------------------------------|
| <u>1</u> | <u>Obey All Laws</u>                                                   | <u>9</u>  | <u>Violation of Probation</u>                                                    |
| <u>2</u> | <u>Quarterly Reports</u>                                               | <u>10</u> | <u>Probation Monitoring Costs</u>                                                |
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- |           |                                                               |           |                                                                       |
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- |           |                                                           |           |                                                         |
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## Accusations

The Board has the authority, pursuant to section ~~425.3~~ 4959 of the Business and Professions Code, to recover costs of investigation and prosecution of its cases. The AG Board requests that this fact be included in the pleading and made part of the accusation.

## Statements of Issues

The AG Board will file a Statement of Issues to deny an application of licensure under Business and Professions Code section 480 and 4955 ~~a candidate for the commission of an act which if committed by a licensee would be cause for license discipline for any action or conduct that would have warranted the denial of the acupuncture license, and/or upon any other applicable grounds listed in sections 4955, 4955.1, and 4955.2.~~

## Stipulated Settlements

The AG Board will consider agreeing to stipulated settlements to promote cost effective consumer protection and to expedite disciplinary Decisions. The Respondent should be informed that in order to stipulate to a settlement with the AG Board, ~~he/she~~ Respondent must may be required to admit to the violations set forth in the accusation. All Proposed Decisions Stipulated Settlements must be accompanied by a memo from the Deputy Attorney General addressed to AG Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

## **Model Language for Probation Orders**

When a stipulated settlement or Proposed Decision orders probationary terms and conditions (including standard and optional and/or special terms and conditions), the Board recommends the following disciplinary order language be used:

- **Licensees:** It is hereby ordered, Acupuncture license no. AC-\_\_\_\_\_, issued to Respondent \_\_\_\_\_, is hereby revoked; however, the revocation is stayed and Respondent's license is placed on probation for \_\_\_\_\_ years on the following terms and conditions:
- **Applicants:** It is hereby ordered, the application of Respondent \_\_\_\_\_ for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements including payment of all fees and evaluation of the application, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent's license placed on probation for a period of \_\_\_\_\_ years on the following conditions:
- **Model Order for Granting Application and Placing License on Probation after Applicant Completes Conditions Precedent:** The application filed by Respondent \_\_\_\_\_ for initial licensure is hereby granted and a license shall be issued upon the following conditions precedent (list conditions precedent such as restitution, completion of continuing education, completion of rehabilitation program, take and pass licensing exam within \_\_\_\_\_ (months/year) of the effective date of this decision, etc.). Upon completion of the conditions precedent above and successful completion of all licensing requirements, Respondent shall be issued a license. However, the license shall be immediately revoked, the revocation shall be stayed, and Respondent shall be placed on probation for a period of \_\_\_\_\_ years under the following terms and conditions:
- **Reinstatements with conditions of probation:** It is hereby ordered, the petition of \_\_\_\_\_ for reinstatement of Respondent's acupuncture license is hereby GRANTED, as follows.

Acupuncture license number AC-\_\_\_\_\_ is reinstated. The license will then be immediately revoked; however, the revocation is stayed and petitioner is placed on probation for \_\_\_\_\_ years on the following terms and conditions:

**NOTE:** If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation condition requiring payment of original cost recovery on a payment plan must be included in the reinstatement and Decision.

- **Reinstatements Placing License on Probation after Petitioner Completes**

**Conditions Precedent:** The petition for reinstatement filed by \_\_\_\_\_ is hereby granted and Petitioner's license shall be fully reinstated upon the following conditions precedent (list conditions precedent such as restitution, cost reimbursement, completion of continuing education, completion of rehabilitation program, take and pass licensing exam, etc.): Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a license, Petitioner's license shall be reinstated. Upon reinstatement, Petitioner's license shall be revoked. However, said revocation shall be stayed and Petitioner shall be placed on probation for a period of \_\_\_\_\_ years under the following terms and conditions:

## **Recommended Language for Stipulated Settlements for License Surrenders**

If Respondent should ever apply or reapply for a new license, or petition for reinstatement of a license, Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 4959 in the amount of \$ \_\_\_\_\_ prior to issuance of a new or reinstated license. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee.

Respondent shall relinquish their wall and pocket certificate of licensure to the Board or its designee on or before the date that this Decision becomes effective.

## **Factors in Consideration of Penalty**

In determining whether revocation, suspension, or probation is to be imposed in a given case, mitigating or aggravating factors, such as the following, should be considered:

1. Actual or potential harm to any consumer, client, or the public.
2. Number and/or variety of current violations.
3. Time that has elapsed since commission of act(s) or crimes(s).
4. Evidence of aggravation.
5. Evidence of rehabilitation submitted by respondent.
6. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
7. Respondent's ability or inability to convey remorse for Respondent's wrongdoing and whether respondent accepts or does not accept responsibility for the actions which are resulting in the imposition of discipline on respondent's license.
8. Evidence that respondent was dishonest, untruthful, or engaged in corruption during the pendency of the Board's proceedings.
9. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
10. The financial benefit to the respondent from the misconduct.

No one of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

## Substantial Relationship Criteria

Title 16 California Code of Regulations section 1399.469.4 states:

(a) For the purpose of denial, suspension, or revocation of a license pursuant to 4955.1, or 4955.2 of the Business and Professions Code, a crime, professional

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(b) In making the substantial relationship determination required under subsection (a) for a crime, the board shall consider the following criteria:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of an acupuncturist.

(c) For purposes of subsection (a), a substantially related crime, professional misconduct, or act shall include, but is not limited to, the following:

(4) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 12,

(5) Conviction of a crime involving fiscal dishonesty.

Effective September 2, 2021

# Criteria of Rehabilitation

## A. Denial of Licensure

Title 16 California Code of Regulations section 1399.469.5 states:

(a) When considering the denial of a license under Section 480 of the Business and Professions Code on the ground that the applicant has been convicted of a crime, the board shall consider whether the applicant made a showing of

\_\_\_\_\_

\_\_\_\_\_

(3) The extent to which the applicable parole or probation period was shortened or

(4) The terms or conditions of parole or probation and the extent to which they bear

\_\_\_\_\_

\_\_\_\_\_

(b) If the applicant has not completed the criminal sentence at issue without a

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(1) The nature and gravity of the act(s), professional misconduct or crime(s) under

\_\_\_\_\_

\_\_\_\_\_ subsequent to the act(s), professional misconduct or crime(s) under consideration as grounds for denial.

(3) The time that has elapsed since commission of the act(s), professional misconduct or crime(s) referred to in paragraphs (1) or (2).

restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subsection (a)(1) to (5), as applicable.

Effective September 2, 2021



## **B. Suspensions or Revocations**

**Title 16 California Code of Regulations section 1399.469.6 states:**

**(a) When considering the suspension or revocation of a license under Section 490 of [redacted] license under the Acupuncture Licensure Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:**

- (1) The nature and gravity of the crime(s).**
- (2) The length(s) of the applicable parole or probation period(s).**
- (3) The extent to which the applicable parole or probation period was shortened or [redacted]**
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.**
- (5) The extent to which the terms or conditions of parole or probation were modified and the reason(s) for the modification.**

**(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (a), the suspension or revocation is based on a disciplinary action, as described in [redacted]**

- (1) The nature and gravity of the act(s), disciplinary action(s), or crime(s).**
- (2) The total criminal record.**
- (3) The time that has elapsed since commission of the act(s), disciplinary action(s), or crime(s).**
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such licensee.**
- (5) The criteria in subsection (a)(1) to (5), as applicable.**
- (6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.**
- (7) Evidence, if any, of rehabilitation submitted by the licensee.**

**(c) When considering a petition for reinstatement of a license under the provisions of Section 4960.5 of the Business and Professions Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in subsection (b) of this section.**

**Effective September 2, 2021**

## Reinstatement/Penalty Relief Hearings

The primary concerns of the AG Board at reinstatement or penalty relief hearings are is that the evidence presented by the petitioner of his/her their rehabilitation. The AG Board is not interested in retrying the original revocation or probation case. is not interested in re-litigating the facts of the original disciplinary case in determining whether or not to grant reinstatement.

When considering a petition for reinstatement of a license under the provisions of Section 4960.5 of the Business and Professions Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in California Code of Regulations section 1399.469.6 subsection (b).

The AG will consider the following criteria of rehabilitation:

- ~~1. Nature and severity of the act(s) or offense(s).~~
- ~~2. Total criminal record.~~
- ~~3. The time that has elapsed since commission of the act(s) or offense(s).~~
- ~~4. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.~~
- ~~5. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.~~
- ~~6. Evidence, if any, of rehabilitation submitted by the licensee or registration holder.~~

In the Petition Decision, The AG Board requests that would appreciate a summary of the offense and the specific codes violated which resulted in the revocation, surrender or probation of the license be included in the Petition Decision.

The AG Board requests that the ALJ provide detailed findings regarding any evidence of rehabilitation submitted by petitioner pursuant to section 1399.469.6, subsection (b)(7), including, but not limited to comprehensive information be elicited from the petitioner regarding his/her rehabilitation. The petitioner should provide details which include:

1. Continuing education pertaining to the offense and its effect on the practice of acupuncture.
2. Specifics of rehabilitative efforts and results which should include recovery programs, psychotherapy, medical treatment, etc., and the duration and outcomes of such efforts. This may include letters from recognized recovery programs (such as state licensed or court approved recovery programs) or healthcare professionals addressed to the Board and providing current sobriety and length of time of sobriety if there has been a history of alcohol or drug abuse, or current physical or mental health condition and ability to practice acupuncture with safety to the public.

3. If applicable, copies of court documents pertinent to conviction, including documents specifying conviction and sanctions, and proof of completion of sanctions.
4. If applicable, copy of Certificate of Rehabilitation or evidence of expungement proceedings.
5. If applicable, evidence of compliance with and completion of terms of probation, parole, restitution, or any other sanctions.
6. A culpability or excludability **rehabilitation** statement. When considering the reinstatement of a surrendered or revoked license or an early termination or modification of probation on the grounds that the petitioner was convicted of a crime, the petitioner should provide details regarding rehabilitation that include a description of the conviction, the circumstances surrounding the conviction, and any rehabilitation efforts or changes in life since the conviction to prevent future problems. This information may be provided by petitioner in a letter addressed to the Board.
7. Letters of reference from professors or colleagues within the field of acupuncture.
8. Letters of reference from past and/or current employers.
9. Letters of reference from other knowledgeable professionals, such as probation or parole officers.

Any information and written statements submitted on behalf of petitioner shall be subject to further verification by board staff.

If the AC Board should deny a request for reinstatement of licensure or penalty relief, the AC Board requests that the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial. Such language would include methodologies or approaches which would demonstrate rehabilitation.

If a petitioner fails to appear for ~~his/her~~their scheduled reinstatement or penalty relief hearing, such action shall result in a default Decision to deny reinstatement of the license or reduction of penalty pursuant to Government Code section 11520.

## **Evidence of Mitigation and Rehabilitation**

The respondent is permitted to present mitigating circumstances at a hearing or during the settlement process and has the burden of demonstrating any rehabilitative or corrective measures they have taken. The Board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form or admissibility of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation to admissibility by the complainant.

The following documents are examples of appropriate factors or evidence the respondent may submit for the Board's consideration to demonstrate mitigating circumstances and/or Respondent's rehabilitative efforts and competency in acupuncture:

1. Recent, dated letters from counselors regarding Respondent's participation in a recognized rehabilitation or recovery program (such as state licensed or court approved rehabilitation or recovery programs), or ongoing therapy, where appropriate. These should include a description of the program, the number of sessions the respondent has attended, the counselor's diagnosis of Respondent's condition and current state of rehabilitation (or improvement), the counselor's basis for determining improvement and/or rehabilitation, and the credentials of the counselor.
2. Recent, dated letters describing Respondent's participation in state or nationally recognized support groups, e.g., Alcoholics Anonymous, Narcotics Anonymous, etc., where appropriate, and sobriety date.
3. Recent, dated laboratory analyses or drug screen reports, where appropriate.
4. Recent, dated physical examination or assessment report by a licensed physician and surgeon, nurse practitioner, or physician assistant.
5. Certificates or transcripts of courses related to acupuncture which Respondent may have completed since the date of the violation.
6. Written, dated statements showing the licensee has cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
7. A letter from the licensee acknowledging Respondent's wrongdoing and providing a plan of corrective action to prevent recurrence.

## **Evidence of Aggravation**

The following are examples of aggravating circumstances which may be considered by the Board:

1. An act of dishonesty against a patient where the patient's health, safety or welfare was jeopardized.
2. An act of dishonesty against a patient or employer (i.e. theft, embezzlement, fraud, etc.).
3. History of prior discipline with the Board.
4. Patterned behavior: Respondent has a history of one or more violations or convictions related to the current violation(s).
5. False or misleading information provided to the Board on official Board forms.
6. Violent nature of crime or act.
7. Multiple minor violations of Board Probation.
8. Commission of any crime against a minor, or while knowingly in the presence of, or while caring for, a minor.

# Proposed Decisions

The **AG Board** requests that Proposed Decisions include the following:

1. Names and addresses of all parties to the action.
2. Specific code section violated with the definition of the code in the Determination of Issues.
3. Clear description of the acts or omissions which caused the violation.
4. Respondent's explanation of the violation if ~~he/she~~ Respondent is present at the hearing in the findings of fact.
5. Explanation of deviation from the AG's Board's Disciplinary Guidelines.
6. Where appropriate, findings regarding aggravation, mitigation, and rehabilitation.
7. Cost recovery, if warranted pursuant to Business and Professions Code section

When a probation order is imposed, the **AG Board** requests that the order first list all of the Standard Terms and Conditions (1-15) followed by any combination of the Optional Terms and Conditions (16-33) or Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (34-39) as they may pertain to the case.

If the Respondent fails to appear for ~~his/her~~ their scheduled hearing or does not submit a Notice of Defense form, such inaction shall result in a default Decision to revoke licensure or deny application pursuant to Government Code section 11520.

# Standard Terms and Conditions

(To be included in all Decisions)

|          |                                                                        |           |                                                                                  |
|----------|------------------------------------------------------------------------|-----------|----------------------------------------------------------------------------------|
| <u>1</u> | <u>Obey All Laws</u>                                                   | <u>9</u>  | <u>Violation of Probation</u>                                                    |
| <u>2</u> | <u>Quarterly Reports</u>                                               | <u>10</u> | <u>Probation Monitoring Costs</u>                                                |
| <u>3</u> | <u>Monitoring Program</u>                                              | <u>11</u> | <u>License Surrender</u>                                                         |
| <u>4</u> | <u>Interview with the Board or Its Designee</u>                        | <u>12</u> | <u>Notification of Name, Address, Telephone Number or E-mail Address Changes</u> |
| <u>5</u> | <u>Changes of Employment</u>                                           | <u>13</u> | <u>Disclosure of Probation Status</u>                                            |
| <u>6</u> | <u>Tolling of Probation</u>                                            | <u>14</u> | <u>Maintenance of Clear and Active License</u>                                   |
| <u>7</u> | <u>Employment and Supervision of Trainees; Prohibition on Teaching</u> | <u>15</u> | <u>Completion of Probation</u>                                                   |
| <u>8</u> | <u>Cost Recovery</u>                                                   |           |                                                                                  |

## 1. 13 Obey All Laws

Respondent shall obey all federal, state, and local laws, and all regulations governing the practice of acupuncture in California, and remain in full compliance with any court ordered criminal probation terms, payments, and/or other orders. A full and detailed account of any and all violations of law shall be reported by the Respondent to the AC Board or its designee in writing within seventy-two (72) hours of occurrence.

## 2. 14 Quarterly Reports

Respondent shall submit quarterly declarations reports under penalty of perjury on the form entitled "Quarterly Report (New 12/2021)" which is incorporated by reference in Title 16, CCR section 1399.469 forms provided by the AC Board or its designee, stating whether there has been compliance with all the conditions of probation. If the final probation report is not submitted as directed, probation shall be extended automatically until such time as the final report is submitted and accepted as complete by the Board or its designee.

## 3.15 Surveillance Monitoring Program

Respondent shall comply with the AC's Board's probation surveillance monitoring program and shall, upon reasonable notice, report to the assigned probation monitor ~~investigative district office~~. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Unless the Respondent obtains prior approval from Respondent's assigned

~~Board probation monitor to allow for contact, Respondent shall not have any unsolicited or unapproved contact with (1) known victims, witnesses, and/or complainants associated with the case; (2) AG Board members and/or members of its staff; or (3) persons serving the AG Board as expert examiners subject matter experts.~~

#### **4.16 Interview with the AG Board or Its Designee**

~~Respondent shall appear in person for interviews with the AG Board or its designee upon request at various intervals and with or without prior reasonable notice throughout the term of probation.~~

#### **5.17 Changes of Employment**

~~Respondent shall notify the AG Board in writing, through the assigned probation monitor surveillance compliance officer of any and all changes of employment, location and employment address within thirty (30) days of such change.~~

#### **6.18 Tolling for Out-of-State Practice or Residence of Probation**

~~In the event Respondent should leave California to reside or to practice outside the State, Respondent must notify the AG in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.~~

~~If Respondent leaves California to reside or practice outside this state, or if for any reason Respondent stops practicing acupuncture in California, Respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which Respondent is not engaging in the practice of acupuncture. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of two years.~~

~~For purposes of this condition, a Board ordered suspension or non-practice in compliance with any other condition of probation shall not be tolled. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. No obligation imposed herein, including requirements to file written reports, reimburse the Board's costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.~~

~~All provisions of probation shall recommence on the effective date of resumption of practice in California, and the term of probation shall be extended for the period~~



of time respondent was out of state or in state and not practicing.

**7.19 Employment Restriction on Employing and Supervision of Trainees; Prohibition on Teaching**

Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation. Respondent shall not teach at any Board approved educational and training program or courses for any Board-approved continuing education provider during the course of this probation.

**8.20 Cost Recovery**

Respondent shall pay to the AG Board its costs of investigation and enforcement in the amount of \$\_\_\_\_\_. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, with payments to be completed no later than three months prior to the end of the probation term. Cost recovery will not be tolled.

At Respondent's request, if Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of their good faith efforts to comply with this condition, and if no other conditions have been violated, the Board or its designee, in its discretion, may grant an extension of Respondent's probation period up to two (2) years without further hearing in order to comply with this condition. During the two (2) years extension, all original conditions of probation will apply.

**NOTE: If Respondent violates any term and a petition to revoke probation is filed that results in a default revocation, any outstanding cost recovery shall be ordered to be paid by the effective Decision date.**

**9.24 Violation of Probation**

If Respondent violates probation in any respect, the AG Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was ~~stated~~ stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the AG Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

**10. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and

every year of probation, as designated by the Board or its designee, which may be adjusted on an annual basis. Such costs shall be made payable and delivered to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs as directed shall be considered a violation of probation.

## **11. License Surrender**

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license or registration. Respondent's written request to surrender Respondent's license shall include the following: their name, license number, case number, address of record, and an explanation of the reason(s) why Respondent seeks to surrender their license. The Board or its designee reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within fifteen (15) days, deliver Respondent's pocket and/or wall certificate to the Board or its designee and Respondent shall no longer practice acupuncture. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent reapplies for an acupuncture license, the application shall be treated as a petition for reinstatement of a revoked or surrendered license.

## **12. Notification of Name, Address, Telephone Number or E-mail Address Changes**

Respondent shall notify the assigned probation monitor, in writing within ten (10) days, of any and all name, address, telephone, and/or e-mail address changes.

## **13. Disclosure of Probation Status**

No later than ten (10) days after the effective date of this Decision, Respondent shall submit a proposed written disclosure of probation status to provide to all patients or a patient's guardian or health care surrogate (conservator) to the Board for prior approval. Respondent shall not practice after the effective date of this Decision until the Board has issued approval of Respondent's disclosure. The written disclosure shall include the following:

- (1) Respondent's probation status stating "I am currently on probation with the Acupuncture Board of California":

- (2) Length of probation;
- (3) Probation end date;
- (4) All practice restrictions imposed by the probation order;
- (5) The Board's telephone number;
- (6) Explanation of how the patient can find further information on Respondent's license status and any enforcement actions taken by the Board against Respondent's license on the Board's web site.

Following the effective date of the Board's Decision and after the Board approves Respondent's written disclosure, Respondent shall provide (e.g. by email or mail) the written disclosure to all patients within five (5) days prior to a patient's first visit. Respondent shall obtain the signature of the patient, or the patient's guardian, conservator or health care surrogate (other legally authorized representative) and retain a separate, signed copy of the written disclosure, as part of the patient's healthcare records.

When any of the following applies, disclosure of probation status is exempt:

- (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to the written disclosure requirement above and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
- (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
- (3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit, in which case, the written disclosure is required at the time of the patient's visit.
- (4) The licensee does not have a direct treatment relationship with the patient. For example, a licensee who consults with the treating acupuncturist on the patient.

Respondent shall make all patient records available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours, upon request, and without charge. Respondent shall retain the records for the entire term of probation.

#### **14. Maintenance of Clear and Active License**

Respondent shall, at all times, maintain an active and current license with the Board, including any period of suspension or tolled probation.

If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

#### **15. 22 Completion of Probation**

Upon successful completion of probation, Respondent's license will be fully restored.

## Optional Terms and Conditions

|                                                                         |                                                                                 |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <u>16</u> <u>Actual Suspension</u>                                      | <u>25</u> <u>Restitution</u>                                                    |
| <u>17</u> <u>Psychological Evaluation</u>                               | <u>26</u> <u>Alcohol and Drug Abuse Treatment Program</u>                       |
| <u>18</u> <u>Physical Examination</u>                                   | <u>27</u> <u>Attend Chemical Dependency Support and Recovery Groups</u>         |
| <u>19</u> <u>Practice/Billing Monitor</u>                               | <u>28</u> <u>Abstain from Drugs and Alcohol and Submit to Tests and Samples</u> |
| <u>20</u> <u>Psychotherapy</u>                                          | <u>29</u> <u>Coursework</u>                                                     |
| <u>21</u> <u>Restrictions on Patient Population or Practice Setting</u> | <u>30</u> <u>Community Service</u>                                              |
| <u>22</u> <u>No Solo Practice</u>                                       | <u>31</u> <u>Supervised Practice</u>                                            |
| <u>23</u> <u>Restrictions on Practice Techniques and Modalities</u>     | <u>32</u> <u>Notification of Probationer Status to Employers</u>                |
| <u>24</u> <u>Examination(s)</u>                                         | <u>33</u> <u>Notification of Probationer Status to Employees</u>                |

Listed below are optional conditions of probation which the AG Board ~~would expect~~ to be included in any Proposed Decision as appropriate. The terms are not mutually exclusive, but can and should be combined with each other, as appropriate to a particular case. Other terms and conditions may be specified in stipulations for inclusion at the request of the AG Board depending on the unique aspects of an individual case.

### **16.1. Actual Suspension**

As part of the probation, Respondent is suspended from the practice of acupuncture for \_\_\_\_ days beginning with the effective date of this Decision.

### **17.2. Psychological Evaluation**

Within ninety (90) days of the effective date of this Decision and on a periodic basis thereafter as may be required by the AG Board or its designee, Respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by an AG Board ~~appointed~~ approved California licensed psychologist or psychiatrist. Respondent shall sign a release that authorizes the evaluator to furnish the AG Board or its designee shall receive with a diagnosis based on currently accepted standards, such as the Diagnostic and Statistical Manual of Mental Disorders, 5<sup>th</sup> Edition (DSM-5),-III-R diagnosis and a written report regarding the Respondent's judgment and/or ability to function independently as an acupuncturist with safety to the public, and whatever other information the AG Board or its designee deems relevant to the case. ~~Respondent shall execute a~~

~~release authorizing the evaluator to release all information to the AC. The completed evaluation is the sole property of the AC Board.~~

If the AC Board or its designee concludes from the results of the evaluation that Respondent is unable to practice independently and safely, Respondent shall immediately cease practice and shall not resume practice until notified by the AC Board or its designee. If the AC Board or its designee concludes from the results of the evaluation that Respondent would benefit from ongoing psychotherapy, Respondent shall comply with the AC's Board's directives in that regard. If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's or its designee's direction. Costs of such therapy shall be paid by Respondent.

If a psychological or psychiatric evaluation indicates a need for supervised practice, (within thirty (30) days of notification by the Board), Respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the Respondent's practice will be supervised.

Respondent shall pay all costs associated with the psychological evaluation. Failure to pay costs will be considered a violation of the probation order.

**NOTE: Optional terms and conditions 20, Psychotherapy and 31, Supervised Practice, shall always be included when Optional term and condition 17 is placed in a probation order**

*Psychological evaluations shall be utilized when an offense calls into question the judgment and/or emotional and/or mental condition of the Respondent or where there has been a history of abuse of or dependency on ~~of~~ alcohol or controlled substances. When appropriate, Respondent shall be barred from rendering acupuncture services under the terms of probation until Respondent has undergone an evaluation, the evaluator has recommended resumption of practice, and the AC Board has accepted and approved the evaluation. The Board requires that psychologists or psychiatrists have appropriate knowledge, training, and experience in the area involved in the violation.*

### **18.3. Physical Examination**

Within ninety (90) days of the effective date of this Decision, Respondent shall undergo a physical examination by a licensed physician and surgeon approved by the AC Board or its designee. Respondent shall bear all costs of such an examination. Failure to pay costs will be considered a violation of the probation order. The AC Board shall receive the physician's report which shall provide an assessment of Respondent's physical condition and capability to safely provide acupuncture services. If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician providing written progress reports to the AC Board or its designee on a quarterly basis or as otherwise determined by the AC Board or its designee.

It shall be the Respondent's responsibility to assure that the required progress reports are filed in a timely manner.

**NOTE:** *This condition permits the AC Board to require the probationer to obtain appropriate treatment for physical problems/disabilities which could affect safe practice of acupuncture. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.*

#### **19.-4. Practice/Billing Monitor**

~~Within 90 days of the effective date of this decision, Respondent shall submit to the AC for its prior approval, the name and qualifications of one or more California licensed acupuncturists whose license is clear (no record of complaints) and current and who has agreed to serve as a practice monitor. Once approved, the monitor shall submit to the AC a plan by which Respondent's practice shall be monitored. The monitor's education and experience shall be in the same field of practice as that of the Respondent. The monitor shall submit written reports to the AC on a quarterly basis verifying that monitoring has taken place and providing an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely fashion. The Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall be permitted to make direct contact with patients. Further, the monitor shall have no prior business, professional, personal or other relationship with Respondent. Respondent shall execute a release authorizing the monitor to divulge any information that the AC may request.~~

~~If the monitor quits or is otherwise no longer available, Respondent shall not practice until a new monitor has been approved by the AC. All costs of monitoring shall be borne by the Respondent. Monitoring shall consist of at least one hour per week of individual face to face meetings.~~

Within ninety (90) days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a \_\_\_\_\_ (i.e., practice, billing, or practice and billing) monitor(s), the name and qualifications of one or more California licensed acupuncturists whose license is **current**, active, **and unrestricted** by the Board. Prior to the Board's approval, Respondent shall provide a copy of the Board's Accusation and Decision to the monitor(s). A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board or its designee, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs. The Board in its sole discretion shall have the option of rejecting the proposed monitor(s) for any reason and Respondent shall work to provide an alternative monitor(s) as set forth above.

Upon approval of the monitor(s), the Board or its designee shall provide a monitoring plan. Within fifteen (15) days of receipt of the monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within one-hundred twenty (120) days of the effective date of this Decision, and continuing through probation, Respondent shall make all patient and any and all records reviewed by the monitor available: for immediate inspection and copying on the premises by the monitor at all times during business hours, upon request and without charge. Respondent shall retain the records for the entire term of probation.

Respondent shall notify all current and potential patients in writing of any term or condition of probation which will affect their treatment or the confidentiality of their records (such as this condition which requires a practice monitor). Such written notification shall be signed by each patient prior to continuing or commencing treatment and the written notification shall be kept as part of the patient's healthcare record.

The Respondent shall submit a quarterly written report prepared by the monitor to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of acupuncture or billing, or both, and whether Respondent is practicing acupuncture safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits written reports to the Board or its designee quarterly.

If the monitor resigns or is no longer available, Respondent shall, within five days of such resignation or unavailability notify the Board. Within thirty (30) days after such resignation or unavailability, Respondent shall submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor. Upon written notice of approval to Respondent by the Board, the monitor shall assume monitoring responsibility. If Respondent fails to obtain approval of a replacement monitor within sixty (60) days of the resignation or unavailability of the monitor, after notification by the Board, Respondent shall be suspended from the practice of acupuncture until a replacement monitor is approved and prepared to assume immediate monitoring responsibility.

Failure to maintain all patient and any and all records reviewed by the monitor, or to make all said records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above, is a violation of probation.



**NOTE:** Monitoring shall be utilized when Respondent's ability to function independently is in doubt, as a result of a deficiency in knowledge or skills, or as a result of questionable judgment.

## **20. Psychotherapy**

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of Respondent's choice. The therapist shall: (1) be a California-licensed psychologist or psychiatrist with a current, active and unrestricted license; (2) shall have had no prior business, professional, personal, or other relationship with Respondent; and, (3) not be the same person as respondent's monitor. Psychotherapy shall, at a minimum, consist of one hour per week, unless otherwise determined by the Board or its designee. Respondent shall continue in psychotherapy at the Board's or its designee's direction. Cost of such therapy is to be borne by the Respondent.

Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session. Upon written notice of approval of the therapist by the Board, Respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall ensure that the quarterly written reports written by the treating therapist are submitted to the Board or its designee concerning Respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board or its designee. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board or its designee.

If the treating therapist finds that Respondent cannot practice safely or independently, the therapist shall notify the Board within three working days. Upon notification by the Board or its designee, Respondent shall immediately cease practice and notify the Board in writing that they have ceased practice, and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified Respondent that they may resume practice. Respondent shall document compliance with this condition through the Respondent's Quarterly Report required by the Board or its designee.

If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of acupuncture without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of acupuncture without restrictions.

**NOTE:** The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation.

## **21.5. Restrictions of on Patient Population or Practice Setting**

Respondent's practice shall be restricted to [specify patient population (e.g., male patients, existing patients, etc) and/or setting (e.g., group practice, with supervision from another acupuncturist or physician and surgeon, etc)] for \_\_\_\_\_ years of probation. Within sixty (60) days from the effective date of the Decision, Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction, including copies of policies and procedures. Respondent shall cease practice until the Board or its designee has approved Respondent's plan. Respondent may resume practice once the plan is approved. Respondent shall submit written compliance with this term of probation on the Quarterly Report. Respondent shall provide copies of patient records, office policies, and procedures upon request by the Board or its designee.

**NOTE:** The restrictions shall be appropriate to the violation. This condition shall be included in cases wherein some factor of the patient population at large (e.g. age, gender) may put a patient at risk if in treatment with the Respondent. The condition shall also be used in cases where public protection is achieved by Respondent having a specified practice setting (e.g. no offsite visits, no multi-disciplinary office settings, etc.); language appropriate to the case may be developed to restrict such a population. The language would vary greatly by case.

## **22. No Solo Practice**

Respondent is prohibited from engaging in the solo practice of acupuncture. Prohibited solo practice includes a practice where: 1) Respondent is the sole licensed practitioner at that location, or 2) Respondent merely shares office space with another licensed practitioner, but is not affiliated for the purpose of providing patient care .

Respondent shall notify the Board in writing if Respondent fails to establish a practice with another licensed practitioner or secure employment in an appropriate practice setting (e.g., working with at least one other acupuncturist together as part of an acupuncturist-only practice or as part of a multi-disciplinary setting with other health care professionals) within sixty (60) days of the effective date of this Decision. After the foregoing 60-day time period has passed, Respondent shall have five (5) days to notify the Board of their failure to practice in a setting in compliance with this Decision. Upon receipt of such notice, the Board or its designee shall send written notice to Respondent to cease the practice of acupuncture within three (3) days after being so notified by the Board. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes (e.g., partnership dissolves or no longer employed at multi-disciplinary healthcare setting) and the Respondent is no longer practicing in a setting compliant with this Decision, the Respondent shall notify the Board or its designee within five (5) days of the practice setting change. Respondent shall notify the Board in writing if Respondent fails to establish a practice with another licensed practitioner or failed to secure employment in an practice setting compliant with this Decision within sixty (60) days of the practice setting change. Upon receipt of notice of Respondent's failure to secure work in a setting in compliance with this Decision, the Board or its designee shall issue a written notification to Respondent to cease the practice of acupuncture within three (3) days after being so notified by the Board. The Respondent shall not resume practice until an appropriate practice setting is established.

### **23. Restrictions on Practice Techniques and Modalities**

Respondent's practice shall be prohibited from providing \_\_\_\_\_ [insert treatment modalities (e.g., electroacupuncture, herbs, application of heat, etc)]. Within thirty (30) days from the effective date of the Decision, Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction, including copies of policies and procedures. Respondent shall cease practice until the Board or its designee has approved Respondent's plan. Respondent may resume practice once the plan is approved. Respondent shall submit written compliance with this term of probation on the Quarterly Report. Respondent shall provide copies of patient records, office policies, and procedures upon request by the Board or its designee as necessary for the Board to review compliance with this term of probation. Respondent shall notify all present and future employers of the restrictions imposed on their practice while on probation.

**NOTE:** *The restrictions shall be appropriate to the violation. The condition shall be used in cases where public protection is achieved by Respondent abstaining from a specific acupuncture service (e.g., herbs, moxibustion, other treatments in the Acupuncture Licensure Act, etc.)*

### **24.6. Examination(s)**

Respondent shall take and pass the written and/or clinical licensing examination(s) prior to the termination of probation. licensure exam(s) currently required of new applicants for the license possessed by Respondent pursuant to Business and Professions Code section 4938. Respondent shall not practice acupuncture until such time as Respondent has taken and passed these examination(s)s. The examinations shall be taken on regularly scheduled exam dates. Respondent shall pay the established examination fees.

If Respondent fails the has not passed the examination three times, his/her license

~~to practice acupuncture is suspended until the examination is successfully passed.~~  
within eighteen (18) months from the effective date of this Decision, Respondent shall be considered to be in violation of probation.

**NOTE:** *In cases involving evidence of deficiencies in the body of knowledge required to be minimally competent to practice independently, it may be appropriate to require the Respondent to pass ~~both the written and clinical~~ the examination(s) ~~during the course within the first eighteen (18) months of the probation period.~~ In some instances, it may be appropriate for practice to be suspended until the examination is passed (condition precedent).*

### **25.7. Restitution**

Within ninety (90) days of the effective date of this Decision, Respondent shall provide proof to the AG Board or its designee of restitution in the amount of \$ \_\_\_\_\_ paid to \_\_\_\_\_. Proof may include a copy of the cancelled check or other documentary evidence showing payment made directly to the person to whom Respondent owes restitution.

**NOTE:** *In offenses involving breach of contract, restitution is an appropriate term of probation. The amount of restitution shall be the amount of actual damages sustained as a result of breach of contract. Evidence relating to the amount of restitution would have to be introduced at the administrative hearing.*

### **26.8 Alcohol and Drug Abuse Treatment Program**

Effective thirty (30) days from the date of this Decision, Respondent shall enter an inpatient or outpatient alcohol or other drug abuse recovery program (a minimum of ~~six (6)~~ three (3) months duration) or an equivalent program as approved by the AG Board or its designee. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by Respondent. Subsequent to the program, Respondent shall submit proof of completion of the recovery program to the Board or its designee within fifteen (15) days of its conclusion. ~~participate in on-going treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as approved by the AG at least three times a week during the first year of probation; and/or other substance abuse recovery programs approved by the AG.~~ Respondent shall pay all costs of treatment and therapy, and provide documentation of attendance at ~~Twelve Step meetings or the equivalent as approved by the AG.~~ The psychologist or licensed therapist shall confirm that Respondent has complied with the requirements of this Decision and shall notify the AG Board immediately if they believe the Respondent cannot safely render acupuncture services. Respondent shall execute a release authorizing the psychologist or licensed therapist to divulge the aforementioned information to the AG Board.

The Board may accept a recovery program taken and completed by Respondent under court order within the last three years prior to the effective date of the Decision as compliance with this term.

**NOTE:** *Alcohol and other drug abuse treatment shall be required in addition to other terms of probation in cases where the use of alcohol or other drugs by Respondent has impaired Respondent's ability to safely provide acupuncture services to patients. This condition must be accompanied by optional terms and conditions #28 (Attend Chemical Dependency Support and Recovery Groups) and #29 (Abstain from Drugs and Alcohol and Submit to Tests and Samples) unless the Special Terms and Conditions are triggered, which contain specific requirements for biological fluid testing (special term and condition #36) and to abstain from drugs and alcohol (special term and condition #39) to be used in lieu of those terms as follows.*

**Requirement to Apply the Special Terms and Conditions in this document in lieu**

If, after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee. In such a case, the Board must use all of the Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (See Special Terms and Conditions Nos. #34-39).

**10. Reimbursement for Probation Surveillance Monitoring**

~~Respondent shall reimburse the AG for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.~~

~~**NOTE:** *This condition can only be included in a proposed stipulation, since there is no legal authority to include it in proposed decisions.*~~

**27. Attend Chemical Dependency Support and Recovery Groups**

Within thirty (30) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Frequency and duration shall be determined by the Board or its designee. Respondent shall pay all chemical dependency support group meeting costs.

**NOTE:** Special Term and Condition No. 37 (Substance Abuse Support Group Meetings) should be used in lieu of this term along with all of the other Special Terms and Conditions listed in this document if the following occurs. If, after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an

individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee. In such a case, the Board must use all of the Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (See Special Terms and Conditions Nos. #34-39).

## **28.9. Abstain from Drugs and Alcohol and Submit to Tests and Samples**

Respondent shall abstain completely from the personal use or possession or use of alcohol and controlled substances, as defined in the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, Health and Safety Code) and dangerous drugs as defined in Section 4244 4022 of the Business and Professions Code, or any drugs requiring a prescription and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Respondent shall abstain completely from the use of alcoholic beverages.

Within fifteen (15) days of a request by the Board or its designee, Respondent shall provide documentation as described below from the licensed practitioner or health insurer that the prescription or referral for the drug was legitimately issued and is a necessary part of the medical treatment of the Respondent. Within fifteen (15) calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release to the Board covering the entire probation period. Failure to provide such documentation within fifteen (15) days shall be considered a violation of probation. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, shall be considered a violation of probation.

Respondent shall undergo random biological fluid testing as determined by the AG Board or its designee. Respondent shall bear all costs of such testing. The length of time and frequency will be determined by the AG Board or its designee. Any confirmed positive finding will be considered a violation of probation.

***NOTE:*** *This condition provides documentation that the probationer is substance or chemical free. It also provides the AG Board or its designee with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances unless the Special Terms and Conditions are triggered, which contain specific requirements for biological fluid testing (special term and condition #36) and to abstain from drugs and alcohol (special term and condition #39) to be used in lieu of this term as follows.*

**Requirement to Apply the Special Terms and Conditions in this document in lieu of other similar terms:** If, after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee. In such a case, the Board must use all of the Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (See Special Terms and Conditions Nos. #35-41).

#### **29.11. Coursework**

~~Respondent shall take and successfully complete not less than twenty (20) semester units or thirty (30) quarter units of coursework in the following area(s) \_\_\_\_\_ . All coursework shall be taken at the graduate level at a school approved by the AC. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all coursework must be completed within the first 3 years of probation. The required coursework must be in addition to any continuing education courses that may be required for license renewal.~~

~~Within 90 days of the effective date of this decision, Respondent shall submit a plan for the AC's prior approval for meeting the educational requirements. All costs of the coursework shall be borne by the Respondent.~~

Respondent, at their own expense, shall enroll and successfully complete coursework substantially related to the violation(s) no later than the end of the first year of probation. Respondent shall take \_\_\_\_\_ hours of coursework in the following area(s): \_\_\_\_\_ (e.g., recordkeeping, ethics, clean needle technique, etc.) at a school or from a continuing education (CE) provider approved by the Board or other Department of Consumer Affairs' regulatory board/bureau.

The coursework shall be in addition to that required for license renewal. Within thirty (30) days of the effective date of this Decision, Respondent shall submit a written plan, including name of school or CE provider, CE provider number, dates, hours, course title, and course description, to comply with this requirement to the Board or its designee. The Board or its designee shall approve such a plan prior to enrollment in any course of study.

Upon successful completion of the coursework, Respondent shall submit original completion certificates or transcripts to the Board within thirty (30) days of course completion.

#### **30.12. Community Service**

Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, a community service program in which Respondent shall provide volunteer services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per month for \_\_\_\_\_ years of probation. Such community service may include, but does not require, the provision of free acupuncture service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a quarterly basis.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service. Respondent shall submit proof of compliance, including a signed attestation from the supervisor that they were provided a copy of Respondent's Decision, to the Board or its designee within fifteen (15) calendar days of completion of the community service. This condition shall also apply to any change(s) in community service.

Respondent shall complete all community service hours no later than six months prior to the completion of probation.

***NOTE:** In addition to other terms of probation, community service work may be required for relatively minor offenses which do not involve deficiencies in knowledge, skills or judgment. Community service may be appropriately combined with restitution or other conditions as a term of probation. ~~Specific language applicable to the case shall include the requirement that services rendered shall be professional in nature and under the auspices of a governmental entity or a non-profit corporation tax exempt under the Internal Revenue Code.~~*

### **31. Supervised Practice**

During the period of probation, when Respondent conducts evaluations and/or treatments on \_\_\_\_\_ (specific population of patients, e.g. seniors, children, females, etc.), such evaluations and treatments shall be performed only under the supervision and direct observation of a California licensed acupuncturist whose license is current, active, and unrestricted by the Board. Upon and after the effective date of this Decision, Respondent shall not practice acupuncture and Respondent's license shall be automatically suspended until a supervisor is approved by the Board or its designee. The supervision shall be direct observation of all evaluations and/or treatments provided to all \_\_\_\_\_ (specific population of patients).

The supervisor shall be a current California licensed acupuncturist, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of Respondent's performance. Failure to submit the direct supervisor's



acknowledgements **timely** to the Board or its designee shall be considered a violation of probation. The supervisor shall be independent, with no prior business, professional or personal relationship with Respondent. If Respondent is unable to secure a supervisor in Respondent's field of practice due to the unavailability of licensed acupuncturists in the area, then the Board or its designee may consider permitting Respondent to secure a supervisor not in the Respondent's field of practice. The Board or its designee may require that Respondent provide written documentation of Respondent's good faith attempts to secure face-to-face supervision or to locate another licensed acupuncturist.

Within thirty (30) days of the effective date of this Decision, Respondent shall have Respondent's supervisor submit notification to the Board or its designee in writing stating that the supervisor has read the Decision in case number \_\_\_\_\_ and **accepts** the required level of supervision as determined by the Board or its designee. **Levels of supervision are the following:**

- Option 1: The supervisor shall be on site at all times Respondent is practicing.
- Option 2: The supervisor shall be on site at least 50% of the time respondent is practicing.
- Option 3: Patient's condition shall be reviewed by supervisor prior to patient leaving facility. This condition shall be required for \_\_\_\_\_ (e.g., first/etc. year of probation).

It shall be the respondent's responsibility to submit the supervisor's acknowledgement(s) to the Board or its designee **timely**. If Respondent changes employment, it shall be the Respondent's responsibility to submit the new supervisor's acknowledgement(s) to the Board or its designee **timely**. Respondent shall have Respondent's new supervisor, within fifteen (15) days after employment commences, submit notification to the Board or its designee in writing stating the direct supervisor has read the Decision and **accepts** the level of supervision as determined by the Board or its designee. Respondent shall not practice acupuncture and Respondent's license shall be automatically suspended until the Board or its designee approves a new supervisor. Failure to cause the direct supervisor to submit **timely** acknowledgements to the Board or its designee shall be considered a violation of probation. Within thirty (30) days of leaving employment, Respondent shall notify the Board or its designee in writing.

**Note:** This term should be included in cases where incompetence, repeated acts of negligence, or gross negligence violations occurred and/or every time a psychological evaluation is included as part of the probationary order (Optional Term and Condition #17).

### **32. Notification of Probationer Status to Employers**

Respondent shall notify all present and future employers (during the period of probation) of the **Decision in case number \_\_\_\_\_ and** the terms, and conditions of

the probation, as follows:

Respondent shall provide a true copy of the Board's Decision and Order, Statement of Issues or Accusation, Initial Probationary License Decision, or Stipulated Decision and Order, as applicable, to Respondent's employer, supervisor, or contractor, or prospective employer or contractor, and at any other facility where Respondent engages in the practice of acupuncture within ten (10) days of accepting or continuing employment.

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each of [their] employer(s), and the name(s) and telephone number(s) of all of [Respondent's] direct supervisor and the work schedule, if known. Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause [their] direct supervisor and (c) the owner or owner representative of [Respondent's] employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the Decision in case number \_\_\_\_\_, and terms and conditions imposed thereby.

The information will be provided in writing to the probation monitor within thirty (30) days and will include written employer or contractor confirmation of receipt.

Respondent shall sign and return to the Board a written consent authorizing the Board or its designee to communicate with all of Respondent's employer(s), supervisor(s), or contractors and authorizing those employer(s), supervisor(s) or contractors to communicate with the Board or its designee, concerning Respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

### **33. Notification of Probationer Status to Employees**

If Respondent is an employer, Respondent shall notify all present or future employees of the Decision in case number \_\_\_\_\_ and terms and conditions of the probation, as follows. Respondent shall provide a true copy of the Board's Decision and Order, Statement of Issues or Accusation, Initial Probationary License Decision, or Stipulated Decision and Order to each employee and submit written confirmation of employee receipt to the Board within thirty (30) days.

Within thirty (30) days of the effective date of this Decision, and within ten (10) days of hiring a new employee, Respondent shall report to the Board in writing the name, physical address, and mailing address of each of their employee(s), and the name(s) and telephone number(s) of all of Respondent's employee(s) and the employee(s)' work schedule(s), if known. Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of Respondent hiring a new employee, Respondent shall submit to the Board their employee(s)' written

acknowledgment that each employee has/have read the Decision in case number  
, and terms and conditions imposed thereby.

**Special Terms and Conditions Applying the Uniform Standards  
Regarding Substance Abusing Licensees:**

- 34 Clinical Diagnostic Evaluations and Reports
- 35 Notification of Employer or Supervisor Information
- 36 Biological Fluid Testing
- 37 Substance Abuse Support Group Meetings
- 38 Worksite Monitor for Substance Abusing Licensees
- 39 Abstain from Drugs and Alcohol

Pursuant to Section 315 of the Business and Professions Code, the Board is directed to use the standards developed by the Substance Abuse Coordination Committee (SACC) for substance abusing licensees. On April 11, 2011, the SACC developed standards to be used by all healings arts boards and published a document entitled "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees ( April 2011)" . Those standards were updated by the SAAC in a document entitled "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" (March 2019) ("Uniform Standards"). Administrative Law Judges, parties, and staff are therefore required to use the language below as written when a licensee is determined to be a substance abusing licensee.

The following special terms and conditions describe the Uniform Standards that apply to a substance abusing licensee. If, after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the special terms and conditions in the disciplinary guidelines shall be used in any probationary order of the Board affecting that licensee. If a Uniform Standard is included in a probation order, the language below must be included as written.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board or its designee. These conditions shall be used in lieu of any similar standard or optional terms and conditions proposed in the Guidelines, unless otherwise specified. However, the Board's standard and optional conditions should still be used in formulating the penalty and in considering additional terms and conditions of probation appropriate for greater public protection. This requirement does not prohibit the Board from considering special terms and conditions of probation for a substance-abusing licensee in a settlement agreement.

**34. Clinical Diagnostic Evaluations and Reports**

Within thirty (30) days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board, Respondent shall

undergo and complete a clinical diagnostic evaluation, by a Board-approved health professional (“evaluator”).

The clinical diagnostic evaluation shall be conducted by a licensed health professional who:

- holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation,
- has three (3) years’ experience in providing evaluations of health professionals with substance abuse disorders; and,
- is approved by the Board.

The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

The evaluator shall furnish a written evaluation report to the Board. The clinical diagnostic evaluation report shall:

- set forth, in the evaluator’s opinion, whether Respondent has a substance abuse problem,
- set forth, in the evaluator’s opinion, whether Respondent is a threat to himself or herself or others, and
- set forth, in the evaluator’s opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Respondent’s rehabilitation and ability to practice safely.

If the evaluator determines during the evaluation process that Respondent is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination with a phone call and in writing through email.

In determining whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the Board shall consider the following factors:

- the recommendation of the clinical diagnostic evaluation;
- the license type;
- the Respondent’s history;

- the documented length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
- the scope and pattern of substance abuse;
- the treatment history;
- the Respondent's medical history and current medical condition;
- the nature, duration, and severity of substance abuse; and
- whether Respondent is a threat to himself/herself or the public.

All costs associated with completion of a drug or alcohol abuse treatment program shall be paid by the Respondent.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on Respondent based on the factors listed above, including the evaluator's recommendations. Respondent shall not be returned to practice until Respondent has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that Respondent has not used, consumed, ingested, or administered to himself or herself a prohibited substance.

The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the evaluator or the Board shall be borne by the Respondent.

Respondent shall not engage in the practice of acupuncture until notified by the Board that Respondent is fit to practice acupuncture safely. Respondent shall undergo biological fluid testing as required in this Decision at least two (2) times per week while awaiting the results of the clinical diagnostic evaluation.

Respondent shall comply with all restrictions or conditions recommended by the evaluator and approved by the Board within fifteen (15) days after being notified by the Board.

Note: This condition implements numbers one, two and six of the Uniform Standards.

### **35. Notice of Employer or Supervisor Information**

Within thirty (30) days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and

telephone numbers of all employers, supervisors and contractors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers and supervisors to communicate regarding Respondent's work status, performance, and monitoring.

**Note:** This condition implements number three of the Uniform Standards.

### **36. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board. Respondent shall make daily contact with the Board to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

The Board may require less frequent testing if any of the following applies:

- Where there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, the Board may reduce testing to one (1) time per month;
- Where Respondent has previously participated in a treatment or monitoring program requiring testing, the Board may consider that prior testing record in applying the three-tier testing frequency schedule described above;
- Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the Board may skip the first-year testing frequency requirement(s);
- Where Respondent is not employed in any health care field, frequency of testing may be reduced to a minimum of twelve (12) tests per year. If Respondent wishes to thereafter return to employment in a health care field,

Respondent shall be required to test at least once a week for a period of sixty (60) days before commencing such employment, and shall thereafter be required to test at least once a week for a full year, before Respondent may be reduced to a testing frequency of at least thirty-six (36) tests per year, and so forth;

- Respondent's testing requirement may be suspended during any period of tolling of the period of probation;
- Where Respondent has a demonstrated period of sobriety and/or non-use, the Board may reduce the testing frequency to no less than twenty-four (24) tests per year; and,
- Where Respondent receives a minimum of fifty (50) percent supervision per day by a supervisor licensed by the Board, the Board may reduce testing frequency to a minimum of twenty-four (24) tests per year.

Prior to practicing acupuncture, Respondent shall contract with a laboratory or service, assigned and approved in advance by the Board, that will conduct random, unannounced, biological fluid testing and meets all of the following standards:

- (a) Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
- (c) Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
- (d) Collection of specimens shall be observed.
- (e) Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.
- (f) A collection site must submit a specimen to a laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.
- (g) Specimen collectors shall possess all the materials, equipment, and



technical expertise necessary in order to test Respondent on any day of the week.

- (h) Specimen collectors shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
- (i) Specimen collectors must provide collection sites that are located in areas throughout California.
- (j) Specimen collectors must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Respondent to check in daily for testing.
- (k) Specimen collectors must have a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.
- (l) Specimen collectors shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
- (m) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if Respondent holds a valid prescription for the substance.

Prior to vacation or absence, any alternative to Respondent's drug testing requirements (including frequency) must be approved by the Board.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

### **Process and Consequences for Positive Test Results**

If a biological fluid test result indicates Respondent tests positive for a banned substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing acupuncture or providing acupuncture services immediately. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice acupuncture or provide acupuncture services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the

substance. If the Board thereafter determines that the positive drug test does not evidence prohibited use, the Board shall immediately lift the cease-practice order, within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory; communicating with the licensee, and/or any treating physician(s); and other health care provider, including group facilitator/s, as applicable.

For purposes of this condition, the terms “biological fluid testing” and “testing” mean the acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

For purposes of this condition, the term “prohibited substance” means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

*Note: This condition implements numbers **four (updated March 2019), eight, nine, ten, and thirteen of the Uniform Standards.***

### **37. Substance Abuse Support Group Meetings**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board, for its prior approval, the name of a substance abuse support group which Respondent shall attend for \_\_\_\_\_ year(s) of probation. Frequency and duration of group meeting attendance shall be determined by the Board, which shall give consideration to the following:

- The Respondent’s history;
- The documented length of sobriety/time that has elapsed since substance abuse;
- The recommendation of the clinical evaluator;
- The scope and pattern of use;
- The Respondent’s treatment history; and ,
- The nature, duration, and severity of substance abuse.

Respondent shall participate in facilitated group support meetings within fifteen (15) days after written notification of the Board’s approval of the meeting facilitator. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meetings shall have a minimum of three (3) years’ experience in the treatment and rehabilitation of

substance abuse and shall be licensed or certified by the state or other nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last year. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The Respondent shall provide a signed document to the Board showing Respondent's name, the group name, the date and location of the meeting, Respondent's attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board within twenty-four (24) hours of the unexcused absence in writing through email.

*Note: This condition implements number five of the Uniform Standards.*

### **38. Worksite Monitor for Substance Abusing Licensee**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board for prior approval as a worksite monitor, the name and qualifications of one or more licensed acupuncturists, or other licensed health care professional if no licensed acupuncturist is available, or, as approved by the Board, a person in a position of authority who is capable of monitoring the Respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall Respondent's worksite monitor be an employee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that the monitor has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if applicable; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the

Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board within one (1) hour of the start of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly, or as directed by the Board , which shall include the following:

- (1) Respondent's name and Licensed Acupuncturist number;
- (2) the worksite monitor's name and signature;
- (3) the worksite monitor's license number, if applicable;
- (4) the location or location(s) of the worksite;
- (5) the dates Respondent had face-to-face contact with the worksite monitor;
- (6) the names of worksite staff interviewed, if applicable;
- (7) a report of Respondent's work attendance;
- (8) any change in Respondent's behavior and/or personal habits; and;
- (9) any indicators that can lead to suspected substance abuse by Respondent.

Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, authorizing the Board, and worksite monitor to communicate **with the worksite monitor.**

If the worksite monitor resigns or is no longer available, Respondent shall, within fifteen (15) days of such resignation or unavailability, submit to the Board, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within thirty (30) days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board to cease the practice of acupuncture within three (3) days after being so notified **by the Board.** Respondent shall cease the practice of acupuncture until a replacement monitor is approved and assumes monitoring responsibility.

*Note: This condition implements number seven **of the Uniform Standards.***

### **39. Abstain from Drugs and Alcohol**

Respondent shall abstain from the possession or use of alcohol and controlled substances, as defined in the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, Health and Safety Code) and dangerous drugs as defined in Section 4022 of the Business and Professions

Code, or any drugs requiring a prescription and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Within fifteen (15) days of a request by the Board or its designee, Respondent shall provide documentation as described below from the licensed practitioner or health insurer that the prescription or referral for the drug was legitimately issued and is a necessary part of the medical treatment of the Respondent. Within fifteen (15) calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release to the Board covering the entire probation period. Failure to provide such documentation within fifteen (15) days shall be considered a violation of probation. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, shall be considered a violation of probation.

If Respondent has a positive drug screen for any substance not lawfully prescribed as set forth above, Respondent shall be ordered by the Board to cease any practice and may not practice unless and until notified by the Board. Positive drug screens shall be processed in accordance with the terms and conditions set forth in the Biological Fluid Testing term of this probationary order.

*Note: This condition implements Uniform Standard numbers four and eight.*

## Penalty Recommendations

The following is an attempt to provide information regarding the range of offenses under the Acupuncture Licensure Act and the appropriate penalty for each offense. ~~Examples are given for illustrative purposes, but no attempt is made to catalog all possible offenses.~~ The AG Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations, which take into account each case's unique circumstances.

If there are deviations or omissions from the Guidelines in formulating a Proposed Decision, the AG Board always ~~appreciates it if~~ requests that the Administrative Law Judge hearing the case include some explanation of this in the Proposed Decision so that the circumstances can be better understood by the AG Board during its review and consideration of the Proposed Decision for final action.

~~All references are to the specified subsections of section 4955 of the Business and Professions Code.~~

The Acupuncture Licensure Act (Business and Professions Code, Division 2, Chapter 1 2) and general provision sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. Below are the code sections with the recommended disciplinary actions listed by the degree of the offense.

When filing an Accusation, the Office of the Attorney General may also cite additional related statutes and regulations.

**Note:** Under conditions of probation the applicable numbered conditions are set out to include in a Decision and Order.

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# **Recommended Action by Violation of General California Business and Professions Code Provisions**

## **Section 480 –**

### **Denial of a License for Conviction of Crime or Formal Discipline Substantially-Related to Acupuncture; Knowingly Made False Statement of Fact on Application**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #24, #28, #29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

## **Section 490 –**

### **Suspension or Revocation for Conviction of a Crime Substantially Related to the Qualifications, Functions or Duties of an Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#67, #24, #28, #29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

## **Section 651 –**

### **False, Fraudulent, Misleading Advertising**

- Maximum Penalty: Revocation, stayed, 3 years of probation with the following conditions:
- Minimum Penalty: Revocation, stayed, 1 year of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29, #30)

## **Section 726 –**

### **Sexual Misconduct with a Patient**

- Maximum Penalty: Revocation
- Minimum Penalty: Revocation, stayed, 60 days suspension, with 5 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #17, #20, #21, #28, #3)
  3. Special Terms and Conditions, if appropriate (#354 – # 39)

## Recommended Action by Violation of Acupuncture Licensure Act

### ~~A. SECURING A CERTIFICATE BY FRAUD OR DECEIT~~

~~Revocation is the only suitable penalty inasmuch as the license would not have been issued but for the fraud or deception. If the fraud is substantiated prior to issuance of the license or registration, then denial of the application is the only suitable penalty.~~

### ~~B. COMMITTING A FRAUDULENT OR DISHONEST ACT AS AN ACUNCTURIST RESULTING IN INJURY TO ANOTHER~~

~~*MAXIMUM:* Dishonest or fraudulent act resulting in substantial harm to patient(s)  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Dishonest or fraudulent t resulting in minimal harm to patient(s)  
Penalty: 5 years probation, minimum 60 days suspension [1], psychological evaluation and ongoing therapy if appropriate [2], full restitution [7], written and clinical examination [6], coursework in ethics [11], community service [12], and standard terms and conditions [13–22].~~

### ~~C. USING ANY CONTROLLED SUBSTANCE, OR DANGEROUS DRUG, OR ALCOHOLIC BEVERAGE TO AN EXTENT OR IN A MANNER DANGEROUS TO HIMSELF OR HERSELF, OR TO ANY OTHER PERSON, OR THE PUBLIC, AND TO AN EXTENT THAT SUCH USE IMPAIRS HIS OR HER ABILITY TO ENGAGE IN THE PRACCE OF ACUPUNCTURE WITH SAFETY TO THE PUBLIC~~

~~*MAXIMUM:* Abuse of alcohol or a controlled substance resulting in substantial harm to patient(s).  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Abuse of alcohol or controlled substance to the extent that ability to safely perform acupuncture services is impaired.  
Penalty: 5 years probation, actual suspension [1], participation in an alcohol/drug abuse treatment program and continuing therapy with a psychologist trained in substance abuse treatment [8], biological fluid testing [9], practice monitor [4], physical examination (if appropriate) [3], and standard terms and conditions [13–22].~~

### ~~D. CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE FUNCTIONS OF AN ACUPUNCTURIST, THE RECORD OF CONVICTION BEING CONCLUSIVE EVIDENCE THEREOF~~

~~*MAXIMUM:* Convictions of a crime of violence against person or property or economic crime resulting in substantial harm to patient(s).  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Conviction of other crime resulting in little or no harm to patient(s).  
Penalty: 5 years probation, minimum 30 day suspension [1], ethics course [11], restitution (if appropriate) [7], community service [12], and standard terms and conditions [13-22].~~

#### ~~E. IMPROPER ADVERTISING~~

~~Repeated infraction of statute regarding advertising.  
Penalty: 5 years probation, written and clinical examination [6], coursework in ethics [11], community service [12], and standard terms and conditions [13-22].~~

#### ~~F. VIOLATING OR CONSPIRING TO VIOLATE THE TERMS OF THIS CHAPTER~~

~~No Guidelines drafted.  
Refer to underlying statute or regulation.~~

#### ~~G. GROSS NEGLIGENCE IN THE PRACTICE OF ACUPUNCTURE~~

~~*MAXIMUM:* Gross negligence resulting in substantial harm to patient(s).  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Gross negligence resulting in minimal harm to patient(s).  
Penalty: 5 years probation, minimum 60 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

#### ~~H. REPEATED NEGLIGENT ACTS~~

~~*MAXIMUM:* Repeated negligent acts resulting in substantial harm to patient(s).  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Repeated negligent acts resulting in minimal harm to patient(s).  
Penalty: 5 years probation, minimum 90 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

#### ~~I. INCOMPETENCE~~

~~*MAXIMUM:* Incompetence resulting in harm to patient(s).  
Penalty: Revocation; denial of license.~~

~~*MINIMUM:* Incompetence resulting in minimal harm to patient(s).  
Penalty: 5 years probation, minimum 60 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

The following makes reference to ~~4935~~ and are in conjunction with ~~4955(f)~~ of the Business and Profession Code.

**J. ~~IMPERSONATING ANOTHER PERSON HOLDING AN ACUPUNCTURE LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER LICENSE~~**

~~MAXIMUM:— Impersonation or use resulting in substantial harm to patient(s).~~

~~Penalty:— Revocation; denial of license, or written and clinical examination application.~~

~~MINIMUM:— Impersonation or use resulting in little or no harm to patient(s).~~

~~Penalty:— 5 years probation / actual suspension [4], coursework in ethics [11], community service [12], and standard terms and conditions [13–22].~~

**K. ~~AIDING OR ABETTING UNLICENSED PRACTICE~~**

~~MAXIMUM:— Aiding or abetting unlicensed practice which results in harm to patient(s).~~

~~Penalty:— Revocation; denial of license.~~

~~MINIMUM:— Aiding or abetting unlicensed practice which results in minimal harm to patient(s).~~

~~Penalty:— 5 years probation / actual suspension [4], oral examination [6], coursework [11], and standard terms and conditions [13–22].~~

## **Violation: Unprofessional Conduct**

### **Section 4935(a)(1) –**

#### **Unlicensed Practice of Acupuncture**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #24, #29)

### **Section 4935(a)(2) –**

#### **Fraudulently Buy, Sell or Obtain Acupuncture License**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #22, #24, #29, #30, #32)

### **Section 4935(b) –**

#### **Unlawful Practice of Acupuncture (Other Non-Exempt Healthcare Licensees)**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #24, #29)

### **Section 4935(c) –**

#### **Unlawfully Holding Oneself Out as a Licensed Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)

2. *Optional Terms and Conditions (#19, #24, #29)*

**Section 4936 –**

**Misrepresentation as a Doctor**

- Maximum Penalty: *Revocation or denial of license*
- Minimum Penalty: *Revocation, stayed, 3 years' probation with the following conditions:*
  1. *Standard Terms and Conditions (#1 – #15)*
  2. *Optional Terms and Conditions (#29)*

**Section 4955(a) –**

**Dangerous Use or Possession of a Controlled Substance, Dangerous Drug or Alcoholic Beverage**

- Maximum Penalty: *Revocation or denial of license*
- Minimum Penalty: *Revocation, stayed, 30 days suspension, with 3 years probation with the following conditions:*
  1. *Standard Terms and Conditions (#1 – #15)*
  2. *Optional Terms and Conditions (#67, #25, #26, #27, #28)*
  3. *Special Terms and Conditions, if appropriate (#34 – #39)*

**Section 4955 (b) –**

**Conviction of a Substantially Related Crime**

- Maximum Penalty: *Revocation or denial of license*
- Minimum Penalty: *Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:*
  1. *Standard Terms and Conditions (#1 – #15)*
  2. *Optional Terms and Conditions (#16, #24, #28, #29)*
  3. *Special Terms and Conditions, if appropriate (#34 – #39)*

NOTE: As provided in **Title 16**, California Code of Regulations section 1399.469.1, if an individual is required to register as a sex offender pursuant to section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law **and no exemptions provided in that section apply**, the Board shall do the following: (1) deny an application by the individual for licensure; (2) **promptly** revoke the license of the individual and shall not stay the revocation nor place the licensee on probation; or (3) deny any petition to reinstate or reissue the individual's license.

### **Section 4955(c) –**

#### **False or Misleading Advertising that Constitutes Unprofessional Conduct**

- Maximum Penalty: Revocation, stayed, 3 years of probation with the following conditions:
- Minimum Penalty: Revocation, stayed, 1 year of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29)

### **Section 4955 (d) –**

#### **Violation of the Terms of this Chapter or Any Board Regulation**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)
  3. Special Terms and Conditions, if appropriate (#34 – # 39)

### **Section 4955 (e) –**

#### **Violating Infection Control Guidelines**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (190, #29, #32, #33)

### **Section 4955 (f) –**

#### **Threats or Harassment Against a Licensee or Patient**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following



conditions:

1. Standard Terms and Conditions (#1 – #15)
2. Optional Terms and Condition (#29, #32, #33)
3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955 (h) –**

**Disciplinary Action Taken by Any Public Agency for Substantially Related Acts**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)

**Section 4955 (i) –**

**Action or Conduct that Warrants Denial**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955 (j) –**

**Violation of Any Law on Business Premises**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29, #30)

**Violation: Fraud**

**Section 4955.1 (a) –**

**Securing a License by Fraud or Deception**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #22, #24, #29, #30)

**Section 4955.1 (b), (c), (d) –**

**An Act of Fraud, Dishonesty, or Corruption as an Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 60 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #17, #19, #22, #29, #30, #32)

**Section 4955.1 (e) –**

**Failure to Keep Adequate and Accurate Records (repeated acts)**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 2 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #29)

**Violation: Negligence**

**Section 4955.2 (a) –**

**Gross Negligence**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 60 days suspension with 3 years of probation with the following conditions:

1. Standard Terms and Conditions (#1 – #15)
2. Optional Terms and Conditions (#16, #19, #21, #22, #29, #32, #33)
3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955.2 (b) –**

**Repeated Negligent Acts**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 90 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #19, #21, #22, #29, #32, #33)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955.2 (c) –**

**Incompetence**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 90 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Term and Conditions (#16, #19, #21, #22, #23, #29, #32, #33)



# Quarterly Report



### Probationary Terms & Conditions

1. Actual Suspension  Not applicable Condition Completed

- Did you suspend your practice of acupuncture (check appropriate response)?  
Yes  No  If so, what were the dates in which you suspended your practice?  
\_\_\_\_\_
- How did you notify patients of the suspension of your practice?  
\_\_\_\_\_

2. Changes of Employment

- Have there been any employment changes since your last quarterly report?  
 Yes  No  
Please note changes below (employment changes must be submitted to monitor  
within 30 days of change):  
\_\_\_\_\_  
\_\_\_\_\_

3. Disclosure of Probation Status

- Do you provide written disclosure to each patient within five days prior to their first visit?  
 Yes  No
- How many patients were seen this quarter requiring written disclosure of probation status?  
\_\_\_\_\_

4. Restriction on Employing and Supervision of Trainees; Prohibition on Teaching

Have you employed or supervised any trainees or applied to employ or supervise any trainees since your last quarterly report?

Yes  No

Are you teaching at any Board approved educational and training program or courses for any Board-approved continuing education?

Yes  No

5. Monitoring Program

- Have you had any unapproved contact with any known victims, witnesses or complainants associated with your case, Board members and/or members of its staff, or persons who served as subject matter experts?  
 Yes  No

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                         |                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------|
| <ul style="list-style-type: none"> <li>• Have you contacted your probation monitor for any questions pertaining to your order this quarter?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No</li> </ul>                                                                                                                                                                                                                                                                                     |                                         |                                              |
| 6. Cost Recovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• In this quarter, have you paid recovery costs as directed in your terms and conditions of probation? <input type="checkbox"/> Yes <input type="checkbox"/> No<br/> If you answered no, provide an explanation (attach additional documentation regarding your good faith efforts):<br/> _____<br/> _____</li> </ul>                                                                                                                                             |                                         |                                              |
| 7. Tolling of Probation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                         |                                              |
| <ul style="list-style-type: none"> <li>• Have you left the state to reside or practice or stopped practicing acupuncture since your last quarterly report?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No<br/><br/> If yes, please provide details:<br/> _____<br/> _____</li> </ul>                                                                                                                                                                                                      |                                         |                                              |
| 8. Psychological Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• Have you undergone a psychological evaluation?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No</li> <li>• Were you provided results of the evaluation from the Board?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No</li> <li>• If ongoing psychotherapy was ordered by the Board as a result of the evaluation, what therapist are you seeing and what were the dates you saw them this quarter?<br/> _____<br/> _____</li> </ul> |                                         |                                              |
| 9. Community Service                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• Has a plan been submitted and approved?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No</li> <li>• Have you submitted proof of your community service for this quarter?<br/> <input type="checkbox"/> Yes <input type="checkbox"/> No</li> <li>• How often are you providing community services?<br/> _____</li> </ul>                                                                                                                            |                                         |                                              |
| 10. Coursework                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                         |                                              |

Date plan of coursework was approved: \_\_\_\_\_

Are you attending or have you completed the assigned coursework? Yes  No

Please list coursework you completed within this quarter:

| <u>Coursework Assigned</u> | <u>Name of Provider</u> | <u>Hours/Units</u> | <u>Date Completed</u> |
|----------------------------|-------------------------|--------------------|-----------------------|
|                            |                         |                    |                       |
|                            |                         |                    |                       |
|                            |                         |                    |                       |

In this quarter, did you enroll in any required courses? Yes  No  If no, explain below:

If you are developing your continuing education plan, detail below the actions you have taken to meet this requirement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When do you expect completion of the required coursework?

\_\_\_\_\_  
\_\_\_\_\_

- Have you provided completion certificates or transcripts showing you have completed the required coursework?

Yes  No Date proof provided: \_\_\_\_\_

11. Abstain from Drugs and Alcohol  Not applicable

What is the date of your sobriety? Alcohol: \_\_\_\_\_ Drugs: \_\_\_\_\_

Have you abstained from alcohol and/or drugs during this period of probation?

Yes  No

If your answer was no, when was the last time you used drugs or alcohol and what were the circumstances?

\_\_\_\_\_  
\_\_\_\_\_



|  |
|--|
|  |
|  |
|  |

|                                                                         |
|-------------------------------------------------------------------------|
| 12. Submit to Tests and Samples <input type="checkbox"/> Not applicable |
|-------------------------------------------------------------------------|

- Are you currently taking prescription medications? Yes  No
  
- If your answer is yes, please provide prescriber's name, address, and telephone number, medication name and strength, issuing pharmacy name, address, and telephone number, and date prescribed:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- Dates of tests this quarter:  
\_\_\_\_\_
  
- Name and location of regular testing site:  
\_\_\_\_\_

|                                                                                                   |                                              |
|---------------------------------------------------------------------------------------------------|----------------------------------------------|
| 13. Attend Chemical Dependency Support/Recovery Groups<br><input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
|---------------------------------------------------------------------------------------------------|----------------------------------------------|

Did you attend **and** participate in group therapy meetings (i.e. Alcoholics Anonymous, Narcotics Anonymous, or any other Support Group) this quarter? Yes  No

If you failed to comply with this term during this quarter, provide a detailed explanation regarding your failure to do so:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Group Name: \_\_\_\_\_

*ATTACH COPIES OF PROOF OF ATTENDANCE DURING THIS QUARTER (All entries must be signed by the group secretary/facilitator.)*

How many meetings per week did you attend? \_\_\_\_\_

Do you have a sponsor?  
Yes  No

|                                                                                         |                                              |
|-----------------------------------------------------------------------------------------|----------------------------------------------|
| 14. Alcohol and Drug Abuse Treatment Program<br><input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
|-----------------------------------------------------------------------------------------|----------------------------------------------|

- Did you complete a recovery program under court order within the last three months of your effective date that was alternately approved by the Board?  
 Yes  No
- Are you currently enrolled in a Board approved inpatient or outpatient recovery program?  
 Yes  No
- Have you submitted proof of completion of your recovery program?  
 Yes  No Date proof submitted: \_\_\_\_\_

15. Obey All Laws

- Since the last quarterly report have you been arrested, charged, or convicted of any federal or state statute, or county or city ordinance?  
 Yes  No
- If you answered yes, provide a detailed explanation and attach the arrest report: \_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- Name of arresting agency: \_\_\_\_\_  
 Address of arresting agency: \_\_\_\_\_

In this quarter have you been convicted of a crime? Yes  No

If you answered yes, provide a detailed explanation (Attach the certified court documents.)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Name of court: \_\_\_\_\_

Address: \_\_\_\_\_ Case Number: \_\_\_\_\_

Probation Officer: \_\_\_\_\_ Telephone Number: (\_\_\_\_) \_\_\_\_\_

16. Practice/Billing Monitor  Not applicable

- Has a practice/billing monitor plan been approved by the Board?  
 Yes  No
- Name and license number of practice/billing monitor:  
 \_\_\_\_\_
- How many times did you meet with your monitor this quarter?  
 \_\_\_\_\_
- Is your monitor report attached?  
 Yes  No

17. Psychotherapy

Not applicable

- What were the dates you met with your treating psychologist/psychiatrist this quarter?  
\_\_\_\_\_
- Has your psychologist/psychiatrist submitted monthly reports to the Board during this quarter?  
 Yes  No
- Doctor/Therapist's Name: \_\_\_\_\_
- License No.: \_\_\_\_\_
- Address: \_\_\_\_\_
- Telephone No.: (\_\_\_\_) \_\_\_\_\_

18. No Solo Practice

Not applicable

- Have you established a practice with another licensed practitioner or secured employment in an appropriate practice setting (e.g., working with at least one other acupuncturist together as part of an acupuncturist-only practice or as part of a multi-disciplinary setting with other health care professionals) ?  
 Yes  No
- Practitioner's Name: \_\_\_\_\_
- License No. and Type: \_\_\_\_\_
- Address: \_\_\_\_\_
- Telephone No.: (\_\_\_\_) \_\_\_\_\_

19. Supervised Practice

Not applicable

- Has a supervisor been approved by the Board?  
 Yes  No Date of approval: \_\_\_\_\_
- Is your supervisor's quarterly report attached?  
 Yes  No
- Name of Supervising Acupuncturist: \_\_\_\_\_
- License No. of Supervising Acupuncturist: \_\_\_\_\_
- What level of supervision is being used by your supervisor (Check which level applies)?
  1. The supervisor is on site at all times:
  2. The supervisor is on site at least 50% of the time respondent is practicing:
  3. Patient's condition is reviewed by supervisor prior to patient leaving facility
- Have you completed your required term of supervised practice?  
 Yes  No  N/A  
Date of completion: \_\_\_\_\_

20. Restrictions on Patient Population or Practice Setting

Not applicable

- Have received approval of your plan to comply with the population or practice setting restriction?  
 Yes  No Date of approval: \_\_\_\_\_

- Are you restricting your practice to the population specified in your Decision and Order?  
 Yes  No  N/A
- Are you restricting your practice to the practice setting specified in your Decision and Order?  
 Yes  No  N/A

21. Restrictions on Practice Techniques and Modalities  Not applicable

- Have received approval of your plan to comply with the practice technique and modalities restriction?  
 Yes  No Date of approval: \_\_\_\_\_
- Are you refraining from the practice of the prohibited practice techniques and modalities specified in your Decision and Order?  
 Yes  No

22. Restitution  Not applicable Condition Completed

- Have you paid your ordered restitution in full?  
 Yes  No
- Have you provided proof of payment to the Board? (Proof may include a copy of the cancelled check or other documentary evidence showing payment made directly to the person to whom you owe restitution.)  
 Yes  No Date proof submitted: \_\_\_\_\_

23. Notification of Probationer Status to Employers  Not applicable

- Have you provided notification of your probation status to your employer?  
 Yes  No Date notification provided: \_\_\_\_\_
- Name of employer: \_\_\_\_\_
- Physical address: \_\_\_\_\_
- Mailing address: \_\_\_\_\_
- Telephone No.: \_\_\_\_\_
- Name of direct supervisor: \_\_\_\_\_
- Supervisor's work schedule: \_\_\_\_\_

24. Notification of Probationer Status to Employees  Not applicable

- Have you provided notification of your probation status to your employee(s)?  
 Yes  No Date notification provided: \_\_\_\_\_
- Number of employees: \_\_\_\_\_
- Has the following information been provided to the Board for all employee(s)?  
 Yes  No Date provided: \_\_\_\_\_
- Physical address: \_\_\_\_\_
- Mailing address: \_\_\_\_\_
- Telephone No.: \_\_\_\_\_
- Employee(s)' work schedule \_\_\_\_\_

25. Biological Fluid Testing (Substance Abusing Licensees)  Not applicable

- Did you submit to a minimum of three biological fluid tests this quarter?  
 Yes  No  
 Dates of tests this quarter: \_\_\_\_\_  
 Name and location of regular testing site: \_\_\_\_\_
- Did you receive approval to be tested at an alternative site for an approved vacation or absence?  
 Yes  No  
 Name and location of testing site: \_\_\_\_\_

|                                                                                                                  |                                              |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| 26. Substance Abuse Support Group Meetings (Substance Abusing Licensees) <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------|

Did you attend your approved group meetings this quarter? Yes  No

Group Name: \_\_\_\_\_

*ATTACH COPIES OF PROOF OF ATTENDANCE DURING THIS QUARTER (All entries must be signed by the group secretary/facilitator.)*

How many meetings this quarter did you attend? \_\_\_\_\_

What is your approved frequency of meetings? \_\_\_\_\_

|                                                     |                                         |
|-----------------------------------------------------|-----------------------------------------|
| 27. Worksite Monitor for Substance Abusing Licensee | <input type="checkbox"/> Not applicable |
|-----------------------------------------------------|-----------------------------------------|

- Name and license number of worksite monitor: \_\_\_\_\_
- How many times did you meet with your monitor this quarter? \_\_\_\_\_
- Is your monitor report attached?  
 Yes  No

I hereby submit this Quarterly Report as required by the California Department of Consumer Affairs, Acupuncture Board and its order of probation thereof, and declare under penalty of perjury of the laws of the State of California that I have read the foregoing report in its entirety, and that all statements made are true and correct.

\_\_\_\_\_  
 Probationer Signature

\_\_\_\_\_  
 Date

INFORMATION COLLECTION AND ACCESS The information requested herein is mandatory and is maintained by the California Acupuncture Board, 1747 North Market Blvd., Suite 180 Sacramento, CA 95834, Executive Officer, (916) 515-5200, in accordance with the Acupuncture Licensure Act (Bus. & Prof. Code, §§ 4925 et seq.) and Title 16, California Code of Regulations

section 1399.469. The Board uses this information principally to identify and evaluate probationers' compliance with its disciplinary decisions and orders and enforce licensing and reporting standards set by law and regulation. Failure to provide all or any part of the requested information may result in further disciplinary or other enforcement action by the Board.

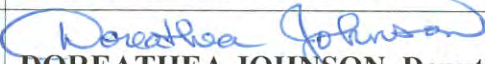
The information on this form may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information about you unless the records are exempted from disclosure. Individuals may obtain information regarding the location of their records by contacting the Board's Executive Officer at 1747 North Market Blvd., Suite 180, Sacramento, CA 95834, or at (916) 515-5200.



**Attorney  
General  
Legal  
Opinion**



## MEMORANDUM

|                |                                                                                                                                                           |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | <b>February 11, 2016</b>                                                                                                                                  |
| <b>TO</b>      | <b>Executive Officers<br/>HEALING ARTS BOARDS</b>                                                                                                         |
| <b>FROM</b>    | <br><b>DOREATHEA JOHNSON, Deputy Director<br/>Legal Affairs Division</b> |
| <b>SUBJECT</b> | <b>Attorney General Opinion No. 13-202<br/>Uniform Standards Regarding Substance Abusing Licensees</b>                                                    |

This memorandum provides additional guidance regarding implementation of the Uniform Standards for Substance Abusing Healing Arts Licensees (Uniform Standards or Standards), promulgated pursuant to Senate Bill No. 1441 (2007-2008 Sess.).

### BACKGROUND

In 2008, the Legislature enacted Senate Bill 1441 to address what the Legislature found to be “an increasing problem in the health care professions.” (SB 1441, § 1(a).) Finding that “various health care licensing boards have inconsistent or nonexistent standards that guide the way they deal with substance-abusing licensees” (*id.*, § 1(g)), the Legislature directed the newly-created Substance Abuse Coordination Committee to “formulate uniform and specific standards in [sixteen] areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program.” (Bus. & Prof. Code, § 315(c).)

After SB 1441’s enactment, the Board of Pharmacy requested a formal opinion from the Attorney General regarding the lawfulness of the bill and the scope of Business and Professions (B&P) Code section 315.<sup>1</sup> That opinion addressed four questions raised by the Board of Pharmacy:

1. Is the law that prescribes the development and issuance of uniform standards for healing arts boards to use in dealing with their “substance-abusing licensees” invalid either (a) for vagueness or (b) as an improper delegation of legislative authority to the committee charged with formulating the standards?

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<sup>1</sup> A copy of the Attorney General’s opinion (AG Opinion) is attached.



2. To be effective, must the uniform standards be adopted as regulations under the Administrative Procedure Act, and, if so, by what entities?
3. May individual healing arts boards adopt regulations defining the term “substance-abusing licensees” for purposes of determining which of their licensees are subject to the uniform standards?
4. Must individual healing arts boards use the uniform standards as written in all cases in which they are found to apply, and, if so, do the boards nonetheless retain discretion in applying the uniform standards to particular circumstances and in deciding individual cases?

The Attorney General summarized her responses to those questions as follows:

1. The law that prescribes the development and issuance of uniform standards for healing arts boards to use in dealing with their “substance-abusing licensees” is not invalid either (a) for vagueness or (b) as an improper delegation of legislative authority to the committee charged with formulating the standards.
2. The uniform standards need not be adopted as regulations under the Administrative Procedure Act in order to be effective. Individual healing arts boards may, but are not required to, adopt regulations incorporating the uniform standards for the purpose of administering their own programs.
3. Individual healing arts boards may adopt regulations defining the term “substance-abusing licensees” for purposes of determining which of their licensees are subject to the uniform standards, so long as such regulations are consistent with the legislation directing the formulation and issuance of the uniform standards and reasonably necessary to effectuate the purposes of that legislation.
4. To the extent practicable, individual healing arts boards must use the uniform standards as written in all cases in which they are found to apply, but the boards retain discretion in applying the uniform standards to particular circumstances and in deciding individual cases.

### ANALYSIS

This office has thoroughly reviewed the AG Opinion and offers the following guidance to the healing arts boards to implement the Uniform Standards in a manner consistent with B&P Code section 315 and the AG Opinion.

**Question No. 1:** Question one addresses the legal issue of whether B&P Code section 315 was invalid because it was “void for vagueness” or improperly delegated legislative authority to the Substance Abuse Coordination Committee (Committee). Based on well-established principles, the Attorney General concluded that section 315 is valid (Opn. pp. 6-9), and we do not believe any additional guidance is needed on this question.

**Question No. 2:** The Attorney General concluded that boards “may, but are not required to, adopt regulations incorporating” the Uniform Standards. (Opn. at pp. 11, 12.) In her view, if a “board wishes to enact regulations governing its own programs—including drug diversion programs—it is up to that board to do so.” (Opn. at p. 12.) This office recommends that each healing arts board, if it hasn’t already done so, formally implement the Standards through regulations adopted pursuant to the Administrative Procedure Act (APA), and incorporate them into the board’s Disciplinary Guidelines. This will ensure that a practitioner is aware of the Uniform Standards, and can access all of the standards relevant to him or her in each board’s regulations.

**Question No 3:** In response to the question of whether a board may define the term “substance-abusing licensee,” the Attorney General concluded that, yes, a board may. To do so, the board would be required to comply with the APA and “must ensure” the definition is both “consistent with section 315 and reasonably necessary to effectuate” its purposes. (Opn. at p. 12.)

Many of the healing arts boards have already adopted regulations defining the term “substance-abusing licensee” for their specific universe of licensees, or the process for making that determination. Others are in the process of defining the term. If your board has not yet done so, we suggest you work with your assigned legal counsel to develop a regulation defining what constitutes a “substance abusing licensee.”

**Question No 4:** In the final question, the Attorney General addressed whether the boards must use the standards as written in all cases in which they are found to apply, and whether the boards retain discretion to apply the Uniform Standards in individual cases. The Attorney General opined that the “Boards are not to ignore, discard, or disregard them; they are to ‘use’ them.” (Opn. at p. 13.) Thus, the Attorney General advised that *individual healing arts boards must use the uniform standards as written in all cases in which they are found to apply, to the extent practicable.* (Opn. at p. 14 [emphasis added].) The Attorney General further concluded that because individual boards have independent authority over their licensees, they retain *reasonable* discretion over how to apply the uniform standards to individual cases, [but] boards “should not depart from [the Uniform Standards] without some *substantial* reason for doing so.” (Opn. at p. 13 [emphasis added].)

We understand there may be some confusion regarding whether the AG Opinion means the boards have unlimited discretion to reject or modify a Standard that would otherwise be applicable because, for example, the board dislikes or disagrees with the Standard. We read the AG Opinion and B&P Code section 315 as providing some discretion in several situations in which independent judgment is necessarily required, such as: determining whether or not a licensee is a substance-abusing licensee; deciding whether a discretionary Standard should be applied to a particular licensee; deciding—where a Standard provides a range of options—the

extent to which that Standard will apply to a particular licensee;<sup>2</sup> and to determine whether some Standards should be applied in a case that involves substance *use*, but does not involve a substance *abusing* licensee. But we do not read the AG Opinion and Business and Professions Code section 315 as authorizing a board to “ignore, discard or disregard” a mandatory Standard. (Bus. & Prof. Code, § 315, subd. (c) [“each healing arts board shall use [the Uniform Standards] in dealing with substance-abusing licensees”]; Opn. at p. 13.)

Initially a board exercises its discretion by deciding whether or not the licensee is a “substance-abusing licensee,” as the term is defined by the board. If a licensee is determined to be a substance-abusing licensee, the next question is whether one or more of the Uniform Standards must be applied in a particular case.

Business and Professions Code section 315 requires the healing arts boards to “use” the Committee’s uniform standards, but the law does not control a board’s discretion to determine whether all of the standards must be used in every case involving a substance abusing licensee. The opinion’s use of “*to the extent practicable*” must be read in the context of the language of the Standards themselves, and based upon the facts of a particular case. For example, some Standards use the phrase “*if ordered (or determined)*,” which reflects that the boards have discretion to choose whether or not to include a term incorporating that Standard in a decision and probationary order. If, on the other hand, the Standard is written in mandatory terms, it must be used. As discussed below, however, once a Uniform Standard is applied, it must be applied as written, without modification—there is no discretion to “ignore, discard or disregard” a Standard. (Opn. at p. 13.)

The following chart outlines which Standards this office considers to be mandatory (must be used in a disciplinary order against a substance-abusing licensee), discretionary (ordered if the board exercises its discretion to impose it), or administrative (not applicable to be included as terms and conditions of probation):

| STANDARD                                     | MANDATORY, DISCRETIONARY, or ADMINISTRATIVE                                                                                   |
|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Standard #1 – clinical diagnostic evaluation | Discretionary. <b>IF</b> ordered, however, a cease practice order is mandatory (Standard # 2), as well as a diagnostic report |
| Standard # 2 – practice restrictions         | Mandatory <b>IF</b> a clinical diagnostic evaluation (Standard #1) is ordered                                                 |
| Standard # 3 – names and addresses and       | Mandatory                                                                                                                     |

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<sup>2</sup> Standard Nos. 4 and 5, for example, provide a range of drug/alcohol tests and group meeting attendance to be imposed, and under Standard 10 a board can decide to impose additional consequences for a “major violation.”

|                                                                                          |                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| consent to communicate with employer                                                     |                                                                                                                                                                                                       |
| Standard # 4 – drug and alcohol testing                                                  | Mandatory                                                                                                                                                                                             |
| Standard # 5 – group support meetings                                                    | Discretionary                                                                                                                                                                                         |
| Standard # 6 – inpatient or outpatient treatment                                         | Discretionary                                                                                                                                                                                         |
| Standard # 7 – worksite monitors                                                         | Discretionary                                                                                                                                                                                         |
| Standard # 8 – cease practice order for positive test                                    | Mandatory                                                                                                                                                                                             |
| Standard # 9 – consequences for major violation for positive test                        | Mandatory – use of a controlled substance is deemed a major violation that is subject to the consequences specified in Standard #10                                                                   |
| Standard # 10 – definitions of and consequences for major and minor violations           | Discretionary/Administrative. Although may be reflected in disciplinary guidelines in conjunction with #9 as to what actions the board may take, the standard is not included in a disciplinary order |
| Standard # 11 – criteria for petitioning for modification                                | Administrative/Mandatory                                                                                                                                                                              |
| Standard # 12 – criteria for petitioning for reinstatement                               | Administrative/Mandatory                                                                                                                                                                              |
| Standard # 13 – criteria for specimen collection and other providers; vendor requirement | Administrative/Discretionary                                                                                                                                                                          |
| Standard # 14 – board disclosure of information to the public                            | Administrative/Discretionary                                                                                                                                                                          |
| Standard # 15 – criteria for audits of vendors                                           | Administrative/Discretionary                                                                                                                                                                          |
| Standard # 16 – criteria for board reports to the Department and Legislature             | Administrative/Mandatory                                                                                                                                                                              |

A board's discretion may be exercised where the language of the Standard itself authorizes the board to determine *whether* it should apply. In our view, it is only those Standards which, by their terms, are discretionary where the boards may decide whether or not a Standard should be applied in cases involving a substance-abusing licensee. But once a Standard is ordered in a particular case, it must be adhered to, without modification, unless the board has good cause to depart from its terms.

For example, if a board decides a substance-abusing licensee's probationary terms require a worksite monitor (Standard No. 7—a discretionary standard that a board may decide whether or not to include in a disciplinary order), then the Standard's criteria must be adhered to. In other words, once the board decides to include the worksite monitor standard as a term and condition of the licensee's probation, it cannot modify the standard to allow any part to be less stringent, such as allowing a family member to act as the monitor (which the Standard prohibits).

Lastly, where a licensee's conduct and resulting discipline are rooted in substance use or abuse but he or she is not found to be a "substance-abusing licensee," (e.g., the licensee has either submitted sufficient evidence to overcome that finding or a clinical diagnostic evaluator's report does not conclude that the licensee has a substance abuse problem) while not mandated, many of the terms and conditions in the Uniform Standards *may still* be imposed if they are relevant to the facts of that case. Under these circumstances, the Standards may be modified so that a licensee's probationary terms and conditions can be shaped for that individual case. For example, a board may decide that a certain licensee had previously been a substance abuser but is not currently a substance-abusing licensee within the meaning of the board's regulation. In such a case, using the Standards is not mandated, and the board retains the discretion to order those terms and conditions that best honor its consumer protection mission. For example, it may order drug and alcohol testing, but tailor the frequency required by Standard No. 4 to individual circumstances.

### CONCLUSION

We hope this information is helpful in guiding your board's implementation of the Uniform Standards. Please work with your assigned counsel if you have any questions and in developing the definition of "substance abusing licensee" and any other necessary regulations.

cc: Awet Kidane, Director  
Tracy Rhine, Chief Deputy Director  
Legal Affairs Division Attorneys

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

KAMALA D. HARRIS  
Attorney General

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|                          |   |               |
|--------------------------|---|---------------|
| OPINION                  | : | No. 13-202    |
|                          | : |               |
| of                       | : | April 8, 2015 |
|                          | : |               |
| KAMALA D. HARRIS         | : |               |
| Attorney General         | : |               |
|                          | : |               |
| BRUCE M. SLAVIN          | : |               |
| SUSAN DUNCAN LEE         | : |               |
| Deputy Attorneys General | : |               |

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VIRGINIA HEROLD, EXECUTIVE OFFICER FOR THE CALIFORNIA BOARD OF PHARMACY, has requested an opinion on the following questions:

1. Is the law that prescribes the development and issuance of uniform standards for healing arts boards to use in dealing with their “substance-abusing licensees” invalid either (a) for vagueness or (b) as an improper delegation of legislative authority to the committee charged with formulating the standards?
2. To be effective, must the uniform standards be adopted as regulations under the Administrative Procedure Act, and, if so, by what entities?
3. May individual healing arts boards adopt regulations defining the term “substance-abusing licensees” for purposes of determining which of their licensees are subject to the uniform standards?

4. Must individual healing arts boards use the uniform standards as written in all cases in which they are found to apply, and, if so, do the boards nonetheless retain discretion in applying the uniform standards to particular circumstances and in deciding individual cases?

## CONCLUSIONS

1. The law that prescribes the development and issuance of uniform standards for healing arts boards to use in dealing with their “substance-abusing licensees” is not invalid either (a) for vagueness or (b) as an improper delegation of legislative authority to the committee charged with formulating the standards.

2. The uniform standards need not be adopted as regulations under the Administrative Procedure Act in order to be effective. Individual healing arts boards may, but are not required to, adopt regulations incorporating the uniform standards for the purpose of administering their own programs.

3. Individual healing arts boards may adopt regulations defining the term “substance-abusing licensees” for purposes of determining which of their licensees are subject to the uniform standards, so long as such regulations are consistent with the legislation directing the formulation and issuance of the uniform standards and reasonably necessary to effectuate the purposes of that legislation.

4. To the extent practicable, individual healing arts boards must use the uniform standards as written in all cases in which they are found to apply, but the boards retain discretion in applying the uniform standards to particular circumstances and in deciding individual cases.

## ANALYSIS

In 2008, the Legislature enacted Senate Bill 1441 to address the increasing problem of substance abuse in the health-care professions,<sup>1</sup> where “the impairment of a health care practitioner for even one moment can mean irreparable harm to a patient.”<sup>2</sup> Finding that various health care licensing boards have inconsistent or nonexistent standards for dealing with substance-abusing professionals, the Legislature determined

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<sup>1</sup> Senate Bill 1441 added an article to the Business and Professions Code entitled Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. (Stats. 2008, ch. 548 (Sen. Bill No. 1441), § 3.)

<sup>2</sup> *Id.* at § 1(a).

that patients would be better protected if regulatory boards would agree to follow consistent standards and best practices in this area.<sup>3</sup>

To that end, new Business and Professions Code section 315 (section 315) created an entity within the Department of Consumer Affairs called the Substance Abuse Coordination Committee (Committee).<sup>4</sup> The Committee is chaired by the Director of the

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<sup>3</sup> Stats. 2008, ch. 548 (Sen. Bill No. 1441), § 1(g), (h).

<sup>4</sup> Section 315 states:

(a) For the purpose of determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees, there is established in the Department of Consumer Affairs the Substance Abuse Coordination Committee. The committee shall be comprised of the executive officers of the department's healing arts boards established pursuant to Division 2 (commencing with Section 500), the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and a designee of the State Department of Health Care Services. The Director of Consumer Affairs shall chair the committee and may invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee.

(b) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

(c) By January 1, 2010, the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program:

(1) Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

(2) Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in paragraph (1) and any treatment recommended by the evaluator described in paragraph (1) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

(3) Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's



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status and condition.

(4) Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

(5) Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

(6) Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

(7) Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

(8) Procedures to be followed when a licensee tests positive for a banned substance.

(9) Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

(10) Specific consequences for major violations and minor violations. In particular, the committee shall consider the use of a "deferred prosecution" stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

(11) Criteria that a licensee must meet in order to petition for return to practice on a full-time basis.

Department of Consumer Affairs and consists of the executive officers of the department's healing arts boards, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, as well as a designee of the State Department of Health Care Services.<sup>5</sup>

Section 315 required the Committee to formulate standards on sixteen specific subjects for the healing arts boards to use in dealing with substance-abusing licensees, "whether or not a board chooses to have a formal diversion program."<sup>6</sup> The subjects include clinical evaluation of licensees for substance abuse, suspension of licensees from practice, communications between the licensing board and the licensee's employer, and the use of private-sector diversion programs.<sup>7</sup> In December 2009, the Committee adopted uniform standards for each of the sixteen subjects. The standards were published

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(12) Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

(13) If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.

(14) If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

(15) If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

(16) Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

<sup>5</sup> Bus. & Prof. Code, § 315, subd. (a).

<sup>6</sup> Bus. & Prof. Code, § 315, subd. (c).

<sup>7</sup> See Bus. & Prof. Code, § 315, subds. (c)(1)-(16).

in April 2010, and revised in April 2011.<sup>8</sup> In this opinion, we address several questions and concerns that have been raised regarding the uniform standards.

### Question 1

We begin with the threshold question whether section 315 is valid. It has been suggested that section 315 is too vague to be enforceable because it fails to define the phrase “substance-abusing licensees.”<sup>9</sup> It has also been argued that the Legislature improperly delegated its authority by charging the Committee with developing standards instead of crafting them itself. We reject both of these propositions.

#### a. Vagueness

While “void-for-vagueness” challenges arise most often in the context of criminal statutes, the principle extends to other types of legislation as well.<sup>10</sup> In addressing a vagueness claim, we give the challenged statute “a reasonable and practical construction in accordance with the probable intent of the Legislature.”<sup>11</sup> “Reasonable certainty” is all that is required; a statute will not be held void for vagueness if any reasonable, practical construction can be given to it, either on its own footing or by reference to other definable sources.<sup>12</sup>

Because section 315 itself does not define the term “substance-abusing licensees,” (nor expressly require the Committee to do so), our task is to determine whether the term may be made reasonably certain by reference to other sources.<sup>13</sup> Where a statute or statutory scheme does not specify a definition for a given term or phrase, the general rule is to give the words “their usual, ordinary meaning, which in turn may be obtained by referring to a dictionary.”<sup>14</sup>

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<sup>8</sup> The uniform standards may be accessed from the Department of Consumer Affairs’ public website, at [http://www.dca.ca.gov/about\\_dca/sacc/uniform\\_standards.pdf](http://www.dca.ca.gov/about_dca/sacc/uniform_standards.pdf).

<sup>9</sup> Bus. & Prof. Code, § 315, subds. (a), (c).

<sup>10</sup> *Cranston v. City of Richmond* (1985) 40 Cal.3d 755, 763-764.

<sup>11</sup> *County of Nevada v. MacMillen* (1974) 11 Cal.3d 662, 672-673.

<sup>12</sup> See *id.* at p. 673.

<sup>13</sup> *Id.* at pp. 672-673.

<sup>14</sup> *Smith v. Selma Community Hospital* (2010) 188 Cal.App.4th 1, 30; see 95 Ops.Cal.Atty.Gen. 16, 19 (2012).

The term “substance-abusing” is hardly unique to section 315. Some form of the term has been used by the Legislature in many different statutes without express definition.<sup>15</sup> This is not surprising. The common definition of “substance abuse” is “excessive use of a drug (as alcohol, narcotics, or cocaine)” or “use of a drug without medical justification.”<sup>16</sup> The concept of substance abuse is exceedingly familiar in society, and we see no reason why the commonly understood definition of this term may not be applied with reasonable certainty in the context of protecting patients by ensuring practitioner competency.<sup>17</sup>

Also, when the Legislature enacted section 315, there were already statutes pertaining to substance abuse by licensees of most healing arts boards. For example, existing law provides for diversionary programs as an alternative to traditional disciplinary action to address “unprofessional conduct relating to controlled substances or dangerous drugs” by licensed nurses,<sup>18</sup> and for recovery programs for pharmacists “whose competency may be impaired due to abuse of alcohol [or] drug use.”<sup>19</sup> In addition, for most healing arts licensees, existing law provides that unprofessional conduct includes the use of a controlled or intoxicating substance in a manner impairing the licensee’s ability to practice safely.

Indeed, in enacting section 315, the Legislature acknowledged the existing statutes addressing substance-abusing licensees, and made express findings that further legislation was necessary to address deficiencies in existing programs.<sup>20</sup> Despite the existence of

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<sup>15</sup> See e.g. Bus. & Prof. Code, § 8025.1 (certified shorthand reporter subject to suspension where “licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol”); Ed. Code, § 44049 (school principal may report to parent or guardian any instance of “alcohol or controlled substance abuse” by student); Fam. Code, § 3200 (Judicial Council to develop standards for supervised visitation in cases of alleged “substance abuse”); Health & Saf. Code, § 11367.5 (immunity from prosecution for peace officer possessing controlled substance “while providing substance abuse training to law enforcement”).

<sup>16</sup> Webster’s 3d New Internat. Dict. (1993) p. 112.

<sup>17</sup> Cf. *In re Drake M.* (2012) 211 Cal.App.4th 754, 764-765 (interpreting “substance abuse” for purposes of removing child from custody of parent or guardian who puts child at risk through substance abuse).

<sup>18</sup> Bus. & Prof. Code, § 2762; see *id.* at § 2770.

<sup>19</sup> Bus. & Prof. Code, § 4360; see *id.* at § 4364 (Board of Pharmacy to establish criteria for program entry).

<sup>20</sup> See Stats. 2008, ch. 548 (Sen. Bill No. 1441), § 1(a), (b).

myriad healing-arts statutes that use this or similar terms,<sup>21</sup> the Legislature refrained from adopting any single definition. Given the prevalence of the problem, and the Legislature’s intention to steer boards toward “best practices,” we perceive not vagueness but flexibility in the use of the term “substance-abusing licensees.”

Reading section 315 in the “context of the statutory framework as a whole in order to determine its scope and purpose,” we conclude that it is not void for vagueness. Based on the ordinary meaning of the words “substance-abusing licensees” as those words are understood in common parlance and in other statutory contexts, we conclude that section 315 describes with reasonable certainty the class of individuals who are subject to the uniform standards prescribed by section 315.<sup>22</sup>

### **b. Delegation of Authority**

We next consider whether, by requiring the Committee to develop uniform standards, instead of crafting them itself, the Legislature improperly delegated its authority to the Committee. We find no improper delegation.

In *Kugler v. Yocum*,<sup>23</sup> the California Supreme Court considered the validity of a city ordinance which decreed that the salaries of certain employees would be no less than the average of those of an adjoining city and county, and that future salaries would be set according to that formula. The Court held that the ordinance was not an unlawful

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<sup>21</sup> E.g., Bus. & Prof. Code, § 1681, subd. (b) (dentists); Bus. & Prof. Code, § 2239, subd. (a) (physicians); Bus. & Prof. Code, § 2533, subd. (c)(1) (speech language pathologists and audiologists); Bus. & Prof. Code, § 2570.29, subd. (b) (occupational therapists); Bus. & Prof. Code, § 2762, subd. (b) (nurses); Bus. & Prof. Code, § 2878.5, subd. (b) (vocational nurses); Bus. & Prof. Code, § 2960, subd. (b) (psychologists); Bus. & Prof. Code, § 3750.5, subd. (b) (respiratory therapists); Bus. & Prof. Code, § 4982, subd. (c) (marriage and family therapists); Bus. & Prof. Code, § 4989.54, subd. (c) (licensed educational psychologists); Bus. & Prof. Code, § 4992.3, subd. (c) (social workers).

<sup>22</sup> The agency requesting this opinion has raised a concern that a “given agency might, for example, define ‘substance-abusing licensee’ to be a licensee with *any* history of substance abuse, whereas another agency might require that a licensee exhibit signs of addiction . . . within the last 5 years, and a third agency might go so far as to require that the licensee have been in active use within the last 12 months.” We do not believe that the possibility of such variations undercuts our conclusion that the term “substance-abusing licensee” is reasonably certain in this context.

<sup>23</sup> *Kugler v. Yocum* (1968) 69 Cal.2d 371.

delegation of the city's legislative authority.<sup>24</sup> The Court's reasoning started from the well established principle that "[t]he power . . . to change a law of the state is necessarily legislative in character, and is vested exclusively in the legislature, and cannot be delegated by it . . . ."<sup>25</sup> There are also, however, well established limits to that principle. For example, "legislative power may properly be delegated if channeled by a sufficient standard."<sup>26</sup>

The Court explained that the "essentials" of the legislative function are the determination and formulation of legislative policy.<sup>27</sup> "Generally speaking, attainment of the ends, including how and by what means they are to be achieved, may constitutionally be left in the hands of others."<sup>28</sup> Once it declares a policy and establishes a primary standard, the legislature is free to delegate power to executive officers to "fill up the details" by making rules and regulations designed to carry the legislative purpose into effect.<sup>29</sup>

In enacting Senate Bill 1441, the Legislature made the fundamental policy determination that "[p]atients would be better protected from substance-abusing licensees if their regulatory boards agreed to and enforced consistent and uniform standards and best practices in dealing with substance-abusing licensees."<sup>30</sup> It then directed the Committee to address sixteen specific areas in formulating such standards. Generally, "standards for administrative application of a statute need not be expressly set forth; they may be implied by the statutory purpose."<sup>31</sup> Given the Legislature's clear statement of purpose and its articulation of specific areas in which the Committee was to formulate standards, we conclude that the Legislature's delegation of authority to the Committee was not an invalid delegation of the legislative function.<sup>32</sup>

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<sup>24</sup> *Id.* at p. 373.

<sup>25</sup> *Id.* at p. 375, quoting *Dougherty v. Austin* (1892) 94 Cal. 601, 606-607.

<sup>26</sup> *Id.* at pp. 375-376.

<sup>27</sup> *Id.* at p. 376.

<sup>28</sup> *Ibid.*, quoting *First Industrial Loan Co. v. Daugherty* (1945) 26 Cal.2d 545, 549.

<sup>29</sup> *Ibid.* By contrast, an unconstitutional delegation of powers was held to occur when the Legislature gave an administrative agency unfettered authority to make fundamental policy determinations. (*Clean Air Constituency v. Air Resources Bd.* (1974) 11 Cal.3d 801, 816-817.)

<sup>30</sup> Stats. 2008, ch. 548 (Sen. Bill No. 1441), § 1(h).

<sup>31</sup> *People v. Wright* (1982) 30 Cal.3d 705, 713.

<sup>32</sup> It is also important to note what powers the Legislature did *not* delegate to the

## Question 2

Section 315 directs the Committee to formulate uniform standards for healing arts boards to use in dealing with substance-abusing licensees, and the Committee has done so. Question 2 here asks whether these standards must also be adopted as regulations under the Administrative Procedure Act (APA)<sup>33</sup> in order for them to become effective. We conclude that the standards need not be adopted as regulations under the APA, but that individual boards are free to adopt regulations incorporating or pertaining to those standards for the purpose of administering their own programs.

Under the APA, no state agency may issue, utilize or enforce a regulation unless the agency complies with the procedures established in the APA.<sup>34</sup> A “regulation” is “every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.”<sup>35</sup> To be valid and effective, a regulation must be “consistent and not in conflict with” the legislation to which it pertains and “reasonably necessary to effectuate” its purpose.<sup>36</sup> The APA sets forth a formal process by which regulations must be adopted. The process has been neatly summarized as follows:

The agency must give the public notice of its proposed regulatory action (Gov. Code, §§ 11346.4, 11346.5); issue a complete text of the proposed regulation with a statement of the reasons for it (Gov. Code, § 11346.2 (subs. (a), (b))); give interested parties an opportunity to comment on the

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Committee in this bill. The Committee was not charged with adopting regulations having the force of law; it was not charged with adjudicating cases involving individual licensees; and it was not charged with enforcing diversionary referrals or disciplinary actions involving individual licensees. Nor was the Committee established as an independent agency with any budget, staff, or ongoing programs to administer. Rather, it is a committee within the Department of Consumer Affairs, composed primarily of executive officers of healing arts boards, for the specific and limited purpose of “determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees.” (Bus. & Prof. Code, § 315, subd. (a).)

<sup>33</sup> Gov. Code, tit. 2, div. 3, pt. 1, chs. 3.5, 4, 4.5, 5 (§ 11340 et seq.).

<sup>34</sup> Gov. Code, § 11340.5; see *Morning Star Co. v. State Bd. of Equalization* (2006) 38 Cal.4th 324, 333.

<sup>35</sup> Gov. Code, § 11342.600.

<sup>36</sup> Gov. Code, 11342.2; see *Woods v. Super. Ct.* (1981) 28 Cal.3d 668, 679.

proposed regulation (Gov. Code, § 11346.8); respond in writing to public comments (Gov. Code, §§ 11346.8, subd. (a), 11346.9); and forward a file of all materials on which the agency relied in the regulatory process to the Office of Administrative Law (Gov. Code, § 11347.3, subd. (b)), which reviews the regulation for consistency with the law, clarity, and necessity (Gov. Code, §§ 11349.1, 11349.3).<sup>37</sup>

In our view, the Committee is not an “agency” within the meaning of the APA. For purposes of the APA, a regulation is a rule adopted “by any *state agency*” to implement the law enforced or administered by the agency.<sup>38</sup> Government Code section 11000, subdivision (a), defines “state agency” to include “every state office, officer, department, division, bureau, board and commission.” But the Committee is not an agency or authority that has responsibility for the enforcement or administration of any state policies or programs.<sup>39</sup> Rather, it is a *committee*—a group of selected officials brought together to perform a specific task—whose responsibilities are consummated when its assigned task is completed. Nor, in our view, do the uniform standards as formulated by the Committee qualify as “regulations” under the APA. The Committee’s sole function is to formulate standards, not to implement, interpret, enforce, or administer them.<sup>40</sup> Therefore, we conclude that the Committee was not required to follow the APA process in order to formulate, publish, or amend the standards.

That leaves open the question whether an individual healing arts board may or must adopt the standards as regulations in compliance with APA procedures in order to implement the uniform standards in dealing with substance-abusing licensees. We believe that the boards may, but are not required to, adopt regulations incorporating the uniform standards. Neither the Committee, nor the Department of Consumer Affairs within which it was created, regulates the healing arts boards or their licensees.<sup>41</sup> That task falls to the individual healing arts boards themselves,<sup>42</sup> which are state agencies.

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<sup>37</sup> *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 568.

<sup>38</sup> Gov. Code, § 11342.600 (emphasis added); see also Gov. Code, § 11342.520 (defining “agency” as used in the APA to mean any “state agency”).

<sup>39</sup> While the Department of Consumer Affairs—within which the Committee was formed—is unquestionably a “state agency,” it is not the entity responsible for formulating the uniform standards.

<sup>40</sup> *Cf.* Gov. Code, § 11342.600; see also Gov. Code, § 11342.5.

<sup>41</sup> See Cal. Code Regs. tit. 16, Div. 38.

<sup>42</sup> See Cal. Code Regs. tit. 16, Divs. 4, 11, 13, 13.1, 13.2, 13.3, 13.4, 13.5, 13.6, 13.7, 13.8, 13.9, 14, 15, 16, 17, 18, 20, 25.



Thus, if an individual healing arts board wishes to enact regulations governing its own programs—including drug diversion programs—it is up to that board to do so.<sup>43</sup> In fact, several healing arts boards have already promulgated regulations that expressly incorporate by reference the uniform standards.<sup>44</sup> Of course, if an individual board sought to adopt the uniform standards as its own regulations, it would be required to comply with the APA to do so.<sup>45</sup>

We conclude that the Committee need not comply with the Administrative Procedure Act in order to make the uniform standards effective. Individual healing arts boards may, but are not required to, adopt regulations incorporating the uniform standards for the purpose of administering their own programs.

### Question 3

In Question 3, we are asked whether a healing arts board may adopt a regulation that defines the term “substance-abusing licensees” for purposes of determining which of the board’s licensees are subject to the uniform standards. As discussed in our response to Question 2, the healing arts boards are state agencies with the power and responsibility to regulate their respective licensees. As state agencies, they may adopt regulations to implement, interpret, or make specific the laws that they administer and enforce.<sup>46</sup> Thus, if a healing arts board finds it necessary or advisable to adopt a regulation defining the term “substance-abusing licensees,” it may do so. Again, if it does, it must comply with APA procedures.<sup>47</sup> Further, it must ensure that any such implementing or interpretive regulations are consistent with section 315 and reasonably necessary to effectuate its purposes.<sup>48</sup>

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<sup>43</sup> Each of the healing arts boards “exists as a separate unit” with the power to set standards. (Bus. & Prof. Code, § 108.)

<sup>44</sup> See e.g. Cal. Code Regs. tit. 16, §§ 1018-1018.01 (Dental Bd.); Cal. Code Regs. tit. 16, § 1138 (Dental Hygiene Com.); Cal. Code Regs. tit. 16, § 1575 (Bd. of Optometry); Cal. Code Regs. tit. 16, §§ 2524 & 2579.10 (Bd. of Vocational Nursing and Psychiatric Technicians); Cal. Code Regs. tit. 16, § 4147 (Bd. of Occupational Therapy).

<sup>45</sup> Gov. Code, § 11340.5; *Morning Star Co. v. State Bd. of Equalization*, *supra*, 38 Cal.4th at p. 333.

<sup>46</sup> See Gov. Code, § 11342.600.

<sup>47</sup> Gov. Code, § 11340.5.

<sup>48</sup> Gov. Code, 11342.2; see *Woods v. Super. Ct.*, *supra*, 28 Cal.3d at p. 679.

#### Question 4

Section 315 directs that the uniform standards must be “used” by every healing arts board “in dealing with substance-abusing licensees.”<sup>49</sup> We are asked whether the healing arts boards must use the uniform standards as written, and “in all cases in which they are found to apply.”

At the heart of this question is what the Legislature meant when it required the healing arts boards to “use” the uniform standards. As always, the statute’s language is the best starting point for determining the Legislature’s intent. “Use” is a broad term with many meanings, the most apt of which here include “to put into action or service” and “to carry out a purpose or action by means of.”<sup>50</sup> To “use,” then, is something less than to “adopt” or “enact.” On the other hand, the word “use” is set in the context of a statute expressing the Legislature’s findings that some healing arts boards must improve their performance with respect to substance-abusing licensees, and that “uniform standards” and “best practices” are the Legislature’s chosen means to that end, thereby making the standards much more than an academic exercise. Boards are not to ignore, discard, or disregard them; they are to “use” them. The uniform standards are to be “put into action;” boards are to carry out their drug-diversion programs “by means of” them. Thus we believe that, while the uniform standards are neither *de jure* nor *de facto* regulations in themselves, boards should not depart from them without some substantial reason for doing so. The Legislature’s purpose was to raise the standard of practice across all boards, and in some cases that may require a board to change its procedures in order to conform to best practices.

Nevertheless, we believe that individual boards retain reasonable discretion over how to apply the uniform standards to individual cases. Although the Legislature has revised many statutes pertaining to the diversion programs administered by the healing arts boards,<sup>51</sup> every board still retains its independent authority over the discipline of its licensees.<sup>52</sup> An individual has a constitutionally protected fundamental right to practice a profession, and “a statute can constitutionally prohibit an individual from practicing a lawful profession only for reasons related to his or her fitness or competence to practice that profession.”<sup>53</sup> Nothing in section 315 or the uniform standards undermines the

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<sup>49</sup> Bus. & Prof. Code, § 315, subd. (c).

<sup>50</sup> Webster’s 3d New Internat. Dict. (1993) pp. 2523-2524.

<sup>51</sup> See Stats. 2008, ch. 548 (Sen. Bill No. 1441), §§ 4-26.

<sup>52</sup> E.g. Bus. & Prof. Code, § 108.

<sup>53</sup> *Hughes v. Bd. of Architectural Examiners* (1998) 17 Cal.4th 763, 788.

ability and responsibility of a healing-arts board to assess whether a licensee's substance abuse compromises his or her fitness or competence to practice the profession. Inherent in that authority, we believe, is the board's right to exercise reasonable discretion in applying the uniform standards to particular circumstances and in deciding individual cases.

We conclude that individual healing arts boards must use the uniform standards as written in all cases in which they are found to apply, to the extent that this is practicable, but that the boards retain discretion in applying the uniform standards to particular circumstances and in deciding individual cases.<sup>54</sup>

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<sup>54</sup> We have also been asked to provide a "detailed analysis of each standard," but we decline to do so. It is up to each board to determine questions such as the need to clarify or make more specific the uniform standards.



**15 -Establish  
2022 Meeting  
Calendar**

# 2022

## Calendar

January

01

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     |     | 1   |
| 2   | 3   | 4   | 5   | 6   | 7   | 8   |
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| 16  | 17  | 18  | 19  | 20  | 21  | 22  |
| 23  | 24  | 25  | 26  | 27  | 28  | 29  |
| 30  | 31  |     |     |     |     |     |

February

02

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March

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April

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May

05

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June

06

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| 5   | 6   | 7   | 8   | 9   | 10  | 11  |
| 12  | 13  | 14  | 15  | 16  | 17  | 18  |
| 19  | 20  | 21  | 22  | 23  | 24  | 25  |
| 26  | 27  | 28  | 29  | 30  |     |     |

July

07

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     | 1   | 2   |
| 3   | 4   | 5   | 6   | 7   | 8   | 9   |
| 10  | 11  | 12  | 13  | 14  | 15  | 16  |
| 17  | 18  | 19  | 20  | 21  | 22  | 23  |
| 24  | 25  | 26  | 27  | 28  | 29  | 30  |
| 31  |     |     |     |     |     |     |

August

08

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     | 1   | 2   | 3   | 4   | 5   | 6   |
| 7   | 8   | 9   | 10  | 11  | 12  | 13  |
| 14  | 15  | 16  | 17  | 18  | 19  | 20  |
| 21  | 22  | 23  | 24  | 25  | 26  | 27  |
| 28  | 29  | 30  | 31  |     |     |     |
|     |     |     |     |     |     |     |

September

09

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     | 1   | 2   | 3   |
| 4   | 5   | 6   | 7   | 8   | 9   | 10  |
| 11  | 12  | 13  | 14  | 15  | 16  | 17  |
| 18  | 19  | 20  | 21  | 22  | 23  | 24  |
| 25  | 26  | 27  | 28  | 29  | 30  |     |
|     |     |     |     |     |     |     |

October

10

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     |     | 1   |
| 2   | 3   | 4   | 5   | 6   | 7   | 8   |
| 9   | 10  | 11  | 12  | 13  | 14  | 15  |
| 16  | 17  | 18  | 19  | 20  | 21  | 22  |
| 23  | 24  | 25  | 26  | 27  | 28  | 29  |
| 30  | 31  |     |     |     |     |     |

November

11

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     | 1   | 2   | 3   | 4   | 5   |
| 6   | 7   | 8   | 9   | 10  | 11  | 12  |
| 13  | 14  | 15  | 16  | 17  | 18  | 19  |
| 20  | 21  | 22  | 23  | 24  | 25  | 26  |
| 27  | 28  | 29  | 30  |     |     |     |
|     |     |     |     |     |     |     |

December

12

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     | 1   | 2   | 3   |
| 4   | 5   | 6   | 7   | 8   | 9   | 10  |
| 11  | 12  | 13  | 14  | 15  | 16  | 17  |
| 18  | 19  | 20  | 21  | 22  | 23  | 24  |
| 25  | 26  | 27  | 28  | 29  | 30  | 31  |
|     |     |     |     |     |     |     |