



DATE	March 1, 2022
TO	Acupuncture Board Members
FROM	John Harabedian
SUBJECT	Discussion and Possible Action Regarding the Acupuncture Board's Executive Officer Salary Increase

The purpose of this agenda item is to discuss a salary increase for the California Acupuncture Board (Board) Executive Officer (EO).

Benjamin Bodea has served as the Acting EO from March 10, 2016 to August 30, 2016, Interim EO from August 31st, 2016 to October 11, 2016, and as the Board's EO since October 12, 2016.

The EO position is categorized as Exempt Level O with the salary range: \$7,937 - \$8,841.

Action Needed

The Board is asked to approve and direct staff to submit a request to the Department of Consumer Affairs' (DCA) Office of Human Resources (OHR) seeking a 5 percent salary increase for the EO.

Overview of the Board

The Acupuncture Board regulates the practice of acupuncture to carry out its mandate of protecting the public. There are over 12,000 active licensees, 30 acupuncture education and training programs, 436 Active Continuing Education Providers, and 55 tutorial programs.

The EO is the principal operations officer of the Board. The EO is responsible for interpreting and executing the intent of all Board policies and governs the management of the Board's programs to meet its mission of consumer protection. These programs are:

Licensing Program

The Licensing Program's primary responsibility is to regulate the entry to and continued practice of acupuncture. The Licensing Program ensures only qualified individuals are licensed as a Licensed Acupuncturist (L.Ac). To do so, the Board has established curriculum requirements necessary to sit for the licensing exam. The exam is developed and administered by the Board. The Licensing Program consists of:

- Licensing
- Examination
- Training Programs/Education
- Tutorial Program
- Continuing Education (CE)

Enforcement Program

Once an individual is licensed or a training program, tutorial program, or CE Provider is approved, the Enforcement Program uses the statutes and regulations that pertain to Acupuncture to address complaints of non-compliance, and if found to be the case, a pathway to compliance or appropriate disciplinary action. This is carried out by enforcement staff conducting desk investigations or requesting formal investigations to be carried out by the DCA's Division of Investigation; referring matters to the Office of the Attorney General (AGO) or local jurisdiction for prosecution; imposing discipline consistent with established disciplinary guidelines; imposing other enforcement actions, such as citations, fines, etc., where warranted; and, monitoring probationers to ensure compliance with probationary terms.

Administration Program

The EO oversees the Administration Program which has the responsibility of monitoring and communicating with the legislature to ensure the Board is apprised of any changes on the horizon, as well as communicate the Board's needs, preparing regulations to address statutes, managing a multimillion dollar budget, ensuring personnel policies, laws, and labor contracts are adhered to, and engaging in business services consistent with both DCA and State Administrative Manual Requirements.

The EO is responsible for addressing the Board's public affairs Outreach efforts which aim to provide consumers clear information and educate stakeholders regarding the Board and its mission.

Overview of Significant Legislative Action

AB 2190 (Salas) 2016 –

The Board's 2016 Sunset Bill. The Board was extended for two years with the Legislature requesting a one-year status report in April of 2017.

AB 3142 (Low) (2018) –

The Board's 2018 Sunset Bill. The Board was extended for four years.

AB 778 (Low) 2019-2020 –

This bill would have provided the Board with additional enforcement authority over CE providers and courses. This was a strategic plan item the Board was pursuing. This bill did not pass.

AB 779 (Low) 2019 -

This bill was a strategic plan item and provided greater clarity to licensees about requirements for registering all of their practice locations with the Board. This bill also created a separate license type for a place-of-practice, also known as a wall license, that became operative on January 1st, 2021.

AB 3330 (Calderon) 2020 –

This bill authorized the Acupuncture Board to raise its fees and establish fees for continuing education courses (as well as allow for a one-year approval for the course) to avoid insolvency. First fee raise in 30 years.

AB 607 (Roth) 2021 –

This bill extended the operation of the Board and authority to appoint an Executive Officer to 1/1/24. The Sunset Hearing is now in early 2023.

Overview of Regulatory Changes

Notice to Consumers of Licensure by the Acupuncture Board

This regulation allowed the Board to align itself with the requirements of BPC 138 to inform consumers of the appropriate regulatory body that regulates a particular licensee.

Training Program Approval Process (SB 1246 of 2014) -

These regulations updated the Board's process for acupuncture training program approval, focusing its review solely on curriculum and confirmation of attaining programmatic and institutional approval. This became effective May 24, 2017.

Retired License Status –

The Board approved language for the retired license status on August 16, 2019 to allow for licensees to use this status as afforded by AB 2859 (Low) 2016.

Sponsored Free Health Care Events –

This regulation allowed for the participation of out-of-state licensees in Free Health Care Events, a statute that became effective on January 1, 2011 resulting from the Governor approving AB 2699 (2010). This regulation became effective October 1st, 2017.

2017 Update of Disciplinary Guidelines –

This regulatory language was approved by the Board on February 24th, 2017. The purpose of this language was to align the Board's enforcement.

Continuing Education in Law and Ethics Requirement -

This regulatory package will set requirements for continuing education in law and ethics for licensees, as well as clean up existing language. The Board approved language on March 26th, 2021.

Fee Update (in Regulation) –

This Section 100 regulatory package aligned the Board's fees with the fee increase approved in AB 3330 (Calderon) of 2020. Language effective May 24th, 2021.

Repeal Free and Sponsored Health Care Events Regulation

This section 100 regulatory package removed the Board's regulations addressing the Free and Sponsored Health Care Events due to the repeal of the statutory language authorizing such practice on January 1, 2018. The removal of the regulatory language was effective August 6th, 2021.

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

This regulatory package adds regulations outlining what substantially related means, and what constitutes rehabilitation, for the purpose of denying, suspending, or revoking a license. The effective date was September 2nd, 2021.

AB 2190 – Foreign Credential Evaluation

This regulatory package introduced language to align with the statutory requirement of AB 2190 (effective January 1st, 2017). The Board approved language on to allow for the approval of foreign transcript evaluation services to evaluate internationally trained practitioners applying for California licensure.

Uniform Standards Related to Substance Abusing Licensees and update of Disciplinary Guidelines

This regulatory package brings Board regulations in line with SB 1441 (Ridley-Thomas) requiring the development of the Uniform Standards Regarding Substance Abusing Healing Arts Licensees. The Board approved language in June of 2019.

Standards of Practice for Telehealth Services

This regulatory package will provide specific guidance and requirements for delivering acupuncture services via telehealth. The Board approved language on March 26th, 2021.

Section 100 Clean-up Text and Forms

This package would clean up regulatory language and forms for consistency. Submitted to OAL on March 10, 2022.

Administrative/Organizational Accomplishments

Budget Change Proposal (BCP) - Licensing Manager

The Board's BCP requesting a licensing manager was approved affording the alignment of Board's organization structure with CalHR staffing allocation guidelines (2018-2019).

Remote Board Meetings

The Board successfully transitioned to WebEx Board meetings during the pandemic and will be considering this format as an option in the future should it be made available after the pandemic.

Telework

The Board successfully transitioned to a hybrid telework model in 2020 allowing most staff to work remotely during the pandemic.

Clinical Education In-Person training Emergency Waiver Request

The Board submitted an Emergency Waiver Request on February 7th, 2021 to align with the accommodation provided by the national acupuncture training program accreditors to allow for students to complete clinical hours remotely during the pandemic.

Overview of Projects and Studies

Computer-based Testing

In October of 2018 the Board transitioned from a paper and pencil testing format for the California Acupuncture Licensing Exam (CALE) to a computer-based testing (CBT) format. In the previous testing format, the exam was administered twice a year, one in Northern California and the other in Southern California. With the implementation of CBT, the exam is available year round, with geographical access to the CALE greatly improved by now offering testing locations throughout California, as well as throughout the United States, making it more accessible to examinees trained at approved programs outside of the state.

Business Modernization (Cohort One) – 2017 to Present

The Board joined three other DCA programs to achieve cost savings in developing and implementing a new licensing and enforcement software platform known as the Connect system. The Board has been using aged IT systems/databases to address these processes which have resulted in challenges that have increased processing times and cashiering functionality.

Work on the licensing platform is completing in March of 2022, with development of the Continuing Education (CE) platform beginning in April of 2022, and the Enforcement platform shortly after.

Credit Card Payments Accepted

Credit card payments for examination applications, license applications, and renewals began to be accepted by the board in January of 2021.

2019 Fee Audit

The Board obtained a third-party fee audit of its processes and fees to allow for fee changes that would address the Board's insolvency. This resulted in AB 3330 (Calderon) in 2020 as the legislative vehicle to increase the Board's fees.

Increased Outreach to Stakeholders

The Board engaged in several different activities to improve stakeholder outreach, including:

- Presenting at Board Meetings the role of the Board and the role of the stakeholders in addressing the regulation of acupuncture in California.
- Attending the Council of Colleges for Acupuncture and Herbal Medicine conferences to speak directly to legislative and regulatory changes that would directly affect training program and licensing examination stakeholders.
- Developing an informational brochure entitled, 'Who we are, What We Do, and How We Do it' to educate the public and stakeholders on the Board's processes and responsibilities.

2017 Strategic Planning Session

Re-evaluated and determined the Board's goals for the next five years resulting in the development of the Board's 2018-2022 Strategic Plan. Re-established the Boards Mission, Vision, and Values.

2020/2021 Occupational Analysis

The Board, in partnership with OPES, conducted an Occupational Analysis (OA) with record response rate of ~25% of the licensee population; a greater than two-fold increase from the 2015-2016 OA (11% of the licensee population at that point in time).