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Sacramento, CA 95834
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www.acupuncture.ca.gov



**CALIFORNIA ACUPUNCTURE BOARD
FULL BOARD MEETING NOTICE AND AGENDA**

June 23, 2023

9:00 a.m. to 5:00 p.m. or upon completion of business

Location: WebEx Teleconference

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m10c6416c7525634d68cc938b72bb3b34>

If joining using the link above
Webinar number: 2493 582 7626
Webinar password: ACUP06232023

If joining by phone
+1-415-655-0001 US Toll
Access code: 249 358 27626
Passcode: 22870623

Pursuant to Government Code section 11133, no physical meeting location will be provided.

Important Notice to the Public

The Acupuncture Board (Board) will hold a public meeting via WebEx Events. To access and participate in the meeting, please log on to the website listed under Location on the day of the meeting. Instructions to connect to the meeting can be found at the end of this agenda.

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE 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, President)**
- 2. President's Remarks (Harabedian)**
- 3. Review and Possible Approval of the April 7, 2023, Board Meeting Minutes (Harabedian)**

4. Executive Management Report

- (A) Strategic Plan Announcement
- (B) Budget Update
- (C) Licensing Report Q3 2022-23
- (D) Enforcement Report Q3 2022-23

5. Legislative Report (Brothers)

- (A) 2023-24 Legislative Session Calendar
- (B) 2023-24 Bills of Interest to the Board
 - a) Bills for Board Consideration (Possible Board Action)
 - i) [AB 1264](#) (B&P Committee) Acupuncture
 - ii) [AB 765](#) (Wood) Physicians and surgeons: medical specialty titles
 - b) Bills the Board Currently Has a Support Position On (Update)
 - i) [AB 1751](#) (Gipson) Opioid prescriptions: information: nonpharmacological treatments for pain
 - ii) [SB 544](#) (Laird) Bagley-Keene Open Meeting Act: teleconferencing
 - c) Bills the Board Currently Has a Watch Position On (Update)
 - i) [AB 883](#) (Mathis) Business licenses: United States Department of Defense SkillBridge program
 - ii) [AB 996](#) (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy
 - iii) [AB 1028](#) (McKinnor) Reporting of crimes: mandated reporters
 - iv) [AB 1707](#) (Pacheco) Health professionals and facilities: adverse actions based on another state's law
 - v) [SB 259](#) (Seyarto) Reports submitted to legislative committees
 - vi) [SB 345](#) (Skinner) Health care services: legally protected health care activities
 - vii) [SB 372](#) (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes
 - viii) [SB 802](#) (Roth) Licensing boards: disqualification from licensure: criminal conviction

6. Regulatory Report (Brothers)

- (A) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure (Title 16 CCR section 1399.469)
- (B) 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)
- (C) 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)

- (D) Application for Retired Status; Retired Status (Title 16 CCR section 1399.419.3)
- (E) Continuing Education: Law and Ethics Requirement (Title 16 CCR sections 1399.483, 1399.489)
- (F) Standards of Practice for Telehealth Services (Title 16 CCR section 1399.452.1)
- (G) Hand Hygiene Requirements (Title 16 CCR section 1399.451)

7. **Discussion and Possible Action to Amend Sections 1399.483, 1399.489, and 1399.489.1 in Title 16 of the California Code of Regulations: Continuing Education: Law and Ethics Requirement (Brothers)**
8. **Review and Discussion of Stakeholder Survey on Approved Curriculum Requirements (Bodea)**
9. **Discussion on Agendizing Professional Updates (Bodea)**
10. **Discussion and Possible Action Regarding the Acupuncture Board's Executive Officer Salary Increase (Harabedian)**
11. **Election of Officers (Bodea)**
12. **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).)
13. **Future Agenda Items (Harabedian)**
14. **Adjournment (Harabedian)**

Informational Notes:

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

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

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

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

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said

item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

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

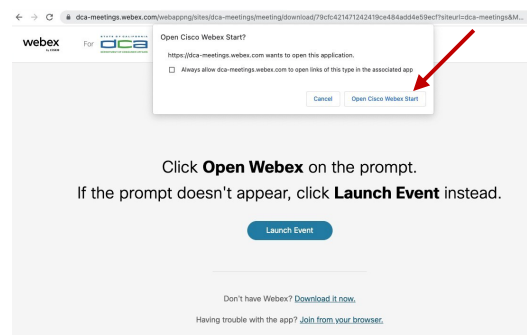
Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

If joining using the meeting link

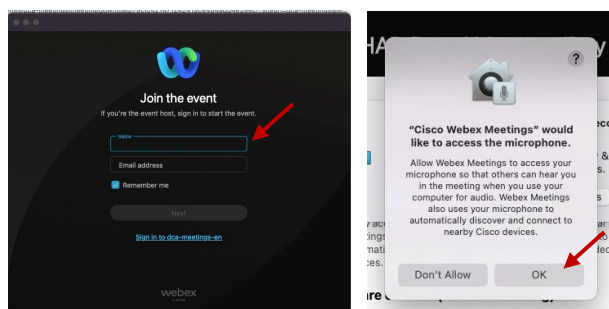
1 Click on the meeting link. This can be found in the meeting notice you received.

2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click “Open Cisco Webex Start” or “Open Webex”, whichever option is presented.

DO NOT click “Join from your browser”, as you will not be able to participate during the meeting.



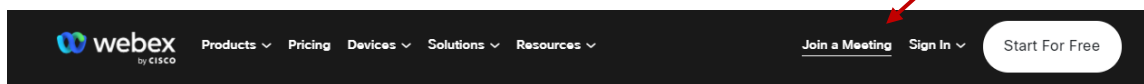
3 Enter your name and email address. Click “Join as a guest”. Accept any request for permission to use your microphone and/or camera.



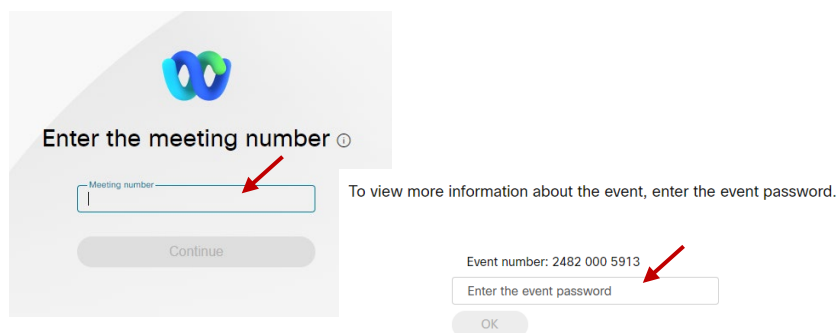
OR

If joining from [Webex.com](https://www.webex.com)

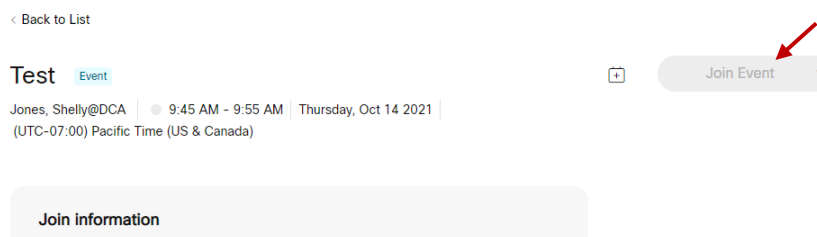
1 Click on “Join a Meeting” at the top of the Webex window.



2 Enter the meeting/event number and click “Continue”. Enter the event password and click “OK”. This can be found in the meeting notice you received.



3 The meeting information will be displayed. Click “Join Event”.



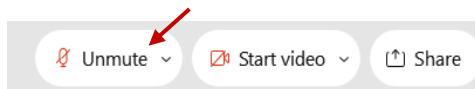
OR

Connect via telephone:

You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

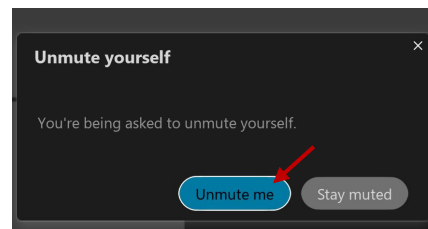


Green microphone = Unmuted: People in the meeting can hear you.



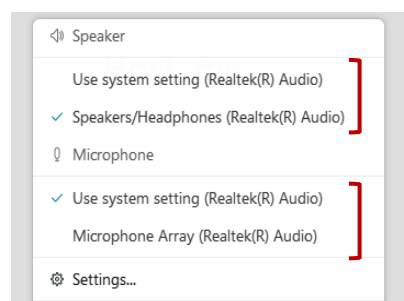
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on “Unmute Me”.



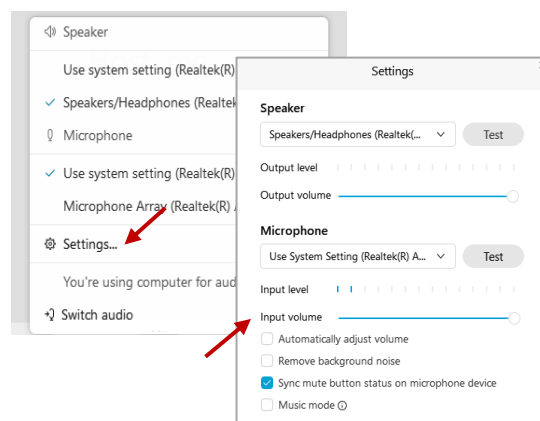
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

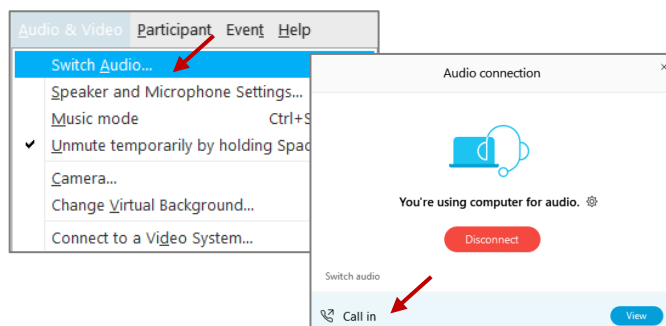
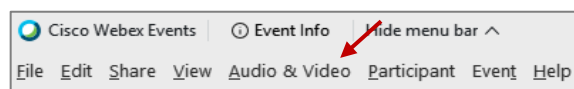
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on “Settings...”:
 - Drag the “Input Volume” located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through webex. Your phone will then become your audio source during the meeting.

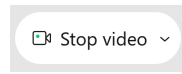
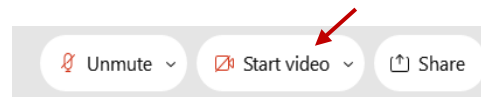
- 1 Click on “Audio & Video” from the menu bar.
- 2 Select “Switch Audio” from the drop-down menu.
- 3 Select the “Call In” option and following the directions.



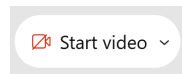
Web Camera

Only panelists (e.g. staff, board members, presenters) can access the web camera feature.

Camera control (Start Video/Stop Video button) is located on the command row.



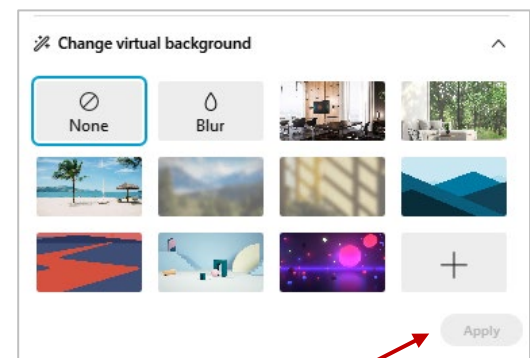
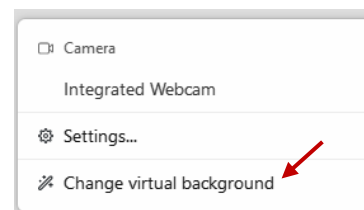
Green dot in camera = Camera is on: People in the meeting can see you.



Red dot in camera = Camera is off: No one in the meeting can see you.

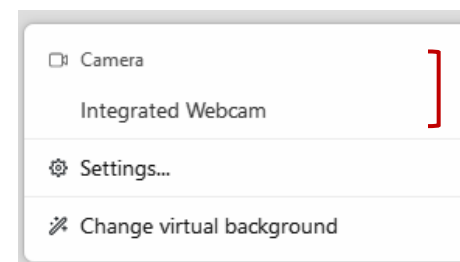
Virtual Background

- 1 To access virtual backgrounds, click on the bottom facing arrow located on the video button.
- 2 Click on "Change Virtual Background".
- 3 From the pop-up window, click on any of the available images to display that image as your virtual background and click "Apply".



If you cannot be seen

- 1 Locate the command row – click on the bottom facing arrow located on the video button.
- 2 From the pop-up window, select a different camera from the list.



Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Reporting Structure(s): 11111700 Support

Fiscal Month: 10

Fiscal Year: 2022 - 2023

Run Date: 06/01/2023

PERSONAL SERVICES

| Fiscal Code | Line Item | PY YTD + Encumbrance | PY FM13 | Budget | Current Month | YTD | Encumbrance | YTD + Encumbrance | Projections to Year End | Balance |
|-------------|--------------------------------|----------------------|--------------------|--------------------|------------------|------------------|-------------|-------------------|-------------------------|------------------|
| 5100 | PERMANENT POSITIONS | \$703,284 | \$831,242 | \$876,000 | \$74,901 | \$633,481 | \$0 | \$633,481 | \$791,567 | \$84,433 |
| 5100 | TEMPORARY POSITIONS | \$83,639 | \$90,079 | \$19,000 | \$0 | \$0 | \$0 | \$0 | \$0 | \$19,000 |
| 5105-5108 | PER DIEM, OVERTIME, & LUMP SUM | \$6,971 | \$7,271 | \$12,000 | \$268 | \$268 | \$0 | \$268 | \$35,205 | -\$23,205 |
| 5150 | STAFF BENEFITS | \$416,271 | \$486,394 | \$539,000 | \$40,952 | \$355,746 | \$0 | \$355,746 | \$444,524 | \$94,476 |
| | PERSONAL SERVICES | \$1,210,165 | \$1,414,985 | \$1,446,000 | \$116,120 | \$989,495 | \$0 | \$989,495 | \$1,271,296 | \$174,704 |

OPERATING EXPENSES & EQUIPMENT

| Fiscal Code | Line Item | PY YTD + Encumbrance | PY FM13 | Budget | Current Month | YTD | Encumbrance | YTD + Encumbrance | Projections to Year End | Balance |
|-------------|---|----------------------|--------------------|--------------------|------------------|--------------------|------------------|--------------------|-------------------------|------------------|
| 5301 | GENERAL EXPENSE | \$20,615 | \$30,172 | \$57,000 | \$940 | \$10,971 | \$9,397 | \$20,368 | \$27,218 | \$29,782 |
| 5302 | PRINTING | \$15,657 | \$13,300 | \$18,000 | \$1,754 | \$10,258 | \$5,997 | \$16,256 | \$14,282 | \$3,718 |
| 5304 | COMMUNICATIONS | \$3,890 | \$6,343 | \$18,000 | \$330 | \$2,900 | \$0 | \$2,900 | \$4,703 | \$13,297 |
| 5306 | POSTAGE | \$3,586 | \$6,562 | \$6,000 | \$72 | \$1,228 | \$0 | \$1,228 | \$7,000 | -\$1,000 |
| 5308 | INSURANCE | 0 | \$22 | \$0 | \$0 | \$17 | \$0 | \$17 | \$22 | -\$22 |
| 53202-204 | IN STATE TRAVEL | \$5,263 | \$5,263 | \$34,000 | \$0 | \$7,520 | \$0 | \$7,520 | \$8,296 | \$25,704 |
| 5322 | TRAINING | \$4,380 | \$4,405 | \$4,000 | \$0 | \$175 | \$0 | \$175 | \$4,000 | \$0 |
| 5324 | FACILITIES | \$87,185 | \$123,398 | \$65,000 | \$102,075 | \$159,628 | \$50,143 | \$209,771 | \$210,406 | -\$145,406 |
| 53402-53403 | C/P SERVICES (INTERNAL) | \$116,452 | \$166,602 | \$502,000 | \$24,734 | \$158,408 | \$0 | \$158,408 | \$231,485 | \$270,515 |
| 53404-53405 | C/P SERVICES (EXTERNAL) | \$219,417 | \$314,408 | \$557,000 | \$29,374 | \$203,127 | \$101,335 | \$304,462 | \$450,697 | \$106,303 |
| 5342 | DEPARTMENT PRORATA | \$1,043,000 | \$849,568 | \$926,000 | \$143,250 | \$798,000 | \$0 | \$798,000 | \$926,000 | \$0 |
| 5342 | DEPARTMENTAL SERVICES | \$217,078 | \$260,678 | \$334,000 | \$22,350 | \$143,446 | \$0 | \$143,446 | \$210,502 | \$123,498 |
| 5344 | CONSOLIDATED DATA CENTERS | \$11,609 | \$11,628 | \$4,000 | \$836 | \$1,197 | \$0 | \$1,197 | \$6,566 | -\$2,566 |
| 5346 | INFORMATION TECHNOLOGY | \$67,716 | \$67,692 | \$36,000 | \$0 | \$5,070 | \$0 | \$5,070 | \$19,929 | \$16,071 |
| 5362-5368 | EQUIPMENT | \$7,707 | \$7,707 | \$0 | \$1,080 | \$6,606 | \$2,695 | \$9,301 | \$10,126 | -\$10,126 |
| 5390 | OTHER ITEMS OF EXPENSE | 0 | 0 | \$3,000 | \$0 | \$528 | \$0 | \$528 | \$700 | \$2,300 |
| 54 | SPECIAL ITEMS OF EXPENSE | \$1,639 | \$2,047 | \$0 | \$0 | \$3,007 | \$0 | \$3,007 | \$3,007 | -\$3,007 |
| | OPERATING EXPENSES & EQUIPMENT | \$1,825,194 | \$1,869,793 | \$2,564,000 | \$326,795 | \$1,512,086 | \$169,568 | \$1,681,654 | \$2,134,939 | \$429,061 |

| | | | | | | | | | |
|-----------------------|--------------------|--------------------|--------------------|------------------|--------------------|------------------|--------------------|--------------------|------------------|
| OVERALL TOTALS | \$3,035,359 | \$3,284,779 | \$4,010,000 | \$442,915 | \$2,501,581 | \$169,568 | \$2,671,149 | \$3,406,235 | \$603,765 |
|-----------------------|--------------------|--------------------|--------------------|------------------|--------------------|------------------|--------------------|--------------------|------------------|

15.06%

0108 - Acupuncture Fund Analysis of Fund Condition
(Dollars in Thousands)

Prepared Date – 6.9.2023

2023-24 Governor's Budget w FM 10 projections

| | Actual 2021-22 | CY 2022-23 | BY 2023-24 | BY +1 2024-25 | BY +2 2025-26 |
|--|-------------------|---------------|---------------|------------------|------------------|
| BEGINNING BALANCE | \$ 3,189 | \$ 3,648 | \$ 4,083 | \$ 3,705 | \$ 3,216 |
| Prior Year Adjustment | \$ 288 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Adjusted Beginning Balance | \$ 3,477 | \$ 3,648 | \$ 4,083 | \$ 3,705 | \$ 3,216 |
| REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | | | | | |
| Revenues | | | | | |
| 4121200 - Delinquent fees | \$ 43 | \$ 61 | \$ 41 | \$ 41 | \$ 41 |
| 4127400 - Renewal fees | \$ 2,811 | \$ 3,112 | \$ 2,806 | \$ 2,806 | \$ 2,806 |
| 4129200 - Other regulatory fees | \$ 277 | \$ 261 | \$ 247 | \$ 247 | \$ 247 |
| 4129400 - Other regulatory licenses and permits | \$ 728 | \$ 694 | \$ 675 | \$ 675 | \$ 675 |
| 4163000 - Income from surplus money investments | \$ 14 | \$ 63 | \$ 40 | \$ 48 | \$ 39 |
| 4171400 - Escheat of unclaimed checks and warrants | \$ 4 | \$ 4 | \$ 4 | \$ 4 | \$ 4 |
| Totals, Revenues | \$ 3,877 | \$ 4,195 | \$ 3,813 | \$ 3,821 | \$ 3,812 |
| Operating Transfers To General Fund 0001 per EO E 21/22-276 Revised (AB 84) | \$ -121 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Totals, Transfers and Other Adjustments | \$ -121 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | \$ 3,756 | \$ 4,195 | \$ 3,813 | \$ 3,821 | \$ 3,812 |
| TOTAL RESOURCES | \$ 7,233 | \$ 7,843 | \$ 7,896 | \$ 7,526 | \$ 7,028 |
| Expenditures: | | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 3,194 | \$ 3,326 | \$ 3,957 | \$ 4,076 | \$ 4,198 |
| 9892 Supplemental Pension Payments (State Operations) | \$ 43 | \$ 43 | \$ 43 | \$ 43 | \$ 0 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 348 | \$ 391 | \$ 191 | \$ 191 | \$ 191 |
| TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS | \$ 3,585 | \$ 3,760 | \$ 4,191 | \$ 4,310 | \$ 4,390 |
| FUND BALANCE | | | | | |
| Reserve for economic uncertainties | \$ 3,648 | \$ 4,083 | \$ 3,705 | \$ 3,216 | \$ 2,638 |
| Months in Reserve | 11.6 | 11.7 | 10.3 | 8.8 | 7.2 |

NOTES:

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

FY 2022/23 Acupuncture Licensing Report

| License Status | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun |
|--|-----------------|-----------------|-----------------|-----------------|
| Clear | 11803 | 11677 | 11642 | n/a |
| Active | 7753 | 7473 | 7317 | n/a |
| Inactive | 2380 | 2395 | 2442 | n/a |
| Delinquent | 1670 | 1809 | 1883 | n/a |
| Cancelled | 70 | 52 | 110 | n/a |
| Initial AC License Applications Approved | 77 | 76 | 57 | n/a |
| Initial AC License Applications Denied | 0 | 0 | 0 | n/a |
| AC License Renewals | 1576 | 1669 | 1238 | n/a |
| Active Wall Licenses | 3438 | 3867 | 4034 | n/a |
| Initial Wall Licenses | 485 | 538 | 367 | n/a |
| Wall License Renewals | 65 | 119 | 322 | n/a |

FY 2022/23 Continuing Education Report

| Type | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun |
|---------------------------------------|-----------------|-----------------|-----------------|-----------------|
| New CE Provider Applications Approved | 5 | 7 | 10 | n/a |
| CE Provider Applications Denied | 0 | * | 0 | n/a |
| Course Applications Received | 564 | * | * | n/a |
| Course Applications Approved | 532 | 342 | 1519 | n/a |
| Course Denials | 32 | * | 10 | n/a |
| Total Number of Active CE Providers | 344 | 342 | * | n/a |
| Total CE Provider Numbers Issued | 1759 | 1766 | 1776 | n/a |

FY 2022/23 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 | 5 | 2 | 1 | n/a |
| ABAC - Incomplete | 0 | 5 | 0 | n/a |
| ABAC - Approved | 0 | 0 | 0 | n/a |
| Loss of Approval | 0 | 0 | 0 | n/a |

FY 2022/23 Acupuncture Tutorial Training Programs

| Type | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun |
|--------------------------------|-----------------|-----------------|-----------------|-----------------|
| Applications Received | 4 | 6 | 2 | n/a |
| New Program Approvals | 4 | 0 | 1 | n/a |
| Programs Completed | 3 | 3 | 2 | n/a |
| Programs Terminated, Abandoned | 3 | 0 | 0 | n/a |
| Total Approved Programs | 51 | 48 | 49 | n/a |



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| | |
|----------------|---|
| DATE | June 1, 2023 |
| TO | Board Members |
| FROM | Ben Bodea, Executive Officer |
| SUBJECT | Enforcement Update for FY 2022/2023: Q3 (1/1/2023 - 3/31/2023) |

COMPLAINTS/CONVICTIONS & ARRESTS

| DCA Category | | Received |
|--|------------------|-----------|
| Unprofessional Conduct | Sub-Total | 14 |
| • <i>Personal Drug Use</i> | 1 | |
| • <i>Patient Harm</i> | 2 | |
| • <i>False Advertisement</i> | 2 | |
| • <i>Failure to Disclose Discipline</i> | 1 | |
| • <i>Prescribing Hormones</i> | 1 | |
| • <i>Harassment</i> | 1 | |
| • <i>Use of the title Dr.</i> | 1 | |
| • <i>Recordkeeping</i> | 1 | |
| • <i>Approved CE Course</i> | 1 | |
| • <i>Violation of Probation- teaching & training</i> | 1 | |
| • <i>Billing & Refunds</i> | 2 | |
| Unlicensed/Unregistered | | 2 |
| Criminal Charges/Convictions** | | 2 |
| • <i>Applicants</i> | 0 | |
| • <i>Licensees</i> | 2 | |
| Sexual Misconduct | | 2 |
| Fraud | | 4 |
| Non-jurisdictional | | 2 |
| Incompetence/Negligence | | 2 |
| Unsafe/Unsanitary Conditions | | 2 |
| Other | | 1 |
| Substance Abuse/Drug & Mental/Physical Impairment | | 0 |
| Discipline by Another State Agency | | 0 |
| Total | | |

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 | 14 | 95 | 2 |
| Unlicensed/Unregistered | 2 | 28 | 1 |
| Criminal Charges/Convictions (includes pre-licensure) | 2 | 27 | 0 |
| Sexual Misconduct | 2 | 12 | 0 |
| Fraud | 4 | 42 | 0 |
| Non-jurisdictional | 2 | 6 | 2 |
| Incompetence/Negligence | 2 | 53 | 0 |
| Unsafe/Unsanitary Conditions | 2 | 7 | 0 |
| Other | 1 | 8 | 0 |
| Substance Abuse/Drug & Mental/Physical Impairment | 0 | 0 | 0 |
| Discipline by Another State Agency | 0 | 1 | 0 |
| Total | 31 | 279 | 5 |

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

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

Enforcement Performance Measures

Q3 - January 1, 2023 - March 31, 2023

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

| Complaint/Convictions Received | FY 2021/22 | Fiscal Year 2022/23 | | | | | YTD | Yr/Yr Change |
|--|------------|---------------------|-----------------|-----------------|-----------------|-----|--------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | | |
| PM1: Total Complaints Received | 108 | 26 | 19 | 29 | | 74 | ↓ -31% | |
| PM1: Total Convictions/Arrest Received | 35 | 2 | 2 | 2 | | 6 | ↓ -83% | |
| PM1: Total Received | 143 | 28 | 21 | 31 | | 80 | ↓ -44% | |

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

| Intake Cycle Time (Target: 10 Days) | FY 2021/22 | Fiscal Year 2022/23 | | | | | YTD | Yr/Yr Change |
|--|------------|---------------------|-----------------|-----------------|-----------------|-----|--------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | | |
| PM2: Intake/Avg. Days | 5 | 3 | 3 | 2 | | 2.7 | ↓ -47% | |

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 2021/22 | Fiscal Year 2022/23 | | | | | YTD | Yr/Yr Change |
|--|------------|---------------------|-----------------|-----------------|-----------------|-----|--------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | | |
| PM3: All Investigations Closed | 113 | 6 | 2 | 5 | | 13 | ↓ -88% | |
| PM3: Average Cycle Time Investigations | 416 | 36 | 233 | 105 | | 125 | ↓ -70% | |

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

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | YTD | Yr/Yr Change |
|--------------------------|------------|---------------------|-----------------|-----------------|-----------------|-----|--------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | | |
| Up to 90 Days | 41% | 6 | 1 | 3 | | 83% | ↑ 43% | |
| 91 - 180 Days | 5% | 0 | 0 | 0 | | 0% | ↓ -5% | |
| 181 Days - 1 Year (364) | 10% | 0 | 0 | 0 | | 0% | ↓ -10% | |
| 1 to 2 Years (365-730) | 15% | 0 | 1 | 0 | | 8% | ↓ -7% | |
| 2 to 3 Years (731- 1092) | 13% | 0 | 0 | 0 | | 0% | ↓ -13% | |
| Over 3 Years (1093 +) | 16% | 0 | 0 | 1 | | 8% | ↓ -8% | |

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

| Citations | FY 2021/22 | Fiscal Year 2022/23 | | | | | YTD | Yr/Yr Change |
|-----------------------|------------|---------------------|-----------------|-----------------|-----------------|-----|---------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | | |
| Final Citations | 3 | 0 | 0 | 0 | | 0 | ↓ -100% | |
| Average Days to Close | 447.5 | 0 | 0 | 0 | | 0.0 | ↓ -100% | |

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 2021/22 | Fiscal Year 2022/23 | | | | | Yr/Yr Change |
|---|------------|---------------------|-----------------|-----------------|-----------------|------|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | |
| PM4: Volume AG Cases | 3 | 1 | 1 | 1 | | 3 | ⇒ 0% |
| PM4: Total Cycle Time | 622 | 1748 | 1264 | 733 | | 1248 | ↑ 101% |

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Yr/Yr Change |
|----------------------------------|------------|---------------------|-----------------|-----------------|-----------------|-----|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | |
| AG Cases Initiated | 11 | 0 | 0 | 0 | | 0 | ↓ -100% |
| AG Cases Pending | 21 | 18 | 16 | 15 | | 15 | ↓ -29% |
| SOIs Filed | 0 | 0 | 0 | 0 | | 0 | ⇒ 0% |
| Accusations Filed | 7 | 2 | 0 | 0 | | 2 | ↓ -71% |
| Total Closed after Transmission | 5 | 1 | 1 | 0 | | 2 | ↓ -60% |
| Revoked | 0 | 0 | 0 | 0 | | 0 | ⇒ 0% |
| Voluntary Surrender | 0 | 2 | 1 | 0 | | 3 | #DIV/0! |
| Probation | 3 | 0 | 0 | 0 | | 0 | ↓ -100% |
| License Denied | 0 | 0 | 0 | 0 | | 0 | ⇒ 0% |
| Public Reprimand | 0 | 0 | 0 | 1 | | 1 | ↑ 100% |
| Closed w/out Disciplinary Action | 0 | 1 | 0 | 1 | | 2 | ↑ 100% |

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

| Total Orders Aging/Final Decision | FY 2021/22 | Fiscal Year 2022/23 | | | | | Yr/Yr Change |
|-----------------------------------|------------|---------------------|-----------------|-----------------|-----------------|-----|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | |
| Up to 90 Days | 0% | 0 | 0 | 1 | | 33% | ↑ 33% |
| 91 - 180 Days | 0% | 0 | 0 | 0 | | 0% | ⇒ 0% |
| 181 Days - 1 Year (364) | 0% | 0 | 0 | 0 | | 0% | ⇒ 0% |
| 1 to 2 Years (365-730) | 33% | 0 | 0 | 0 | | 0% | ↓ -33% |
| 2 to 3 Years (731- 1092) | 0% | 0 | 0 | 0 | | 0% | ⇒ 0% |
| Over 3 Years (1093 +) | 67% | 1 | 1 | 0 | | 67% | ⇒ 0% |

| Other Legal Actions | FY 2021/22 | Fiscal Year 2022/23 | | | | | Yr/Yr Change |
|---------------------|------------|---------------------|-----------------|-----------------|-----------------|-----|--------------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | YTD | |
| PC 23 Ordered | 0 | 0 | 0 | 0 | | 0 | ⇒ 0% |
| Interim Suspension | 0 | 0 | 0 | 0 | | 0 | ⇒ 0% |

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11-4-22

DEADLINES

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

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4** Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 16** Martin Luther King, Jr. Day.
- Jan. 20** Last day to submit **bill requests** to the Office of Legislative Counsel.

| FEBRUARY | | | | | | | |
|----------|----|----|----|----|----|----|----|
| | 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 | | | | |

- Feb. 17** Last day for bills to be **introduced** (J.R. 61(a)(1), J.R. 54(a)).
- Feb. 20** Presidents' Day.

| MARCH | | | | | | | |
|-------|----|----|----|----|----|----|----|
| | 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 | 31 | |

- Mar. 30** **Spring Recess** begins upon adjournment (J.R. 51(a)(2)).
- Mar. 31** Cesar Chavez Day observed.

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

- Apr. 10** Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).
- Apr. 28** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

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

- May 5** Last day for **policy committees** to hear and report to the Floor **nonfiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 12** Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).
- May 19** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).
Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).
- May 29** Memorial Day.
- May 30-June 2** **Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(7)).

*Holiday schedule subject to final approval by Rules Committee.

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11-4-22

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

- June 2** Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).
- June 5** Committee meetings may resume (J.R. 61(a)(9)).
- June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

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

- July 4** Independence Day.
- July 14** Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).
- Summer Recess** begins upon adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

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

- Aug. 14** Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

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

- Sept. 1** Last day for **fiscal committees** to meet and report bills (J.R. 61(a)(11)).
- Sept. 4** Labor Day.
- Sept. 5-14** **Floor session only.** No committees may meet for any purpose, except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(a)(12)).
- Sept. 8** Last day to **amend** on the Floor (J.R. 61(a)(13)).
- Sept. 14** Last day for each house to pass bills. (J.R. 61(a)(14)).
- Interim Recess** begins upon adjournment (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM RECESS

2023

Oct. 14 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in the Governor's possession on or after Sept. 14 (Art. IV, Sec. 10(b)(1)).

2024

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

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

*Holiday schedule subject to final approval by Rules Committee.



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| | |
|----------------|---|
| DATE | June 23, 2023 |
| TO | Acupuncture Board Members |
| FROM | Kristine Brothers, Policy Coordinator |
| SUBJECT | 2023 - 2024 Pending CA Legislation of Interest as of June 1, 2023 |

Bills for Board Consideration (Possible Board Action)

[Assembly Bill 1264](#): Acupuncture – Committee on Business and Professions

Status: Amended April 20, 2023

In Senate. To Committee on Rules for assignment.

Existing Law:

- The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture.
- The act defines various terms for those purposes, including “approved educational and training program,” which references the Accreditation Commission for Acupuncture and Oriental Medicine.
- Requires the Acupuncture Board, consisting of 7 members, to enforce and administer the act, and repeals this provision on January 1, 2024.
- The repeal renders the Board subject to review by the appropriate policy committees of the Legislature.
- Makes the protection of the public the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions.
- Authorizes the Board, by and with the approval of the Director of Consumer Affairs, to appoint an executive officer who is exempt from the State Civil Service Act, and repeals this provision on January 1, 2024.
- Requires an acupuncturist to obtain and post a wall license at each place of practice.
- Establishes that an acupuncturist is responsible for the acupuncture, Asian massage services, or any other specified practice rendered pursuant to the license of the acupuncturist in each place of practice maintained by the acupuncturist.

Summary of Bill:

AB 1264 is the Acupuncture Board's Sunset Review bill. The bill:

- Extends the Boards authority to regulate the profession of acupuncture for an additional four years to January 1, 2028.
- Establishes definitions and criteria for a Supervising Acupuncturist and acupuncture assistant. An acupuncture assistant is a person, without a license, who may perform basic supportive acupuncture procedures under the supervision and order of an

acupuncturist. Basic supportive acupuncture service includes needle removal, cupping, moxibustion, gua sha, and any other service listed under Business and Professions Code (BPC) section 4937 (b). It also lists procedures that an acupuncture assistant is prohibited from performing as part of a basic supportive acupuncture service.

- Updates any reference to Accreditation Commission for Acupuncture and Oriental Medicine within the act to its updated name, Accreditation Commission for Acupuncture and Herbal Medicine, or its successor entity.
- Under the statutory provisions related to the wall license place of practice, the bill would delete the requirement that requires an acupuncturist be responsible for Asian massage services at a place of practice. This is considered a technical clean up as Asian massage is already included under Section 4937 of the Code, which is already cited as treatments an acupuncturist is responsible for at a place of practice.

Board Impact:

The new legislation under AB 1264 allows the Board to continue to operate and to protect the people of California by upholding acupuncture practice standards through the oversight and enforcement of the Acupuncture Licensure Act. The technical change of the removal of Asian massage under Business and Professions Code section 4961 is a non-substantive change. Asian massage is already listed in BPC section 4937, which is currently cited in BPC section 4961 as the statute that lists all of the practices an acupuncturist is responsible for at a place of practice.

The bill's establishment of acupuncture assistants and the scope of procedures permitted under basic supportive acupuncture services helps guide the profession on the qualifications and standards when an acupuncturist chooses to engage these services. These amendments provide a framework for these services to occur with public safety in mind.

Acupuncture students in an educational and training course or tutorial program, as well as a graduate participating in a postgraduate review course that does not exceed one year, are already allowed to administer acupuncture treatment as part of their educational training pursuant to BPC section 4935 (d) (2). AB 1264 would allow students who meet the specified criteria to perform needle removal among other specified supportive acupuncture procedures in a setting unaffiliated with their education.

The bill is not establishing a review or approval process for these individuals to provide basic supportive acupuncture services. Therefore, an increase in workload related to licensing, examination, or education oversight is not anticipated.

As written, the bill defines a Supervising Acupuncturist as a licensee who is not otherwise subject to formal disciplinary action, unless approved by the Board. This language implies there can be a review process by the Board in approving a licensee as a Supervising Acupuncturist when the licensee has been disciplined. In these circumstances where a licensee requests approval from the Board, there may be a need for regulations to identify criteria in guiding which disciplinary action is satisfactory and which would exclude a licensee from being eligible as a Supervising Acupuncturist. The entire rulemaking process on one package can take approximately 40 hours of AGPA time annually plus approximately four (4) hours of the Board's time for review and subsequent discussion at public meetings.

Fiscal Impact:

For FY 21/22 there was a total of 342 first time test takers from approved educational and training programs. It is assumed that the majority of these first-time test takers recently graduated, therefore, have the minimum 700 hours of clinical practice, and are considered

eligible as Acupuncture assistants under the criteria proposed by AB 1264. Also, assuming that not all acupuncture students will engage as acupuncture assistants, an average sized portion of these students could engage in an acupuncture assistant position that amounts to approximately 240 acupuncture assistants engaging in basic supportive acupuncture services throughout the state annually.

Anytime the practice of acupuncture is expanded in terms of treatments performed, then the Board can potentially receive an increase in complaints. In FY 21/22, the Board received complaints on less than 1% of the population of active licensees at that time. If the use of acupuncture assistants expands the practice of acupuncture with more treatments provided or more individuals engaging in supportive acupuncture services, then the Board could see an increase in complaints at a minimal volume – approximately around 1% of the population of acupuncture assistants (approximately 24 complaints annually). This is consistent with the complaint to licensee ratio the Board currently sees. The subject of the complaint will go to the Supervising Acupuncturist over the acupuncture assistant. This slight increase in complaint volume could increase the workload for Enforcement staff. However, whatever workload increase the Board may see would likely be absorbable within the Board's existing staffing and budget resources.

Staff Recommendation:

Support

Recommended Motion Language:

I move the Acupuncture Board take a [support] position on AB 1264 (Committee on Business and Professions), as amended on April 20, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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**[Assembly Bill 765](#): Physicians and surgeons: medical specialty titles - Wood**

**Status: Amended April 17, 2023**

In Assembly Committee on Appropriations. Held under submission. Two-year bill and dead for 2023.

**Existing Law:**

- Makes it a misdemeanor for a person who is not licensed as a physician and surgeon under the act, except as specified, to use certain words, letters, and phrases or any other terms that imply that the person is authorized to practice medicine as a physician and surgeon.

**Summary of Bill:**

AB 765 enacts the California Patient Protection, Safety, Disclosure, and Transparency Act declaring among other things that patients deserve to have increased clarity and transparency in the education and training of their health care providers. Misuse of health care provider titles can cause patients to mistakenly believe they are meeting with physicians and surgeons when they are not.

Currently, if a person uses the words "doctor" or "physician," the letters or prefix "Dr.," initials "M.D.," or any other terms indicating that they are a physician and surgeon, physician, surgeon, or practitioner without having a valid physician and surgeon license, they are guilty of a misdemeanor. With the new provisions of AB 765, additional medical specialty titles are being added as "protected" terms that would require a physician and surgeon license to authorize its

use. The bill will make it a misdemeanor if a person uses these specified specialty titles without having a valid physician and surgeon license.

In addition, AB 765 has amended the law clarifying the authorized use of the word "doctor" or prefix "Dr." in the following circumstances: 1.) A person holds a current and active license under another chapter of Division 2 to the extent the use of the title is consistent with the act governing the practice of that license; and 2.) A person whose use of the titles is not associated with any claim of entitlement to practice medicine of any other professional service for which the title would be untrue or misleading.

**Board Impact:**

BPC section 4936 of the Acupuncture Licensure Act authorizes a licensed acupuncturist the use of the title Dr. in connection with the practice of acupuncture if in possession of an earned doctorate degree from a specified educational institution and specified area of education. Based on this existing law governing an acupuncturist's use of the title Dr. and the amendments of AB 765 of a more clarifying nature, there is not a real change effectuated by the bill for the Board.

If a complaint is received by the Board on a licensee using the title Dr. in connection with the practice of acupuncture, the complaint falls under the Acupuncture Board's jurisdiction and relates to BPC section 4936. However, if a complaint alleges the licensee uses the title Dr. and/or any of the protected specialty titles not in connection with acupuncture, but with medicine, then BPC section 2054 applies. The complaint is handled as a dual jurisdictional complaint with the Medical Board. The Medical Board oversees the enforcement of BPC section 2054 and could file criminally. At that point, it makes more sense for the criminal case to resolve prior to the Acupuncture Board pursuing action on the licensee. If a criminal conviction results, then the Acupuncture Board would use the criminal conviction as a basis for discipline, which does not directly interact with BPC section 2054.

**Fiscal Impact:**

In the last three fiscal years, the Board have received one (1) complaint alleging violation of BPC section 2054. The amendments to BPC section 2054 do not cause a change to how the Board processes complaints involving licensees and other unlicensed subjects who misuse the title Dr. It does, however, provide more clarity such that individuals who use specified medical specialty titles are also in violation of BPC section 2054 if they do not have a valid physician and surgeon license.

Board staff projects no fiscal impact related to AB 765 because the changes under AB 765 will not create a change for the Board.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 765 (Wood), as amended on April 17, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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Bills the Board Currently Has a Watch Position On (Update)

[Assembly Bill 883:](#)

Business licenses: United States Department of Defense SkillBridge program- Mathis

Status: Amended on May 18, 2023.

In Senate. To Committee on Rules for assignment.

Summary of Bill:

AB 883 would additionally require a board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who is an active-duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense (DOD) 'SkillBridge' program or has served as an active-duty member of the Armed Forces of the United States and was honorably discharged. The applicant is required to supply satisfactory evidence to the Board demonstrating they are an enrollee of the program. These new provisions would become effective on July 1, 2024.

Board Position:

Watch

~~~

**[Assembly Bill 996](#): Department of Consumer Affairs: continuing education: conflict-of-interest policy - Low**

**Status:** Amended March 27, 2023.

In Senate. To Committee on Rules for assignment.

**Summary of Bill:**

AB 996 would require entities that require CE for their licensees to develop and maintain a conflict-of-interest policy that, at minimum, discourages the qualification of any CE course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course. Additionally, the policy would require conflicts to be disclosed at the beginning of each continuing education course.

**Board Position:**

Watch

~~~

[Assembly Bill 1028](#): Reporting of crimes: mandated reporters - McKinnor

Status: Revised March 28, 2023

Read third time. Passed and ordered to the Senate.

Summary of Bill:

AB 1028, on and after January 1, 2025, would remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. Instead, on and after January 1, 2025, AB 1028 would require a health practitioner who suspects a patient has suffered physical injury caused by domestic violence, as defined, to provide brief counselling, education, or other support, and a "warm handoff", or referral to local and national domestic violence or sexual violence advocacy services. AB 1028 defines that a "warm handoff" may include, but is not limited to, the health practitioner establishing direct and live connection through a call with a survivor advocate, in-person onsite survivor advocate, in-person on-call survivor advocate, or some other form of tele-advocacy. The bill specifies that a patient may decline a warm handoff.

The bill would specify that a health practitioner is not civilly or criminally liable for any report that is made in good faith and in compliance with the bill's provisions.

AB 1028 also removes the 22 PC offenses listed under "assaultive or abusive conduct" as part of the section. The mandated reporting to law enforcement specific to a health practitioner who knows or suspects a person is suffering from a wound or other physical injury inflicted by themselves or inflicted by another where the injury is by means of a firearm will remain law under AB 1028.

In connection with AB 1028, the Legislature finds that recognizing that abuse survivors often need to access health care and medical treatment apart from police reporting and criminal legal involvement, this bill replaces mandated police reporting by medical professionals with offering connection to survivor services. In addition, the Legislature states, "Studies have shown that medical mandatory reporting of adult domestic and sexual violence may increase patient danger and insecurity, whereas being able to openly discuss abuse without fear of police reporting can produce greater health and safety outcomes."

Board Position:

Watch

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**[Assembly Bill 1707](#): Health professionals and facilities: adverse actions based on another state's law - Pacheco**

**Status:** Amended April 12, 2023.

Re-referred to Committee on Business and Professions.

**Summary of Bill:**

AB 1707 would prohibit a healing arts board under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in this state.

Sensitive services is defined in Civil Code section 56.05 and means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in specified sections of the Family Code and Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.

**Board Position:**

Watch

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[Senate Bill 259](#): Reports submitted to legislative committees - Seyarto

Status: Introduced January 30, 2023

In Assembly. Referred to Committee on Accountability and Administrative Review.

Summary of Bill:

SB 259 would add section 9796 to the Government Code. This bill would additionally require a state agency to post on its internet website any report that the state agency submits to a

committee of the Legislature. Any report is defined as an audit, study, or any report identified in the Legislative Analyst's Supplemental Report of the Budget Act.

According to the author's office, "inconsistency in agency reporting requirements has created a situation in which constituents lack access to information that their representatives base their decision-making on. Constituents cannot know if their members are effectively representing them if those constituents lack the information necessary to determine their best interests. Expanding existing agency reporting requirements to encompass all legislative reports is a small adjustment that will go a long way to ensure all Californians have equal access and opportunity to evaluate the same information legislators use to make important policy decisions. This in turn, will enable Californians to better inform legislators of their priorities and needs."

Board Position:

Watch

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**Senate Bill 345: Health care services: legally protected health care activities - Skinner**

**Status:** Amended March 16, 2023.

Re-referred to Senate Committee on Rules.

**Summary of Bill:**

The most relevant section of the bill that relates to licensed acupuncturists is the addition of Business and Professions Code (BPC) section 852. Proposed Section 852 would prohibit a board from suspending or revoking the license of a healing arts licensee solely for providing a legally protected healthcare activity.

The bill defines "Legally protected healthcare activity" to mean specified acts, including exercising rights related to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or the provision of insurance coverage for those services.

SB 345 would also prohibit a board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline on a licensed person because they were disciplined or convicted of an offense in another state, if that disciplinary action was for providing a legally protected health care activity. The bill would further provide that the performance, recommendation, or provision of a legally protected health care activity by a health care practitioner acting within their scope of practice for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected healthcare activity is illegal, does not, by itself, constitute professional misconduct, upon which discipline or other penalty may be taken.

The bill amends Health and Safety Code law which would provide that California law governs action, whether civil, administrative, or criminal, against any person who provides, receives, aids or abets in providing or receiving, or attempts to provide or receive, reproductive health care services if the provider was located in California or any other state where the care was legal at the time.

This bill would additionally prohibit a state or local government employee or a person acting on behalf of the local or state government, among others, from providing information or expending resources in furtherance of an investigation that seeks to impose civil or criminal

liability or professional sanctions on an individual for a legally protected health activity occurring in this state.

SB 345 would expand an exemption as part of the definition of murder. Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought, except for a person who commits an act that results in the death of a fetus under specific circumstances, including if the act is solicited, aided, abetted, or consented to by the mother of the fetus. The bill would expand this exemption to now include an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus.

The bill makes changes to law related to limiting: a magistrate's warrant for arrest, bail fugitive recovery licensees from detaining or arresting, and a judge from ordering a witness to appear in a criminal proceeding in another state, when the alleged crimes include protected health care activities.

Additionally, SB 345 makes amendments to statutes within the Nursing Practice Act, Code of Civil Procedure, Education Code, Health and Safety Code, Probate Code, and the Welfare and Institutions Code.

**Fiscal Impact:**

It is difficult to ascertain how many criminal records and convictions received on applicants / licensees involving a legally protected healthcare service based on the current enforcement IT system. However, it is estimated to be very few or none. Since SB 345 would not effectuate a change to the Board's complaint volume or workload, it is estimated the proposed provisions would not have any fiscal impact to the Board.

**Board Position:**

Watch

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[Senate Bill 372](#): Department of Consumer Affairs: licensee and registrant records: name and gender changes - Menjivar

Status: Amended April 20, 2023.

In Assembly. Referred to the Committee on Business and Professions and Judiciary.

Summary of Bill:

SB 372 would require boards to update a licensee's records, including records contained within an online license verification system, to include the licensee's updated legal name or gender upon receipt of government-issued documentation, as specified, that demonstrates a legal name or gender change for the licensee.

The bill would also require the Board to remove the licensee's former name or gender from its online license verification system and treat this information as confidential. The bill requires the Board to establish a process for providing a current name or enforcement action record linked to a former name upon receipt of a request that is related to an enforcement action against the licensee or a search of a licensee by a previous name. The bill requires that the request be processed within 10 days and that the process be compliant with the California Public Records Act (PRA).

Additionally, the bill would require the board to reissue specified documents issued to the licensee with their updated legal name or gender if requested. The bill would prohibit a board from charging a higher fee for reissuing a document with a corrected or updated legal name

or gender than the fee it charges for reissuing a document with other corrected or updated information.

Board Impact:

This bill does not change or impact the Board's current process around name change requests as it presently follows the requirements of the proposed law. The Board currently does not collect information about an applicant or licensee's gender. Therefore, there are no documents in a licensee's record to update if there is a gender change without a name change.

One estimated impact of this new bill is related to the Board's IT system. Currently, when a name is changed in the Board's system, the license verification system results on the online DCA search will show a licensee's record with the new name as well as any previous name records within the system. However, SB 372 requires the removal of the licensee's former name from its online license verification system. If passed, the new provisions would require the Board to no longer display a licensee's former name. Additionally, it is possible that every publicly facing record in the system will need to be updated to the new name. This causes concern regarding public safety specific to transparency in having access to a licensee's previous legal name they may have practiced under in the past. For enforcement purposes, it is important to retain a licensee's name history internally and this can be programmed as such. But it is also important for the public to be able to have access to this information for consumer protection.

In addition, if SB 372 is passed and if a licensee requests a re-issuance of documents conferred upon the licensee with the licensee's updated legal name, this could potentially eradicate the person's prior name from their complete license file. Without more specificity in the language identifying the types of documents the Board would be required to reissue, applying the proposed law is problematic. Additionally, the lack of access and availability to the licensee's prior name is concerning for public protection.

Fiscal Impact:

Staff does not expect a significant fiscal impact effectuated by this bill given that the Board's current processes related to name changes meet the requirements of the bill. Additionally, the Board already receives a fairly low volume of name change requests at roughly 144 a year. The Board's Office Technician (OT) processes these requests routinely, taking about 30 minutes on each application. If a licensee requests that all documents conferred upon them be updated, this will add an additional 30 minutes of OT time to identify the applicable documents, two (2) hours of Associate Governmental Program Analyst (AGPA) time to prepare the documents to comply, and an additional one (1) hour from the Board's Licensing Manager for review and approval.

In addition to ongoing requests, initially there would be staff time and costs required to update all of the enforcement documents posted on the Board's website and linked to each licensee's record in the system who have undergone name changes. There are approximately 120 records with enforcement documents to remove from the website, prepare with the updated name, and re-scan and submit for web posting. It is estimated that this workload amounts to 2 hours of AGPA time per record for the first year.

First year costs also require staff to make changes to the current name change request form to add the forms of identification listed by the bill. The requirements and elements of the form will need to be placed in regulation. The entire rulemaking process on one package can take approximately 40 hours of AGPA time annually plus approximately four (4) hours of the Board's time for review and subsequent discussion at public meetings.

In addition, the bill would require the Board to establish a process in regulation for providing a licensee's current name or enforcement action record linked to a former name upon receipt of a request that is related to an enforcement action against the licensee or a search of a licensee by a previous name. The bill requires that the request be processed within 10 days and that the process be in compliance with the California Public Records Act. Requests related to this process will increase the Board's volume of PRAs it processes by an unquantifiable amount. A typical PRA takes approximately three (3) hours of AGPA time. Developing the process for these requests in regulation would add to the Board's rulemaking workload as well as additional research and development by Policy staff that could amount to 10 hours of AGPA time. As identified above, the entire rulemaking process on one package can take approximately 40 hours of AGPA time annually. There can be an additional four (4) hours of the Board's time for review and subsequent discussion at public meetings.

Ongoing costs would include one (1) hour of OT time to review the applications and identify all affected records, two (2) hours of AGPA time to update all affected records, and one (1) hour of the Board's Licensing Manager for review/approval.

Reissued pocket and wall licenses are \$50 each when a licensee requests a name change. The volume and revenue related to name change requests will not be changed by the provisions of this bill.

Board Position:

Watch

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**[Senate Bill 802](#): Licensing boards: disqualification from licensure: criminal conviction - Roth**

**Status:** Introduced February 17, 2023

In Assembly. Referred to Committee on Business and Professions.

**Summary of Bill:**

In addition to the existing requirement to notify an applicant in writing when the decision to deny an applicant for licensure is made, SB 802 would require that such written notification be carried out within 30 days of that decision.

**Board Position:**

Watch

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

**[Assembly Bill 1751](#): Opioid prescriptions: information: nonpharmacological treatments for pain - Gipson**

**Status:** Amended April 13, 2023

In Assembly Committee on Health. Second hearing set canceled at the request of the author. This is a two-year bill and is dead for 2023.

**Summary of Bill:**

AB 1751 would extend the requirement upon prescribers to discuss the dangers and risks associated with the use of opioids to apply to any patient, not only a minor, under certain circumstances. In addition to discussion of dangers and risks, AB 1751 would also require the prescriber to discuss the availability of nonpharmacological treatments for pain.

This bill would also remove the exception to the requirement for the prescriber in the case of a patient who is being treated for a chronic intractable pain diagnosis. Instead, would make an exception in the case of a patient who is currently receiving hospice care. Additionally, AB 1751 would require the prescriber, after discussing the information, to obtain consent from the patient, a minor patient's parent or guardian, or another authorized adult, as specified. The bill defines "nonpharmacological treatments for pain" to include, but not be limited to, acupuncture, chiropractic care, physical therapy, occupational therapy, and licensed mental health provider services.

Finally, this bill would make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benefits benchmark plan.

**Board Position:**

Support

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Senate Bill 544: Bagley-Keene Open Meeting Act: teleconferencing - Laird

Status: Amended on April 27, 2023.

In Assembly. Referred to Committee on Governmental Organization.

Summary of Bill:

SB 544 would amend section 11123 of the Government Code (GC). Currently, to allow state bodies to meet remotely during the state of emergency, existing law related to specified teleconference requirements are suspended until after July 1, 2023. This bill would indefinitely remove said specified teleconference requirements, including:

- A state body post agendas at all teleconference locations
- Each teleconference location be identified in the notice and agenda of the meeting
- Each teleconference location be accessible to the public

Additionally, the bill would require a state body to provide:

- Means for the public to remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting
- Teleconference phone number, website, or other online platform posted on the agenda
- Physical address for at least one site
- Access, if applicable, equivalent to the access for a member of the state body participating remotely
- Teleconference phone number, website, or other online platform, and physical address on any notice and how the public can access the meeting remotely

Lastly, the bill would require that if a state body holds a teleconference meeting, it shall also:

- Continue the requirement that a Board member or staff person be physically present at the physical location specified in the notice

- Implement a procedure for receiving and resolving requests for reasonable modification or accommodation from individuals with disabilities consistent with the federal Americans with Disabilities Act of 1990
- Include the procedure of how the public may observe the meeting and offer public comment on each notice
- Post agenda of a meeting in accordance with the applicable notice requirements of this article, i.e. at least 10 days in advance of the meeting
- Post agenda on its website, and on the day of the meeting, at any physical meeting location listed in the notice of the meeting
- Notice and agenda shall not disclose information regarding any remote location from which a member is participating
- Allow members of the public to exercise their right to address the state body without submitting comments in writing prior to the meeting
- End or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored
- Require a member in attendance to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member's relationship with any such individuals.

The Legislature notes the act protects the personal, private information of public officials and their families while preserving the public's right to access information by removing the requirement for agendas to be posted at the location of each public office participating remotely. Often public officials are meeting from their private home or hotel room so this bill addresses that concern.

The Legislature has also declared that audio and video teleconference meetings were widely used in lieu of physical locations during the COVID-19 emergency. Those meetings have been productive, increased public participation, increased the pool of people who are able to serve on the state bodies, protected the health and safety of civil servants and the public, and have reduced travel costs and work hours spent traveling. Teleconference meetings enhance public participation and the public's right of access to meetings of the public.

Board Position:

Support



| | |
|----------------|---------------------------|
| DATE | June 23, 2023 |
| TO | Acupuncture Board Members |
| FROM | Board Staff |
| SUBJECT | Regulatory Update |

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

- 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**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018 | 2012 | N/A | 12/2020 | 6/2019 | 6/2021 | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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 the Regulation Unit, staff is working on the proposed language options and revisions which will be brought to the Board for consideration at an upcoming Board meeting.

**2. Disclosure of Probation Status to Patients – SB 1448
(Implemented through Disciplinary Guidelines Package – See #3)**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018 | 2012 | N/A | 12/2020 | 6/2019 | 6/2021 | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
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| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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.

Following review from the Regulation Unit, the Board will consider revised language at an upcoming Board meeting.

3. 16 CCR 1399.415, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, Article 3.5:
Align Curriculum Standards and Approval Related Regulations with Statute:

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|-----------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 2/11/2019 | 2/11/2019 | 6/13/2019 | 3/26/2021 | 1/21/2021 | | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
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| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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. The regulatory package is being reviewed as a potential Section 100 submission and is currently under staff development. If converted to a Section 100 submission, the regulatory phases will look different than above. Future updates will reflect this.

4. 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:

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|-----------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018 | 2018/2019 | 3/25/2021 | 8/26/2021 | 9/2021 | 12/20/2021 | 3/29/2021 |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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 regulatory package was submitted to the Regulatory Unit December 20, 2021. Staff provided edits in 2023 and the package was submitted to Agency for review in March.

5. **16 CCR 1399.419.3:
Application for Retired Status; Retired Status; Restoration**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|--------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/2020 | 4/2019 | 6/13/2019 | 8/16/2019 | 1/7/2021 | 1/2020 | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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 the Regulation Unit.

6. **16 CCR 1399.483, 1399.489:
Continuing Education Requirements**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|--------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/2020 | 3/2019 | 3/29/2019 | 3/26/2021 | 3/26/2021 | 3/9/2023 | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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 regulatory package was submitted to the Regulation Unit March 9, 2023, for initial review. Edits to the proposed language are being brought to the Board for consideration at the Board's June meeting.

7. **16 CCR 1399.452.2:
Standards of Practice for Telehealth Services**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|---------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/1/2021 | 12/2020 | 12/17/2020 | 3/26/2021 | 3/26/2021 | | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
| | | | | |

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

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff. Following review from the Regulation Unit, the Board will consider revised language at an upcoming Board meeting.

**8. 16 CCR 1399.451:
Hand Hygiene Requirements**

| CONCEPT PHASE | | | PRODUCTION PHASE | | | |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/1/2023 | 2013 | 1/2014 | 10/2018 | 2014 | | |

| INITIAL FILING PHASE | | | |
|-------------------------|-----------------------------|---|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| | | | |

| FINAL FILING PHASE | | | | |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review | BCSH Agency Review | OAL Review | Filed w/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 development with staff. Following review from the Regulation Unit, the Board will consider revised language at an upcoming Board meeting.



| | |
|----------------|---|
| DATE | June 23, 2023 |
| TO | Acupuncture Board Members |
| FROM | Kristine Brothers, Policy Coordinator |
| SUBJECT | Discussion and Possible Action to Amend Sections 1399.480, 1399.483, 1399.489, and 1399.489.1 in Title 16 of the California Code of Regulations: Continuing Education: Law and Ethics Requirement |

Issue:

Review and discuss proposed changes to the text of 16 CCR secs. 1399.480, 1399.483, 1399.489, and 1399.489.1 regarding a biennial continuing education (CE) requirement of four (4) hours in law and ethics. The proposed regulation has not been publicly noticed with the Office of Administrative Law (OAL).

Action items for the Board:

Discussion on amending the text of 16 CCR secs. 1399.480, 1399.483, 1399.489, and 1399.489.1. (Attachment)

History:

In the past, CCR section 1399.489.2 allowed licensees to take up to four (4) hours of CE in practice management or medical ethics to meet their biennial CE requirements for license renewal. However, the Board repealed this regulation in December 1999.

At the November 11, 2012, Board meeting, the Board reviewed text for a new CE ethics requirement and delegated further refinement to the, then, Education Committee.

At the December 14, 2016, Education Committee (Committee) Meeting, members reviewed the proposed text and requested additional changes to be made by staff and to be brought back to the full Board for consideration and possible approval.

At the October 25, 2018, Board meeting, the Board reviewed proposed text. There was discussion on the issue of whether the ethics requirement was Category 1 or 2. The Board requested staff to research other examples of ethics requirements, define active and inactive status in Part C of Title 16 CCR 1399.489, and referred this item for further discussion to the Education Committee.

At the March 28, 2019, Education and Research Committee meeting, member Harabedian summarized the ethics requirements discussion which included directing staff to provide a definition of ethics. Chair Harabedian reported that the Committee approved the language and made the recommendation that this item be brought to the full Board.

Most recently, the Board approved proposed language on March 26, 2021, to proceed with implementing a four (4) hour law and ethics requirement for all licensees renewing on active status every two years as a part of their 50 CE hours. In addition, the proposed language required that each course in law and ethics include a self-assessment by the licensee. Additional technical changes were also approved.



In March of this year, staff submitted the rulemaking package to the Regulation Unit for review. After their review, revisions to the proposed language have been identified and are being brought to the Board for discussion and possible approval.

Discussion:

The edits to the proposed language address some clarity, necessity, authority, and consistency concerns. Below is a summary of each of the revisions and the reasoning for their inclusion or removal.

The materials following this memo include a clean copy of the revised proposed text and a copy of the proposed text in track changes to show the edits that occurred since the previously approved language.

Proposed Amendments:

- 16 CCR 1399.480(a)(4):

A new proposed definition of "half hour" being at least 25 minutes of participation in the context of CE is added to this regulation section. This is necessary for clarity since an hour is already established as being at least 50 minutes of participation in the Board's regulations in CCR Section 1399.480(a)(3)). Additionally, staff is updating the category 1 CE hours required to restore a license to active when a licensee has been inactive for less than a year under section 1399.489.1. One half hour is added to the current 22 hours of category 1, to be in alignment with the Board's definition of an hour of education, therefore, a definition of one-half hour (0.5 hours) is necessary given the change.

- 16 CCR 1399.483(e):

The additional requirement that all courses in law and ethics include a self-assessment by the licensee is removed after determining that its inclusion was only to align with the requirement under subsection (d) (2) for independent and home study coursework. Existing language requires self-assessment based on the delivery method of CE, not the subject matter. Given that law and ethics will be taught in all modes (live and distance), including this requirement would present an inconsistency issue. Therefore, this subsection was deleted.

- 16 CCR 1399.483(f):

The following text, "(products) as a course requirement" was previously included to clarify that licensees are not obligated to purchase any products as a requirement of the continuing education course. These amendments are removed as it was determined the text does not provide any substantive clarification and does not meet the necessity requirement.

- 16 CCR 1399.489(a):

The proposed amendments clarifies that all licensees on active status shall complete 50 hours of CE hours, every two years, as a condition of renewal. The previous language added a retired license status as an exception to this



requirement. However, this presents an authority issue since the Board currently does not have a retired license designation in regulation. Therefore, it is removed. In addition, the Board's proposed retired license status regulation already addresses CE as part of that license designation.

- 16 CCR 1399.489(c):

This new subsection creates the requirement of four hours of CE in laws and ethics to be taken for every two-year renewal period.

The subsection has been re-worded to better align with the existing requirement under subsection (a) and to provide more clarity that the four (4) hours of CE is required as a condition of renewal. Additionally, the reference to licensees renewed on inactive status pursuant to Section 1399.489.1 are exempt from the law and ethics requirement is removed due to redundancy.

- General non-substantive clean-up of existing language remains.

- 16 CCR 1399.489.1:

New proposed amendments are added to this regulation section. The previously approved proposed language failed to address CE law and ethics requirements for licensees restoring their license from inactive to active. Proposed language now covers this missing policy item and aligns with the existing CE requirements for licensees going from inactive to active. For consistency, four (4) hours of law and ethics are proposed as a requirement to return to active status regardless of a licensee's time spent inactive.

Staff is also proposing to add 0.5, or one-half, hour to the 22 hours of category 1 CE required of licensees restoring their license to active when their license was inactive for less than a year. This amendment is to address the 0.5 that is missing from the calculation that previously identified the minimum category 1 CE. 22.5 hours is truly half 45 hours, which is the minimum biennial CE requirement in category 1 for licensees. This addresses consistency and provides clarity.

Recommended Motion Language

Option 1: Motion to Approve

- Rescind the Board's March 2021 order to initiate a rulemaking for this proposal and instead authorize a rulemaking using the proposed language with all of the changes to Division 13.7, Article 8, sections 1399.480, 1399.483, 1399.489, and 1399.489.1. 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

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is requested,

Amend Sections 1399.480, 1399.483, 1399.489, and 1399.489.1 of Article 8 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.

Option 2: Motion to Approve, as Amended

Move to approve the proposed regulatory text as amended:

Note the amendments

... 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,

Amend Sections 1399.480, 1399.483, 1399.489, and 1399.489.1 of Article 8 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.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. CALIFORNIA ACUPUNCTURE BOARD

PROPOSED REGULATORY LANGUAGE
CONTINUING EDUCATION: LAW AND ETHICS REQUIREMENT

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| Legend: | Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout . |
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Amend Sections 1399.480, 1399.483, ~~and 1399.489,~~ and 1399.489.1 of Article 8 of Division 13.7 of Title 16 of the California Code of Regulations as follows:

§ 1399.480. Definitions

(a) For purposes of this article:

(1) "Provider" means a person or organization approved by the Board to offer continuing education.

(2) "Course" means a systematic learning experience, at least one hour in length, that deals with and is designed for the acquisition of knowledge, skills, and information relevant to the practice of acupuncture.

(3) "Hour" means at least 50 minutes of participation in an organized learning experience.

(4) ".5" or "One-half Hour" means at least 25 minutes of participation in an organized learning experience.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4945 and 4970, Business and Professions Code.

§ 1399.483. Approval of continuing education courses.

(a) Only a provider may obtain approval to offer continuing education courses.

(b) The content of all courses of continuing education submitted for B_[BK1]SK2_[SK2]BK3_[BK3]oard approval shall be relevant to the practice of acupuncture and Asian medicine and shall fall within the following two (2) categories

(1) Category 1 courses are those courses related to clinical matters or the actual provision of health care to patients. Examples of Category 1 courses include, but are not limited to, the following:

- (A) Acupuncture and Asian Medicine.
- (B) Western biomedicine and biological sciences.
- (C) Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine.
- (D) Courses concerning law and ethics and health facility standards.
- (E) Courses designed to develop a licensee's patient education skills, including, but not limited to, patient education in therapeutic exercise techniques, nutritional counseling, and biomechanical education.
- (F) Courses designed to enhance a licensee's ability to communicate effectively with other medical practitioners.
- (G) Courses in acupuncture's role in individual and public health, such as emergencies and disasters.
- (H) Courses in the behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health.
- (I) Research and evidence-based medicine as related to acupuncture and Asian medicine.

(2) Category 2 courses are those courses unrelated to clinical matters or the actual provision of health care to patients. Examples of Category 2 courses include, but are not limited to, the following:

- (A) Practice management courses unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, laws and regulations unrelated to clinical medicine, insurance billing and coding, and general business organization and management.
- (B) Breathing and other exercises, i.e. *qi gong* and *taiji quan* that are for the benefit of the licensee and not the patient.

(c) Each provider shall include, for each course offered, a method by which the course participants evaluate the following:

- (1) The extent to which the course met its stated objectives.
- (2) The adequacy of the instructor's knowledge of the course subject.
- (3) The utilization of appropriate teaching methods.
- (4) The applicability or usefulness of the course information.
- (5) Other relevant comments.

(d) Courses designed to be completed by an individual on an independent or home study basis shall not exceed 50% of the required continuing education hours.

- (1) Courses that require practical or hands on techniques may not be approved for independent or home study.

(2) Courses approved for independent or home study shall include a self-assessment by the licensee upon completion of the course that tests the participant's mastery of the course material.

(e) Each course in law and ethics shall include a self-assessment ^{[SK4][BK5]} ~~by the licensee, upon completion of the course, that tests the participant's mastery of the course material.~~

~~(f)~~(e) A provider is prohibited from selling, advertising, or promoting any named brand product or service during a course. A provider shall ensure that any discussion of a named product or service is objectively selected and presented with favorable and unfavorable information and balanced discussion of prevailing information on the product, competing products, alternative treatments, or services. A provider shall ensure written disclosure to the audience, at the time of the program, of any relationship between any named product(s) or service(s) discussed and the provider or between any such product(s) or service(s) and any individual instructor, presenter, panelist, or moderator. However, a provider may offer for sale products or services after the course has been completed as long as it is made clear to all participants that they are under no obligation whatsoever to stay for the sales presentation or purchase any products ~~as a course requirement~~ ^{[SK6][BK7]}. Nothing in this subsection shall be interpreted as restricting a provider from discussing generic products during a course.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4945, Business and Professions Code.

§ 1399.489. Continuing education compliance

(a) With the exception of those holding an inactive ~~or retired~~ license ^{[SK8][BK9][SK10]}, when renewing an initial license that has been issued for less than two (2) years, licensees shall complete the following hours of Board-approved continuing education:

| Period of Initial Licensure | Required Continuing Education Hours |
|-----------------------------|-------------------------------------|
| 13-16 Months | 35 |
| 17-20 Months | 40 |
| 21-23 Months | 45 |

Thereafter, all licensees shall complete 50 hours every two (2) years as a condition of renewal on active status. No more than five (5) hours of continuing education in each two-year period may be obtained in Category 2.

(b) Licensees are limited to 50% of the required continuing education hours every two (2) years for independent or home study courses.

~~(c) For each two (2) year period, a licensee's continuing education courses must includeAs a condition of renewal, and as part of the total hours of continuing education required by subsection (a), licensees shall complete a minimum of four (4) hours in law and ethics during the two years immediately preceding their license expiration date, unless otherwise provided in this subsection.~~ ^[SK11] This requirement is waived if the licensee is renewing an initial license ^[SK12]_[BK13] that has been issued for less than two (2) years ^[BK14], ~~or if the licensee is renewed on inactive status, pursuant to Section 1399.489.1.~~

~~(d)~~(e) Each licensee, at the time of license renewal, shall sign a statement under penalty of perjury that the licensee has or has not complied with the continuing education requirements. It shall constitute unprofessional conduct for any licensee to misrepresent completion of the required continuing education.

~~(e)~~(d) The Board may audit a random sample of licensees who have reported compliance with the continuing education requirement.

~~(f)~~(e) Any licensee selected for audit shall ~~be required to~~ submit documentation or records of continuing education coursework that the licensee has taken and completed.

~~(g)~~(f) Each licensee shall retain, for a minimum of four (4) years, records of all continuing education programs that the licensee has attended that indicate the provider's name, title of the course or program, date(s) and location of course, and number of continuing education hours awarded.

~~(h)~~(g) Instructors of approved continuing education courses may receive one (1) hour of continuing education credit for each classroom hour completed as an instructor, up to a maximum of six (6) hours of continuing education per year, regardless of how many hours or courses are taught. Participation as a member of a panel presentation for an approved course shall entitle the participant to earn continuing education hours equal to the actual panel presentation time within the appropriate category of the course.

~~(i)~~(h) Any licensee who participates in the development of an occupational analysis, examination development session, item review session, and/or passing score workshop shall receive one (1) hour of continuing education for every two (2) hours of participation.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4945 and 4955, Business and Professions Code.

§ 1399.489.1 Inactive License

(a) Any licensee who is not actively engaged in the practice of acupuncture desiring an inactive license under the provisions of Article 9 (commencing with Section 700) of Chapter 1 of Division 2 of the Code or to restore an inactive license to active status shall submit a completed "Active/Inactive License Application" (Rev. 5/08), that is hereby incorporated by reference, to the Board. The applicant need not submit the applicant's certificate or a copy thereof to the Board with the application.

(b) To restore an inactive license to active status, the licensee shall have completed a minimum of 50 hours of approved continuing education within the last two (2) years in compliance with this article. At least 45 hours of continuing education must be in coursework approved as Category 1. In the event a license has been inactive less than one (1) year, a minimum of 25 hours of continuing education is required, with at least 22.5 hours of coursework approved as Category 1. The licensee shall also have completed four (4) hours of continuing education in law and ethics as part of either the minimum 50 hours or 22.5 hours of continuing education required by this subsection^[SK15].

~~-(c)(d)-~~ The inactive status of any licensee shall not deprive the Board of its authority to institute or continue a disciplinary proceeding against a licensee upon any ground provided by law or to enter an order suspending or revoking a license or otherwise taking disciplinary action against the licensee on any such ground.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 704 and 4945, Business and Professions Code.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. CALIFORNIA ACUPUNCTURE BOARD

PROPOSED REGULATORY LANGUAGE
CONTINUING EDUCATION: LAW AND ETHICS REQUIREMENT

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Amend sections 1399.480, 1399.483, and 1399.489.1 of Article 8 of Division 13.7 of Title 16 of the California Code of Regulations as follows:

§ 1399.480. Definitions

(a) For purposes of this article:

(1) "Provider" means a person or organization approved by the Board to offer continuing education.

(2) "Course" means a systematic learning experience, at least one hour in length, that deals with and is designed for the acquisition of knowledge, skills, and information relevant to the practice of acupuncture.

(3) "Hour" means at least 50 minutes of participation in an organized learning experience.

(4) ".5" or "One-half Hour" means at least 25 minutes of participation in an organized learning experience.

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(a) Only a provider may obtain approval to offer continuing education courses.

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- (E) Courses designed to develop a licensee's patient education skills, including, but not limited to, patient education in therapeutic exercise techniques, nutritional counseling, and biomechanical education.
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- (G) Courses in acupuncture's role in individual and public health, such as emergencies and disasters.
- (H) Courses in the behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health.
- (I) Research and evidence-based medicine as related to acupuncture and Asian medicine.

(2) Category 2 courses are those courses unrelated to clinical matters or the actual provision of health care to patients. Examples of Category 2 courses include, but are not limited to, the following:

- (A) Practice management courses unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, laws and regulations unrelated to clinical medicine, insurance billing and coding, and general business organization and management.
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(e) A provider is prohibited from selling, advertising, or promoting any named brand product or service during a course. A provider shall ensure that any discussion of a named product or service is objectively selected and presented with favorable and unfavorable information and balanced discussion of prevailing information on the product, competing products, alternative treatments, or services. A provider shall ensure written disclosure to the audience, at the time of the program, of any relationship between any named product(s) or service(s) discussed and the provider or between any such product(s) or service(s) and any individual instructor, presenter, panelist, or moderator. However, a provider may offer for sale products or services after the course has been completed as long as it is made clear to all participants that they are under no obligation whatsoever to stay for the sales presentation or purchase any products. Nothing in this subsection shall be interpreted as restricting a provider from discussing generic products during a course.

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| 13-16 Months | 35 |
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Thereafter, all licensees shall complete 50 hours every two (2) years as a condition of renewal on active status. No more than five (5) hours of continuing education in each two-year period may be obtained in Category 2.

(b) Licensees are limited to 50% of the required continuing education hours every two (2) years for independent or home study courses.

(c) As a condition of renewal, licensees shall complete a minimum of four (4) hours of continuing education in law and ethics during the two years immediately preceding their license expiration date, unless otherwise provided in this subsection. This requirement is waived if the licensee is renewing an initial license that has been issued for less than two (2) years.

~~(d)~~(e) Each licensee, at the time of license renewal, shall sign a statement under penalty of perjury that the licensee has or has not complied with the continuing education requirements. It shall constitute unprofessional conduct for any licensee to misrepresent completion of the required continuing education.

~~(e)~~(d) The Board may audit a random sample of licensees who have reported compliance with the continuing education requirement.

~~(f)~~(e) Any licensee selected for audit shall ~~be required to~~ submit documentation or records of continuing education coursework that the licensee has taken and completed.

~~(g)~~(f) Each licensee shall retain, for a minimum of four (4) years, records of all continuing education programs that the licensee has attended that indicate the provider's name, title of the course or program, date(s) and location of course, and number of continuing education hours awarded.

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Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4945 and 4955, Business and Professions Code.

§ 1399.489.1 Inactive License

(a) Any licensee who is not actively engaged in the practice of acupuncture desiring an inactive license under the provisions of Article 9 (commencing with Section 700) of Chapter 1 of Division 2 of the Code or to restore an inactive license to active status shall submit a completed "Active/Inactive License Application" (Rev. 5/08), that is hereby incorporated by reference, to the Board. The applicant need not submit the applicant's certificate or a copy thereof to the Board with the application.

(b) To restore an inactive license to active status, the licensee shall have completed a minimum of 50 hours of approved continuing education within the last two (2) years in compliance with this article. At least 45 hours of continuing education must be in coursework approved as Category 1. In the event a license has been inactive less than one (1) year, a minimum of 25 hours of continuing education is required, with at least 22.5 hours of coursework approved as Category 1. The licensee shall also have completed four (4) hours of continuing education in law and ethics as part of either the minimum 50 hours or 22.5 hours of continuing education required by this subsection.

(c) The inactive status of any licensee shall not deprive the Board of its authority to institute or continue a disciplinary proceeding against a licensee upon any ground provided by law or to enter an order suspending or revoking a license or otherwise taking disciplinary action against the licensee on any such ground.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 704 and 4945, Business and Professions Code.