

Explanation of Change Without Regulatory Effect

Acupuncture Board

Title 16, California Code of Regulation (CCR), heading of Division 13.7, sections 1399.400, 1399.403, 1399.405, 1399.406, 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, 1399.419, 1399.419.1, 1399.419.2, 1399.421, 1399.422, 1399.423, 1399.424, 1399.425, 1399.426, 1399.427, 1399.428, 1399.430, 1399.431, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, 1399.440, 1399.441, 1399.443, 1399.444, 1399.451, 1399.455, 1399.463, 1399.464, 1399.465, 1399.467, 1399.468, 1399.469, 1399.469.1, 1399.469.2, 1399.475, 1399.476, 1399.477, 1399.479, 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, and 1399.489.1

Section 100 CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)() of the CCR, the Acupuncture Board (Board) submits this written statement explaining why the proposed amendments to the heading of Division 13.7 of, amendments to sections 1399.400, 1399.403, 1399.405, 1399.406, 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, 1399.419, 1399.419.1, 1399.419.2, 1399.421, 1399.422, 1399.423, 1399.424, 1399.425, 1399.426, 1399.427, 1399.428, 1399.430, 1399.431, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, 1399.440, 1399.441, 1399.443, 1399.444, 1399.451, 1399.455, 1399.463, 1399.464, 1399.465, 1399.467, 1399.468, 1399.469, 1399.469.1, 1399.469.2, 1399.475, 1399.476, 1399.477, 1399.479, 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, and 1399.489.1 of, and repeal of 1399.456 of Title 16 of the CCR do not materially alter any requirement, right, responsibility, conditions, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Board would add, revise, or delete text in the CCR as follows:

I. Amendments to Multiple Sections throughout Division 13.7 of Title 15 of the CCR:

1. Gender Neutral Terms

The Board proposes amendments to Sections 1399.405, 1399.406, 1399.414, 1399.416, 1399.417, 1399.419, 1399.419.2, 1399.421, 1399.425, 1399.426, 1399.427, 1399.430, 1399.465, 1399.468, 1399.469.1, 1399.477, 1399.482, 1399.485, 1399.489, and 1399.489.1 to eliminate gendered pronouns and incorporate gender-neutral terms. The Board proposes these amendments based on Assembly Concurrent Resolution No. 260 of 2018 (ACR 260). In ACR 260, the Legislature resolved that “state agencies should ... use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.”

This is a change without regulatory effect because the amendments are grammatical in nature. Changing gendered terms to gender-neutral terms parallels other efforts throughout the state.

2. Capitalize the “B” in “Board” and Shorten References to the “Acupuncture Board” to the “Board”

The Board proposes amendments to Sections 1399.405, 1399.406, 1399.411, 1399.413, 1399.414, 1399.417, 1399.419, 1399.419.1, 1399.421, 1399.422, 1399.423, 1399.424, 1399.425, 1399.426, 1399.427, 1399.428, 1399.430, 1399.431, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, 1399.440, 1399.463, 1399.465, 1399.467, 1399.469.1, 1399.469.2, 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.486, 1399.487, 1399.488, 1399.489, and 1399.489.1 to capitalize the “B” in “Board” for uniformity in its regulations. The Board also proposes amendments to Section 1399.469 to shorten references to the “Acupuncture Board” to the “Board” for uniformity in its regulations.

These are changes without regulatory effect because (1) capitalizing the “B” in “Board” is grammatical in nature and (2) “Board” and “Acupuncture Board” mean the same thing under Section 1399.403, which defines “Board” as the “Acupuncture Board” for the purposes of the amended sections.

These changes are necessary to provide consistency in references to the Board throughout the Board’s regulations.

3. Capitalize the “C” in “the Code” and Replace References to the “Business and Professions Code” with References to the “Code”

The Board proposes amendments to Sections 1399.421, 1399.430, 1399.444, 1399.455, 1399.468, 1399.475, and 1399.489.1 to capitalize the “C” in “the Code” for uniformity in its regulations. The Board also proposes amendments to Sections 1399.434, 1399.437, and 1399.469.2 to replace references to the “Business and Professions Code” with references to the “Code” for uniformity in its regulations.

These are changes without regulatory effect because (1) capitalizing the “C” in “the Code” is grammatical in nature and (2) “Code” and “Business and Professions Code” mean the same thing under Section 1399.403, which defines the “Code” as the “Business and Professions Code” for the purposes of the amended sections.

These changes are necessary to provide consistency in references to the Business and Professions Code throughout the Board’s regulations.

4. Capitalize the “S” in “Section”

The Board proposes amendments to Sections 1399.434, 1399.463, 1399.467, 1399.468, and 1399.469.1 to capitalize the “S” in “Section” for uniformity in its regulations. These are changes without regulatory effect because capitalizing the “S” in “Section” is grammatical in nature. These changes are also necessary to provide consistency in references to sections of statutes or regulations throughout the Board’s regulations.

5. Replace the term “Oriental” with “Asian”

The Board proposes amendments to Sections 1399.425, 1399.434, 1399.435, and 1399.443 to replace the terms “Oriental” or “oriental” with the term “Asian.”

These changes are necessary to conform the language in these sections to the language of Section 1399.483, which refers to “Asian medicine” instead of “Oriental medicine,” and to Assembly Bill No. 1117 (2005-2006 Reg. Sess.) (Stats. 2005; ch. 649) (AB 1117), which replaced the term “oriental medicine” with “Asian medicine” and the term “oriental massage” with “Asian massage” in the Acupuncture Licensure Act.

These changes are without regulatory effect because the legislative intent of AB 1117, as stated in section 1 of that bill, was that “changing the word “oriental” to “Asian” shall not affect any previous interpretations or judicial decisions insofar as they analyze or use the term “oriental.”” As conforming changes to that bill, these changes should also be viewed as having no such legal effect.

6. Conform Numbers to a Standardized Format that Provides Under Ten in Both Spelled Out and in Figures and Over Ten in Figures Only

The Board proposes amendments to sections 1399.406, 1399.414, 1399.419, 1399.417, 1399.419.2, 1399.424, 1399.425, 1399.428, 1399.434, 1399.435, 1399.439, 1399.444, 1399.468, 1399.477, 1399.480, 1399.482, 1399.485, 1399.487, 1399.488, and 1399.489 to standardize the format of numbers under ten to include the numbers in both spelled-out and figure form. Numbers over ten will be in numerical format only.

These changes are necessary to conform the amended language in these sections to other language in the Board’s regulations that already uses a format that includes numbers below ten both spelled-out and in figures.

These changes are without regulatory effect because they are purely grammatical changes that do not affect the meaning of the amended sections.

7. Replace Outdated References to “Chapter” with “Division”

The Board proposes amendments to Sections 1399.400, 1399.403, and 1399.406 to replace references to “this chapter” with references to “this division.”

These changes are necessary to update outdated language in these sections to the current location of the Board’s regulations, which is a division, not a chapter.

These changes are without regulatory effect because it does not alter the meaning of any of amended regulations; the only reasonable reading of the replaced references to “chapter” is “division.”

8. Insert Oxford Commas in Series of Three or More

The Board proposes amendments to Sections 1399.405, 1399.421, 1399.425, 1399.426, 1399.430, 1399.431, 1399.434, 1399.435, 1399.438, 1399.451, 1399.480, 1399.481, 1399.482, 1399.483, 1399.485, 1399.486, 1399.487, and 1399.489 to insert Oxford commas in series of three or more.

These changes are necessary to conform the amended language in these sections to other language in the Board’s regulation that generally employs Oxford commas.

These changes are without regulatory effect because they are purely grammatical in nature and do not affect the meaning of the amended regulations.

II. Amendments in Addition to the Amendments Outlined Above:

Heading of Division 13.7 – Acupuncture Examining Committee of the Board of Medical Quality Assurance

The Board proposes to revise this heading to refer to the “Acupuncture Board” instead of the “Acupuncture Examining Committee of the Board of Medical Quality Assurance.”

This change is necessary because the current title of the Board is “Acupuncture Board” and the Board is no longer a committee.

This change is without regulatory effect because it effects no change in meaning. Under Business and Professions Code section 4925, “Any reference to the “Acupuncture Committee” or “committee” [already] means the “Acupuncture Board” or “board.””

Section 1399.405 – Delegation of Functions

The Board proposes to add a comma after “Administrative Procedure Act.” This change is without regulatory effect because it is grammatical in nature and makes the sentence more readable.

Section 1399.406 – Filing of Addresses

The Board proposes to replace citations to BPC sections 4925, 4927, 4955, and 4960 in the Reference section with a citation to BPC section 136 because BPC section 136, which requires each licensee of a board within the Department of Consumer Affairs to notify the board of any change of address within 30 days, is the most direct Reference source for this regulation and obviates the need for other sources.

These changes are without regulatory effect because they update the Reference section and do not materially alter the regulation.

Section 1399.411 – Certification of Documentation

The Board proposes to add an “s” at the end of “Section” in the Reference section because two sections are cited there.

This change is without regulatory effect because it is a purely grammatical correction that does not affect the text or meaning of the regulation.

Section 1399.413 – Application Deadline

The Board proposes to delete the citation to BPC section 4939 in the Reference section. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the submission of examination applications, transcripts, or supporting documents directly to the board. Section 1399.413 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it only updates the Reference section and does not affect the text of the regulation.

Section 1399.416 – Equivalent Training and Clinical Experience Qualifying for Licensure

The Board proposes the following changes to Section 1399.416:

1. Replacing “4938, subdivision (b)(3)” with “4938(a)(2)(C)” as a conforming change to Assembly Bill No. 2190 (2015-2016 Reg. Sess.) (Stats. 2016, ch. 667) (AB 2190). That bill reorganized BPC section 4938 to relocate the language in former subdivision (b)(3) (“In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience that meets the standards established pursuant to Sections 4939 and 4941.” (See Bus. & Prof. C., § 4938, as amended by Stats. 2014, ch. 397, sec. 7)) to current subdivision (a)(2)(C).

This change is without regulatory effect because it merely updates a cross-reference in the regulation to accurately reflect the current placement of a previously cited provision and does not alter the meaning of the regulation.

2. Deleting “Section 1399.436, subsections (a), (b), and (c) or, if applicable,” as Section 1399.436 was repealed in 2017.

This change is without regulatory effect because it merely deletes a reference to a repealed regulation.

3. Deleting citations to BPC sections 4925 and 4940 in the Reference section as neither of those sections currently relate to the qualifying educational training and clinical experience of foreign-trained applicants. Instead, BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and BPC section 4940 relates to the supervising acupuncturists licensed in the state and tutorial programs by such supervising acupuncturists. Section 1399.416 does not implement, interpret, or make BPC sections 4925 and 4940 specific.

These changes are without regulatory effect because they only update the Reference section and do not affect the text of the regulation.

Section 1399.417 – Abandonment of Applications

The Board proposes to delete the citation to BPC section 4933 from the Reference section. BPC section 4933 generally requires the Board to administer the Acupuncture Licensure Act and adopt regulations under that act. It does not specifically relate to applications for examination or licensure. Section 1399.417 does not implement, interpret, or make BPC section 4933 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.419 – Review and Processing of Exam Applications

The Board proposes to delete the citation to BPC section 480 from the Reference section. BPC section 480 relates to the denial of licensure for commission of a crime or subjection to formal discipline. It does not relate to the time for reviewing and processing applications or to impairment due to mental illness or physical illness affecting competency. Section 1399.419 does not implement, interpret, or make BPC section 480 specific.

In subsection (d), the “is” is being changed to “are” to reflect the multiple processing times. This change is without regulatory effect because it is a purely grammatical correction that does not affect the text or meaning of the regulation.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.419.1 – Response to Board Inquiry

The Board proposes to delete the citation to BPC 4965 from the Reference section. BPC section 4965 relates to the expiration dates of licenses and renewal of unexpired licenses. It does not relate to Board requests for criminal history information. Section 1399.419.1 does not implement, interpret, or make BPC section 4965 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.419.2 – Fingerprint and Disclosure Requirements for Renewal of License

The Board proposes to add a citation to BPC section 144 to the Reference section. BPC section 144 requires an applicant to furnish to the Board a full set of fingerprints for purposes of conducting criminal history record checks and authorizes the Board to obtain and receive criminal history information from the Department of Justice and the U.S. Federal Bureau of Investigation. Section 1399.419.2 implements and makes BPC section 144 specific by explicitly imposing the furnishing of fingerprints to the Department of Justice as a condition of license renewal, requiring the licensee to certify this action, and requiring the licensee to retain a receipt evidencing this action for at least three years.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.421 – Definitions

The Board proposes the following changes to Section 1399.421:

1. Deleting “s 4939 and” in subsection (a) of the regulation because that reference to BPC section 4939 is outdated. The version of BPC section 4939 that previously related to approval of schools and colleges offering education and training in the practice of an acupuncturist was repealed by AB 2190 and replaced with a BPC section 4939 that instead relates to credential evaluation services and applicants with education completed outside of the United States.

This change is without regulatory effect because deletion of the cross reference to BPC section 4939, which is no longer relevant to the regulation, does not substantially alter the meaning of the regulation.

2. Deleting the citation to BPC section 4925 and 4939 from the Reference section. BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and this regulation does not implement that title. Currently, BPC section 4939 does not relate to acupuncture tutorials, supervising acupuncturists, or trainees. Section 1399.421 does not implement, interpret, or make BPC section 4925 or 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.422 – Prior Approval to Practice as an Acupuncture Trainee

The Board proposes to delete the citation to BPC section 4939 from the Reference section. Currently, BPC section 4939 does not relate to acupuncture tutorials, supervising acupuncturists, or trainees. Section 1399.422 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.423 – Prior Approval to supervise an Acupuncture Trainee

The Board proposes to delete the citation to BPC section 4939 from the Reference section. Currently, BPC section 4939 does not relate to acupuncture tutorials, supervising acupuncturists, or trainees. Section 1399.423 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.424 – Filing of Applications; Credit for Prior Training

The Board proposes to delete the citation to BPC section 4939 from the Reference section. Currently, BPC section 4939 does not relate to acupuncture tutorials, supervising acupuncturists, or trainees. Section 1399.424 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.425 – Requirements for Approval of an Acupuncture Tutorial

The Board proposes the following changes to Section 1399.425:

1. In subsection (c), replacing “Article 7 (commencing with Section 94900) of Chapter 7 Part 59 of the Education Code” with “Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code” to reflect the repeal of that former chapter 7. Senate Bill No. 1544 (2003-2004 Reg. Sess.) (Stats. 2004, ch. 740) (SB 1544) repealed the former Chapter 7 of Part 59 of Division 10 of Title 3 of the Education Code. Under Education Code section 94800.5, all references to that former chapter “shall be construed as referring to” Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code. This change makes the citation correction provided for in that section.

This change is without regulatory effect because it merely updates an obsolete cross-reference in accordance with current state statutes and does not substantially alter the meaning of the regulation.

2. In subsection (d), adding a period at the end of each numbered paragraph. This change is needed to provide consistency with the formatting used in subsections (e) and (j). This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
3. In subsection (e)(3) the Council’s new trade name: “Council of Colleges of Acupuncture and Herbal Medicine” has been updated. (“In late 2020, Council members approved the adoption of the trade name Council of Colleges of Acupuncture and Herbal Medicine. The trade name was registered with the District of Columbia Department of Consumer and Regulatory Affairs in early 2021.”¹).

This change is without regulatory effect because it merely updates the name of the previously recognized Council and does not substantially alter the meaning of the regulation.

4. In subsections (e)(5) and (e)(6), italicizing and lowercasing the terms “Qi Gong” and “Tai Chi Chuan” to indicate that they are terms from a foreign language.

These changes are without regulatory effect because they are purely grammatical in nature and do not alter the meaning of the regulation.

¹ See attached, downloaded December 10, 2021 from <https://www.ccahm.org/ccaom/History.asp>

5. Subsection (g) and (h) have minor grammatical changes to aid in reading comprehension. In (g), “so” is deleted and “which” is changed to “that,” while in (h) an extra “the” is deleted. In subsection (j)(2), replacing “have passed” with “passage of” to grammatically parallel the earlier language in that sentence. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
6. In subsection (l), revising “time that their application for a tutorial program was approved by the board” to instead read “time the Board approved their application for a tutorial program” to enhance the readability of the subsection. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
7. In the Reference section, deleting the citations to BPC sections 4925 and 4939. BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and does not relate to the requirements for approval of an acupuncture tutorial. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the requirements for approval of an acupuncture tutorial. Section 1399.423 does not implement, interpret, or make BPC sections 4925 and 4939 specific.

These changes are without regulatory effect because they merely update the Reference section and do not affect the text of the regulation.

Section 1399.426 – Supervising Acupuncturist’s Responsibilities

The Board proposes the following changes to Section 1399.426:

1. In subsection (b), replacing the first “which” with “that” and deleting the second “which” for readability of the subsection. These changes are without regulatory effect because they are purely grammatical in nature and do not change the meaning of the regulation.
2. In subsection (i), replacing “acupuncture law” with “Acupuncture Licensure Act” to reflect the statutorily provided short title of that act. Under BPC section 4925, that law “constitutes the chapter on acupuncture of the Business and Professions Code” and “shall be known and may be cited as the Acupuncture Licensure Act.” This change is without regulatory effect because it does not change the meaning of the regulation.
3. In the Reference section, deleting the citation to BPC section 4939. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to a

supervising acupuncturist's responsibilities. Section 1399.426 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.427 – Trainee's Responsibilities

The Board proposes the following changes to Section 1399.427:

1. In subsection (f), replacing "committee" with "Board" to reflect the current status and title of the Board as a board, not a committee. This change is without regulatory effect because it has no effect on the meaning of the regulation; under BPC section 4925, any reference to "committee" already refers to the "Acupuncture Board."
2. In the Reference section, deleting the citation to BPC section 4939. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to a trainee's responsibilities. Section 1399.427 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.428 – Termination or Modification of Tutorial

The Board proposes to delete the citation to BPC section 4939 in the Reference section. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the discipline of a supervising acupuncturist. Section 1399.428 does not implement, interpret, or make BPC section 4939 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.430 – Denial, Suspension or Revocation of Registration as a Supervisor

The Board proposes the following changes to Section 1399.430:

1. In subsection (d), replacing "division" with "Board." The current use of "division" looks to be either a relic from the time the Board was a committee within the Board of Medical Quality Assurance or an error. Under BPC section 4940 and the regulations adopted under that section, the Board is the entity

that approves acupuncture tutorials and supervising acupuncturists. Accordingly, the term “division” in subsection (d) cannot be reasonably interpreted as referring to any entity other than the Board.

This change is without regulatory effect because it does not substantially alter the meaning of the regulation.

2. In subsection (f), replacing “this act” with “the Acupuncture Licensure Act.” This change is a grammatical change to reflect the fact that the Board’s regulations do not explicitly define the term “act;” because of this, it is more appropriate to use the full short title of the act than the shortened single term. This change is without regulatory effect because it is grammatical in nature and the only reasonable reading of “this act,” in context, is the Acupuncture Licensure Act.
3. In the Reference section, replacing citations to BPC sections 4925, 4939, and 4960 with citations to BPC sections 4933, 4955, and 4955.1.

BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and does not relate to the discipline of a supervising acupuncturist. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the discipline of a supervising acupuncturist. BPC section 4960 requires disciplinary proceedings under the Acupuncture Licensure Law to be conducted pursuant to the Administrative Procedure Act and does not relate to the reasons why the Board may discipline a supervising acupuncturist. Section 1399.430 does not implement, interpret, or make any of these sections specific.

In contrast, BPC section 4933 gives the Board the authority to administer the Acupuncture Licensure Act and carry into effect the provisions of law relating to the practice of acupuncture, which this regulation implements and makes specific. BPC section 4955 authorizes the board to deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist for unprofessional conduct. BPC section 4955.1 specifically authorizes the Board to deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist who is guilty of committing a fraudulent act. Section 1399.430 implements and makes these sections specific by explicitly applying them to supervising acupuncturists and providing the specific acts that may serve as grounds for discipline.

These changes are without regulatory effect because they merely update the Reference section and do not alter the text of the regulation.

Section 1399.431 – Denial, Suspension or Revocation of Registration as a Trainee

The Board proposes the following changes to Section 1399.431:

1. In subsection (c), replacing “division” with “Board.” The current use of “division” looks to be either a relic from the time the Board was a committee within the Board of Medical Quality Assurance or an error. Under BPC section 4940 and the regulations adopted under that section, the Board is the entity that approves acupuncture tutorials and trainees. Accordingly, the term “division” in subsection (c) cannot be reasonably interpreted as referring to any entity other than the Board.

This change is without regulatory effect because it does not substantially alter the meaning of the regulation.

2. In the Reference section, replacing citations to BPC sections 4925, 4939, and 4960 with citations to BPC sections 4933, 4940, 4955, and 4955.1.

BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and does not relate to the discipline of a trainee. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the discipline of a trainee. BPC section 4960 requires disciplinary proceedings under the Acupuncture Licensure Law to be conducted pursuant to the Administrative Procedure Act and does not relate to the reasons why the Board may discipline a trainee. Section 1399.431 does not implement, interpret, or make any of these sections specific.

In contrast, BPC section 4933 gives the Board the authority to administer the Acupuncture Licensure Act and carry into effect the provisions of law relating to the practice of acupuncture, which this regulation implements and makes specific. BPC 4940 authorizes the Board to establish standards for supervision of acupuncturists and specifies reasons for denial as a supervisor. BPC section 4955 authorizes the board to deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist for unprofessional conduct. BPC section 4955.1 specifically authorizes the Board to deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist who is guilty of committing a fraudulent act. Section 1399.431 implements and makes these sections specific by explicitly applying them to a registered trainee and providing the specific acts that may serve as grounds for discipline.

These changes are without regulatory effect because they merely update the Reference section and do not alter the text of the regulation.

Section 1399.434 – Criteria for Approval of Acupuncture and Oriental Medicine Curriculum

The Board proposes the following changes to Section 1399.434:

1. In subsections (b)(1)(C), (b)(2)(C), (b)(2)(D), and (b)(2)(I): italicizing and lowercasing the terms “Tui Na,” “Shiatsu,” “qi gong,” “taiji quan,” and “gua sha” to indicate that they are terms from foreign languages.

These changes are without regulatory effect because they are purely grammatical in nature and do not alter the meaning of the regulation.

2. In subsection (b)(2)(K) the Council’s new trade name: “Council of Colleges of Acupuncture and Herbal Medicine” has been updated. (“In late 2020, Council members approved the adoption of the trade name Council of Colleges of Acupuncture and Herbal Medicine. The trade name was registered with the District of Columbia Department of Consumer and Regulatory Affairs in early 2021.”²).

This change is without regulatory effect because it merely updates the name of the previously recognized Council and does not substantially alter the meaning of the regulation.

3. In subsection (c), inserting an apostrophe before the “s” in “acupuncturists” as a grammatical correction to indicate that the understanding of biochemical etiology pathology belongs to the acupuncturist engaged in the curriculum. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
4. In subsection (e)(3), adding “the” before “Labor Code,” “and the” before “Health Insurance Portability and Accountability Act of 1996,” and an additional “)” after “(HIPAA).” All of these changes improve the readability of the subsection. The additional “)” is also necessary to close the parentheses opened before “municipal.” These changes are without regulatory effect because they are purely grammatical in nature and do not alter the meaning of the regulation.
5. In the Reference section, deleting the citation to BPC section 4944. BPC section 4944 authorizes the Board to investigate and make determinations of the admission of applicants for licenses to practice acupuncture and does not relate to the criteria for approving educational and training curricula. Section 1399.434 does not implement, interpret, or make BPC section 4944 specific.

² See attached, downloaded December 10, 2021 from <https://www.ccahm.org/ccaom/History.asp>

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.435 – Criteria for Acupuncture and Oriental Medicine Training Programs

The Board proposes the following changes to Section 1399.435:

1. In subsections (b) and (g)(4), replacing the references to “Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code” with references to “Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code” to reflect the repeal of that former chapter 7. SB 1544 repealed that former chapter 7 and, under Education Code section 94800.5, all references to that former chapter “shall be construed as referring to” Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code. These changes make the citation correction provided for in that section.

These changes are without regulatory effect because they merely update obsolete cross-references in accordance with current state statutes and do not substantially alter the meaning of the regulation.

2. In subsection (g), replacing “which” with “that” for grammatical consistency and readability. These changes are without regulatory effect because they are purely grammatical in nature and do not substantially alter the meaning of the regulation.
3. In the Reference section, deleting the citations to BPC sections 4939 and 4944. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the criteria for training programs. BPC section 4944 authorizes the Board to investigate and make determinations of the admission of applicants for licenses to practice acupuncture and does not relate to the criteria for training programs. Section 1399.435 does not implement, interpret, or make BPC sections 4939 and 4944 specific.

These changes are without regulatory effect because they merely update the Reference section and do not affect the text of the regulation.

Section 1399.437 – Requirements for Board Approval of Curriculum

The Board proposes the following changes to Section 1399.437:

1. In subsection (b), condensing the citation to BPC “Section 4927.5, subdivision (b)” to “Section 4927.5(b)” to make the sentence more readable. This change

is without regulatory effect because it is purely grammatical in nature and does not affect the meaning of the regulation.

2. In subsection (b), replacing the reference to “subdivision (a) of this regulation” with “subsection (a) of this section.” This change conforms the language of this subsection to other Board regulations (e.g. Sections 1399.414, 1399.416, 1399.425, 1399.468, and 1399.469.1) which use the term “subsection” to refer to subparts of regulations and the term “this section” when referring to language from the same regulation. These changes are without regulatory effect because they are purely grammatical in nature and do not affect the meaning of the regulation.
3. In the Reference section, deleting the reference to BPC section 4937. BPC section 4937 sets forth the scope of practice authorized by an acupuncturist’s license and does not relate to the requirements for Board approval of educational and training curricula. Section 1399.437 does not implement, interpret, or make BPC section 4937 specific.

This change is without regulatory effect because it merely updates the Reference section and does not affect the text of the regulation.

Section 1399.438 – Suspension or Revocation of Approval

The Board proposes to replace the citations to BPC sections 4925 and 4939 with a citation to BPC sections 4927.5 and 4933 in the Reference section.

BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and does not relate to the suspension or revocation of approval of acupuncture training programs. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the suspension or revocation of approval of acupuncture training programs. Section 1399.438 does not implement, interpret, or make BPC sections 4925 and 4939 specific.

In contrast, BPC section 4933 gives the Board the authority to administer the Acupuncture Licensure Act and carry into effect the provisions of law relating to the practice of acupuncture, which this regulation implements and makes specific. BPC section 4927.5 relates to the approval of educational and training programs and provides that such approval may be revoked. Section 1399.438 implements these sections by explicitly providing for Board denial, placement on probation, suspension, or revocation of the approval of acupuncture training programs for failure to comply with the Acupuncture Licensure Act or the Acupuncture Regulations.

These changes are without regulatory effect because they only update the Reference section and do not alter the text of the regulation.

Section 1399.439 – School Monitoring; Records; Reporting

The Board proposes the following changes to Section 1399.439:

1. In subsection (b), rephrasing “If determined necessary, an on-site visit by representatives of the board will be made to the school” as “If determined necessary, representatives of the Board will make an on-site visit to the school” to replace passive language with active language and thereby make the sentence more readable. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
2. In the Reference section, replacing citations to BPC section 4939 with a citation to BPC sections 4927.5 and 4933.

BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the monitoring of records of schools. Section 1399.438 does not implement, interpret, or make BPC section 4939 specific.

In contrast, BPC section 4933 gives the Board the authority to administer the Acupuncture Licensure Act and carry into effect the provisions of law relating to the practice of acupuncture, which this regulation implements and makes specific. BPC section 4927.5 sets forth the criteria for Board approval of educational and training programs and authorizes the Board to review and approve such programs. Section 1399.439 implements BPC section 4927.5 by setting forth requirements and procedures that allow the Board to ensure that approved schools continue to meet the approval criteria.

These changes are without regulatory effect because they only update the Reference section and do not alter the text of the regulation.

Section 1399.441 – Languages

The Board proposes the following changes to Section 1399.441:

1. Replace “committee” with “Board” to reflect the current status and title of the Board as a board, not a committee. This change is without regulatory effect because it has no effect on the meaning of the regulation; under BPC section 4925, any reference to “committee” already refers to the “Acupuncture Board.”
2. Insert “%” after “five percent (5” to conform the figure in parentheses to the spelled-out words. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.

3. In the Reference section, insert an “s” after “Section” because more than one section is cited there. This change is without regulatory effect because it is purely grammatical in nature, only updates the Reference section, and does not alter the text of the regulation.
4. In the Reference section, deleting the citations to BPC sections 4939, 4940, and 4941. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the languages in which examinations are provided. BPC section 4940 relates to standards for tutorial programs and supervising acupuncturists and does not relate to the languages in which examinations are provided. BPC section 4941 allows the Board to grant an applicant for licensure credit for relevant prior training and experience and does not relate to the languages in which examinations are provided. Section 1399.441 does not implement, interpret, or make any of these sections specific.

These changes are without regulatory effect because they only update the Reference section and do not alter the text of the regulation.

Section 1399.443 – Examination Content

The Board propose to delete the citations to BPC sections 4927, 4939, 4940, and 4941 in the Reference section.

BPC section 4927 defines terms for the purposes of the Acupuncture Licensure Act and does not relate to the content of examinations. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the content of examinations. BPC section 4940 relates to standards for tutorial programs and supervising acupuncturists and does not relate to the content of examinations. BPC section 4941 allows the Board to grant an applicant for licensure credit for relevant prior training and experience and does not relate to the content of examinations. Section 1399.443 does not implement, interpret, or make any of these sections specific.

These changes are without regulatory effect because they only update the Reference section and do not alter the text of the regulation.

Section 1399.444 – Lapsed Licenses; Examination

The Board proposes to insert an “s” after “Section” in the Reference section because more than one section is cited there.

The Board also proposes to delete the citations to BPC sections 4939, 4940, and 4941 from the Reference section. BPC section 4939 relates to credential evaluation services and applicants with education completed outside of the United States and does not relate to the examination of acupuncturists with lapsed licenses. BPC section 4940 relates to standards for tutorial programs and supervising acupuncturists and does not relate to the examination of acupuncturists with lapsed licenses. BPC section 4941 allows the Board to grant an applicant for licensure credit for relevant prior training and experience and does not relate to the examination of acupuncturists with lapsed licenses. Section 1399.444 does not implement, interpret, or make any of these sections specific.

These changes are without regulatory effect because they only update the Reference section and do not alter the text of the regulation.

Section 1399.451 – Treatment Procedure

The Board proposes to amend subsection (b) by replacing “manner which will destroy” with “manner that destroys,” replacing “trays which contain” with “trays that contain,” and replacing “tape or strip indicator which shows” with “tape or strip indicator that shows” to improve the grammar and readability of the subsection.

The Board also proposes to amend subsection (e) by replacing “physician or dentist or podiatrist” with “physician, dentist, or podiatrist” to improve the grammar and readability of that subsection.

These changes are without regulatory effect because they are purely grammatical in nature and do not alter the meaning of the regulation.

Section 1399.455 – Advertising

The Board proposes the following amendments to Section 1399.455:

1. In subsections (b) and (c), replacing both instances of “which” with “that” to improve the grammar and readability of the subsection. These changes are without regulatory effect because they are purely grammatical in nature and do not alter the meaning of the regulation.
2. In the Reference section, deleting the citation to BPC section 4938. BPC section 4938 sets for the requirements for licensure for a license to practice acupuncture and does not relate to advertising. Section 1399.455 does not implement, interpret, or make BPC section 4938 specific.

This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.456 – Use of Title “Doctor”

The Board proposes the repeal of Section 1399.456. This regulation was codified by the enactment of SB 628 (Chapter 326, Statutes of 2012). Business and Professions Code section 4936 now codifies what is also in regulation.

This change is without regulatory effect because the regulation being repealed is duplicative of existing statute.

Section 1399.463 – Authority to Issue Citations and Fines

The Board proposes the following changes to Section 1399.463:

1. In subsection (a), after “Acupuncture Licensure Act,” delete “(commencing with Business and Professions Code Section 4925 et seq.)” The extra citation is unnecessary and the change to remove it is necessary to conform the language in this section to the other Board regulations that cite that act, all of which omit the extra citation. (See Sections 1399.430, 1399.431, 1399.438, and 1399.467.) This change is without regulatory effect because it is a purely grammatical change that does not affect the meaning of the regulation.
2. In subsection (a), replace the space between “Board” and “approved” with a hyphen to improve the grammar of the subsection. This change is without regulatory effect because it is a purely grammatical change that does not affect the meaning of the regulation.
3. In the Reference section, remove the citation to BPC section 4925. BPC section 4925 sets forth the short title of the Acupuncture Licensure Act and does not relate to the issuance of citations and fines. Section 1399.463 does not implement, interpret, or make BPC section 4925 specific.

This change is without regulatory effect because it only updates the Reference section and does not affect the text of the regulation.

Section 1399.464 – Exceptions

The Board proposes the following changes to Section 1399.464:

1. In subsection (b), revise “physical abuse, neglect; abandonment; fiduciary abuse” to read “physical abuse, neglect, abandonment, and fiduciary abuse” to improve the grammar and readability of the subsection. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.

2. In subsection (b), delete the citation to “Welfare and Institution Code Section 15610.” Senate Bill No. 1681 (1993-1994 Reg. Sess.) (Stats. 1994, ch. 594, sec. 2) deleted the cited definition of “fiduciary abuse” from Welfare and Institutions Code (WIC) section 15610. Currently, “fiduciary abuse” is no longer defined anywhere in the WIC.

Previously, section 1 of Chapter 197 (Statutes of 1991) had amended WIC Section 15610 (see attached). At the time of Board adoption of this regulation, WIC Section 15610, subdivision (f) defined “Fiduciary abuse” as follows:

“Fiduciary abuse” means a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

The Board is adding the text of the adopted definition into the regulation (with the adjustment of making “his or her” gender neutral pursuant to current Legislative conventions) to prevent confusion and direct persons reading the regulation to the intended definition of “fiduciary abuse.”

This change is without regulatory effect because it merely incorporates previous Board-adopted legislative text that is no longer easily available and does not substantially alter the meaning of the regulation.

Section 1399.467 – Citation for Unlicensed Practice

The Board proposes to delete “of these regulations” after “section 1399.465” to conform to the Board’s practice of omitting that unnecessary language in its other regulations. (See e.g. Sections 1399.415, 1399.424, and 1399.463.) This change is without regulatory effect because it is purely grammatical and does not affect the meaning of the regulation.

Section 1399.468 – Contest of Citations

The Board proposes to condense the two citations to “subdivision (b)(4) of section 125.9 of the code” to “Section 125.9(b)(4) of the Code” to shorten the language of the section and thereby improve its readability. These changes are without regulatory effect because they are purely grammatical and do not affect the meaning of the regulation.

Section 1399.469 – Disciplinary Guidelines

The Board proposes to delete the citations to Government Code section 11400.21 in the Authority and Reference sections because that section of the Government Code was

repealed in 1998. (See Stats. 1996, ch. 390, sec. 6.) This change is without regulatory effect because it only updates the Authority and Reference sections and does not alter the text of the regulation.

Section 1399.469.1 – Required Actions Against Registered Sex Offenders

The Board proposes the following changes to subsection (b)(3) of Section 1399.469.1:

1. Replacing the reference to “this regulation” with “this section.” This change conforms the language of this subsection to other Board regulations (see e.g. Sections 1399.414, 1399.425, and 1399.469.1), which generally use the term “this section” when referring to language from the same regulation. This change is without regulatory effect because it is purely grammatical in nature and does not affect the meaning of the regulation.
2. Inserting “October 1, 2015,” before “the effective date of this regulation.” This change is necessary to make the section more easily comprehensible for persons who may not otherwise know what precise date “the effective date of this regulation” refers to. This change is without regulatory effect because section 1399.469.1 went into effect on October 1, 2015, and the change therefore does not alter the meaning of the regulation.

Section 1399.469.2 – Unprofessional Conduct

The Board proposes to insert commas around the phrase “but is not limited to” in the first paragraph of section 1399.469.2 to improve the grammar of the section and conform it to other usages of the phrase “including, but not limited to,” or “includes, but is not limited to,” in the Board’s regulations. (See e.g. Sections 1399.405, 1399.451, and 1399.464.) This change is without regulatory effect because it is purely grammatical and does not substantially affect the meaning of the regulation.

Section 1399.475 – Requirements for Acupuncture Corporations

The Board proposes to capitalize the title “general corporation law” in accordance with Corporations Code section 100 and revise the citation to “Part 4, Division 3, Title 1 of the Corporations Code” to instead read “Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code”) to conform to the citation format generally used in the Board’s other regulations. (See e.g. Sections 1399.425, 1399.469.1, and 1399.489.1.)

These changes are without regulatory effect because they are purely grammatical and do not substantially affect the meaning of the regulation.

Section 1399.476 – Namestyle

The Board proposes to replace the citation to BPC section 4938 with a citation to BPC section 4978 in the Reference section.

BPC section 4938 relates to the requirements for licensure for an acupuncturist's license and does not relate to the namestyle of acupuncture corporations. Section 1399.476 does not implement, interpret, or make BPC section 4938 specific.

In contrast, BPC section 4978 provides that “The name of an acupuncture corporation and any names under which it may render professional services shall contain ... wording or abbreviations denoting corporate existence.” Section 1399.476 implements BPC section 4978 and makes it specific by explicitly specifying the wording and abbreviations that may be used to denote corporate existence.

This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.477 – Shares: Ownership and Transfer

The Board proposes to update the cross reference in subsection (a) to “Section 13401(d) of the Corporations Code” to instead refer to “Section 13401(e) of the Corporations Code” because the definition of disqualified person is currently located in subdivision (e), not subdivision (d), of Section 13401 of the Corporations Code. This change is without regulatory effect because it merely updates a cross reference and does not substantially alter the meaning of the regulation.

Section 1399.479 – Corporate Activities

The Board proposes to correct the reference to the “Acupuncture Certification Act” to the “Acupuncture Licensure Act” to accurately reflect the short title of that act and the fact that the Board licenses, not certifies, acupuncturists as provided in BPC section 4925. This change is without regulatory effect as it is grammatical and does not substantially alter the meaning of the regulation.

Section 1399.480 – Definitions

The Board proposes the following changes to Section 1399.480:

1. In subsection (a)(1), revise “those persons or organizations” to instead read “a person or organization” to match the singular defined term “Provider” and thereby improve the grammar of the subsection. This change is without regulatory effect as it is purely grammatical in nature and does not substantially alter the meaning of the regulation.

2. In subsection (a)(2), replace “which” with “that” to improve the grammar of the subsection. This change is without regulatory effect as it is purely grammatical in nature and does not substantially alter the meaning of the regulation.
3. In the Reference section, delete the citation to BPC section 4934.2 because that section required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004, and does not relate to the definitions of the terms “provider,” “course,” or “hour.” Section 1399.480 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.481 – Criteria for Provider Approval

The Board proposes the following changes to Section 1399.481:

1. In subsection (a), replace “that” with “which” and revise “those persons, organizations, schools, or other entities” to instead read “a person, organization, school, or other entity” to match the singular “provider” that precedes that phrase. Both changes are necessary to improve the grammar of the subsection. Both changes are without regulatory effect because they are purely grammatical in nature and do not substantially alter the meaning of the regulation. As multiple persons could be an organization (for example, either school, partnership, LLC, or corporation), changing this structure to match the singular of “provider” does not alter the regulatory rights or obligations. Likewise, an umbrella of groups would not be precluded as a singular organization seeking provider status.
2. In the Reference section, delete the citation to BPC section 4934.2 because that section required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004, and does not relate to the criteria for provider approval. Section 1399.481 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.482 – Approved Providers

The Board proposes the following changes to Section 1399.482 to improve the grammar of that section:

1. In subsection (a), lowercase “Article” to conform to other references to “this article” in the Board’s regulations (see e.g. Sections 1399.420, 1399.438, and 1399.480) and delete the unnecessary “has” before “been issued.”
2. In subsection (b), revise “issuance of certificates” to instead read “issuing certificates” to parallel the grammar in the rest of the sentence.
3. In subsection (c)(3), replace “*curriculum vitae*” with “*curricula vitae*.” According to the Merriam-Webster online dictionary (<https://www.merriam-webster.com/dictionary/curriculum%20vitae> (last accessed 9/9/21)), “*curricula vitae*” is the plural form of “*curriculum vitae*.”
4. In subsection (h) insert “the” after “that includes” and add an “s” after “participant.”

These changes are without regulatory effect because they are all purely grammatical in nature and do not substantially alter the meaning of the regulation.

The Board also proposes to delete the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.482 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation

The Board is adding BPC section 4933 to the Reference section. BPC section 4933 gives the Board the authority to administer the Acupuncture Licensure Act and carry into effect the provisions of law relating to the practice of acupuncture, which this regulation implements and makes specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.483 – Approval of Continuing Education Courses

The Board proposes the following changes to Section 1399.483 to improve the grammar and consistency of the language in that section:

1. In subsection (b)(2)(A), insert a comma after “but not limited to” to conform to other uses of the phrase “including, but not limited to,” in the Board’s regulations. (See e.g. Sections 1399.405, 1399.453, and 1399.483(b)(1)(E).)
2. In subsection (b)(2)(B), italicizing the terms “qi gong” and “taiji quan” to indicate that they are terms from a foreign language.

3. In subsection (d)(2), insert an apostrophe before the “s” in “participants” to indicate that the mastery of the course material belongs to the participant in the course.
4. In subsection (e), revise “of name product or service” to instead read “of a named product or service,” revise “between any named product(s) or service discussed and the provider or between any such product or service” to instead read “between any named product(s) or service(s) discussed and the provider or between any such product(s) or service(s),” and delete the “s” in “individual.”
5. In subsection (e), replace the reference to “this subdivision” with “this subsection.” This change conforms the language of this subsection to other Board regulations (see e.g. Sections 1399.416, 1399.425, and 1399.468), which generally use the term “subsection” to refer to subparts of regulations.

These changes are without regulatory effect because they are all purely grammatical in nature and do not substantially alter the meaning of the regulation.

The Board also proposes to delete the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.483 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.484 – Application for Course Approval

The Board proposes to delete the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.484 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.485 – Instructors

The Board proposes the following changes to Section 1399.482 to improve the grammar and consistency of the language of that section:

1. In subsection (b)(1), delete the comma after “instructor” and insert a colon after “shall.”
2. In subsection (b)(1)(A), replace “is otherwise” with “be otherwise” to be consistent with the grammar in subsection (b).

3. In subsection (b)(1)(B)1., delete the final “or” and insert a comma after “subject matter.” Of the three paths, any may be chosen and the deletion of the “or” does not imply that a degree plus experience is required.
4. In subsection (b)(1)(B)2., replace the semicolon with a comma.
5. In subsection (b)(2)(A), delete the final “and.”

These changes are without regulatory effect because they are all purely grammatical in nature and do not substantially alter the meaning of the regulation.

The Board also proposes to delete the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.485 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.486 – Advertisements

The Board proposes the following changes to Section 1399.486 to improve the grammar and consistence of the language of that section:

1. In subsection (a)(1), replace “shall” with “that” and “may” with “do” to match the grammar of subsection (a).
2. In subsection (b), replace the space between “board” and “approved” with a hyphen.
3. In subsection (b), replace the phrase “until written confirmation of approval by the board has been received by the provider” with “until the provider has received written confirmation of approval by the Board” to remove passive language.

These changes are without regulatory effect because they are all purely grammatical in nature and do not substantially alter the meaning of the regulation.

The Board also proposes to delete the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.486 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.487 – Denial, Withdrawal and Appeal of Approval

The Board proposes the following changes to Section 1399.487:

1. Replacing the reference to “Chapter 12, Division 2 of the Business and Professions Code” with “the Acupuncture Licensure Act” and the reference to “Division 13.7 of Title 16 of the California Code of Regulations” with “the Acupuncture Regulations.” These changes are necessary to improve the readability of the section.

These changes are without regulatory effect because (1) under BPC section 4925, the short title of chapter 12 is the “Acupuncture Licensure Act” and (2) under Section 1399.400, the short title of division 13.7 is the “Acupuncture Regulations.”

2. Deleting the citation to BPC section 4934.2 in the Reference section because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.487 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.488 – Processing Times for Provider and Course Request Applications

The Board proposes the following changes to Section 1399.488:

1. In subsection (c), replacing the reference to “Section 1399.488(b)” with “subsection (b)” to improve the readability of the subsection. This change is without regulatory effect because it is grammatical and does not change the meaning of the regulation.
2. In the Reference section, deleting the citation to BPC section 4934.2 because that section merely required the Board to conduct studies and reviews and report on its findings and recommendations by September 1, 2004. Section 1399.488 does not implement, interpret, or make BPC section 4934.2 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.489 – Continuing Education Compliance

The Board proposes the following changes to Section 1399.489:

1. In subsection (h), revise “an occupational analysis, an examination development session, item review session or a passing score workshop” to “an occupational analysis, examination development session, item review session, or passing score workshop” to improve the grammar of that subsection. This change is without regulatory effect because it is purely grammatical in nature and does not alter the meaning of the regulation.
2. In the Reference section, deleting the citation to BPC section 4938 because that section details requirements for initial licensure and not continuing education. Section 1399.489 does not implement, interpret, or make BPC section 4938 specific. This change is without regulatory effect because it only updates the Reference section and does not alter the text of the regulation.

Section 1399.489.1 – Inactive License

The Board proposes to insert “of” after “Article 9 (commencing with Section 700)” in subsection (a) to improve the grammar of that subsection. This change is without regulatory effect because it is purely grammatical and does not change the meaning of the regulation.

Reference Materials



SB-1544 Private postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989. (2003-2004)

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Senate Bill No. 1544

CHAPTER 740

An act to amend Sections 94739, 94931, and 94999 of, to add Section 94742.3 to, to add and repeal Section 94779.2 of, to repeal Section 94742.2 of, and to repeal Chapter 3 (commencing with Section 94301) of Part 59 of, the Education Code, relating to private postsecondary education, and making an appropriation therefor.

[Filed with Secretary of State September 24, 2004. Approved by Governor September 24, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, Figueroa. Private postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989.

(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act provides for its repeal on January 1, 2005.

The existing act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The existing act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes.

This bill would make a technical revision to delete obsolete provisions of a predecessor act.

The bill would revise the definition of "private postsecondary educational institution," as used in the act, to exclude institutions exclusively offering programs that cost \$500 or less. The bill would delete the definition in the act of "short-term seminar training."

The bill would require the Director of Consumer Affairs to appoint a Bureau of Private Postsecondary and Vocational Education Operations and Administrative Monitor by January 3, 2005. The bill would require the monitor to, among other things, assess the bureau's administrative operations and to submit a report to the director, the bureau, and the Legislature by October 1, 2005. Those monitor provisions would become inoperative on April 1, 2006, and would be repealed as of January 1, 2007.

The bill would define "short-term educational programs," and would require registration under the act to offer those programs.

The bill would appropriate \$150,000 from the Private Postsecondary and Vocational Education Administration Fund to the Director of Consumer Affairs for expenditure for the 2004–05, 2005–06, and 2006–07 fiscal years for the purpose of contracting for the employment of the monitor.

This bill would also require the act to become inoperative on July 1, 2007, and thereafter be repealed on January 1, 2008, thus extending operation of the act by 2¹/₂ years, and thereby making an appropriation by extending the existence of the continuously appropriated Student Tuition Recovery Fund.

By extending the operation of the provisions of the act that establish crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 3 (commencing with Section 94301) of Part 59 of the Education Code is repealed.

SEC. 2. Section 94739 of the Education Code is amended to read:

94739. (a) "Private postsecondary educational institution" means any person doing business in California that offers to provide or provides, for a tuition, fee, or other charge, any instruction, training, or education under any of the following circumstances:

(1) A majority of the students to whom instruction, training, or education is provided during any 12-month period is obtained from, or on behalf of, students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(2) More than 50 percent of the revenue derived from providing instruction, training, or education during any 12-month period is obtained from, or on behalf of, students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(3) More than 50 percent of the hours of instruction, training, or education provided during any 12-month period is provided to students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(4) A substantial portion, as determined by the council, by regulation, of the instruction, training, or education provided is provided to students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(b) The following are not considered to be private postsecondary educational institutions under this chapter:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the 12th grade.

(2) Institutions offering education solely avocational or recreational in nature, and institutions offering this education exclusively.

(3) Institutions offering education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(4) Postsecondary or vocational educational institutions established, operated, and governed by the federal government or by this state, or its political subdivisions.

(5) Institutions offering continuing education where the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, trade, or job category.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, trade, or job category.

(C) A bona fide trade, business, or professional organization.

(6) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization comprised of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, if the education is limited to instruction in the principles of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church, religious denomination, or religious organization. Institutions operating under this paragraph shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization. The enactment of this paragraph expresses the legislative intent that the state shall not involve itself in the content of degree programs awarded by any institution operating under this paragraph, as long as the institution awards degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization. Institutions operating under this paragraph shall not award degrees in any area of physical science. Any degree or diploma granted in any area of study under these provisions shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area. Degrees awarded under this paragraph shall reflect the nature of the degree title, such as "associate of religious studies," or "bachelor of religious studies," or "master of divinity" or "doctor of divinity." The use of the degree titles "associate of arts" or "associate of science," "bachelor of arts" or "bachelor of science," "master of arts" or "master of science," or "doctor of philosophy" or "Ph.D." shall only be awarded by institutions approved to operate under Article 8 (commencing with Section 94900) or meeting the requirements for an exemption under Section 94750. The enactment of this paragraph is intended to prevent any entity claiming to be a nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization comprised of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, from marketing and granting degrees or diplomas that are represented as being linked to their church, religious denomination, or religious organization, but which, in reality, are degrees in secular areas of study. An institution operating under this paragraph shall file annually with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporations Code. A college or university operating under this paragraph shall file annually with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporations Code.

(7) (A) Public institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges.

(B) Institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and that are not managed by any entity for profit.

(C) For-profit institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges.

(D) Institutions accredited by the Western Association of Schools and Colleges that do not meet all of the criteria in subparagraph (B) and that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that have been in continuous operation since April 15, 1997, and that are not managed by any entity for profit. Notwithstanding this subdivision, institutions that meet the criteria in this subparagraph shall be subject to Section 94831, except subdivision (c) of that section, and Sections 94832, 94834, 94838, and 94985.

(8) Institutions that exclusively offer programs that cost five hundred dollars (\$500) or less.

SEC. 3. Section 94742.2 of the Education Code is repealed.

SEC. 4. Section 94742.3 is added to the Education Code, to read:

94742.3. "Short-term education program" means an educational service meeting all of the following criteria:

- (a) The total charge to the student is more than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000).
- (b) The length of training is 250 hours or less.
- (c) The service is not any of the following:
 - (1) Instruction leading to a degree.
 - (2) Instruction financed by a federal or state loan or grant.
 - (3) Any educational service that was originally longer than 250 hours or cost more than two thousand dollars (\$2,000), but has been structured into segments to meet the requirement of subdivision (a).
- (c) The service is offered by approved institutions or institutions registered pursuant to Article 9.5 (commencing with Section 94931).

SEC. 5. Section 94779.2 is added to the Education Code, to read:

94779.2. (a) (1) The Director of Consumer Affairs shall appoint a Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor no later than January 3, 2005. The director may retain a person for this position by a personal services contract. In this connection, the Legislature finds, pursuant to Section 19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the operations monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position shall include experience in conducting investigations, familiarity with state laws, rules, and procedures pertaining to the bureau, and familiarity with relevant administrative procedures.

(c) (1) The operations monitor shall assess the bureau's administrative operations, including its school approval, applicant review, revenue collection, and complaint and enforcement processes and procedures with the primary goals of improving the bureau's overall efficiency, improving its effectiveness, and improving its compliance with state laws, particularly with respect to the bureau's approval, complaint, and enforcement processes.

(2) This monitoring duty shall be on a continuing basis for a period of no more than two years from the date of the operations monitor's appointment and shall include, but not necessarily be limited to, all of the following:

(A) Assessing the bureau's revenue collections and needs, and its staffing.

(B) Evaluating the relevant laws and regulations to identify revisions that would improve state regulation and maintain or improve student and public protection.

(C) Improving the quality and consistency of the bureau's processes and performance, including complaint processing and investigation, and reducing timeframes for each.

(D) Reducing any complaint backlog.

(E) Ensuring consistency in the application of sanctions or discipline imposed on regulated institutions and persons.

(F) Improving the quality and timeliness of application and approval processes for regulated institutions and persons, the collection of fees, and the collection of information from, and the ability to disseminate information regarding, those entities or persons regulated by the bureau.

(G) Improving the bureau's ability to perform outreach to prospective students of private postsecondary and vocational educational institutions.

(3) The operations monitor shall exercise no authority over the bureau's management or staff; however, the bureau and its staff shall cooperate with him or her, and shall provide data, information, and files as requested by the monitor to perform all of his or her duties.

(4) The director shall assist the operations monitor in the performance of his or her duties, and the operations monitor shall have the same investigative authority as the director.

(d) The operations monitor shall submit an initial written report of his or her findings and conclusions to the director, the bureau, and the Legislature no later than October 1, 2005, and every six months thereafter, and shall be available to make oral reports to each if requested to do so. The operations monitor may also provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the Legislature. The operations monitor shall make his or her reports available to the public and the media. The operations monitor shall make every effort to provide the department and the bureau with an opportunity to reply to any facts, finding, issues, or conclusions in his or her reports with which the department or the bureau may disagree.

(e) The bureau shall reimburse the department for all of the costs associated with the employment of an operations manager.

(f) This section shall become inoperative on April 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 94931 of the Education Code is amended to read:

94931. (a) No private postsecondary educational institution, except those offering degrees and approved under Article 8 (commencing with Section 94900) or offering vocational and nondegree granting programs and approved under Article 9 (commencing with Section 94915), or those that are exempt from this chapter, may offer educational services or programs or short-term educational programs unless the institution has been registered by the bureau as meeting the requirements of this article.

(b) An institution approved to offer degrees under Article 8 (commencing with Section 94900) or approved to offer vocational and nondegree granting programs under Article 9 (commencing with Section 94915) may offer registered short-term education programs without affecting its status under either of those articles so long as the registered short-term education program is disclosed in its approval to operate application or the institution completes a registration application and receives specific authorization for the program, maintains compliance for all registered programs in conformity with this article, and maintains a set of student records for registered programs separate from its approved programs. Any registered institution that offers an educational program not specified in subdivision (c) or not otherwise exempt from this chapter shall be approved under Article 8 (commencing with Section 94900) or Article 9 (commencing with Section 94915) and shall comply with this chapter.

(c) Except as otherwise provided in this article, this chapter does not apply to an educational service that qualifies for registration status and that complies with this article. The educational services that qualify for registration status are limited to:

(1) An educational service, as defined in Section 94733, that is offered to provide an intensive English language program.

(2) An educational service, as defined in Section 94742.1, that is offered to provide short-term career training.

(3) An educational service, as defined in Section 94742.2, that is offered to provide short-term seminar training.

(4) An educational service that is offered to assist students to prepare for an examination for licensure, except as provided in Section 94787.

(5) An educational service that consists of continuing education not otherwise exempt from this chapter.

(d) An institution that qualifies under any of paragraphs (1) to (4), inclusive, of subdivision (c) shall complete a registration form provided by the bureau, including a signed declaration by the chief executive officer of the institution under penalty of perjury, and provide all of the following information for public disclosure:

(1) The owner's legal name, headquarters address, and the name of an agent for the service of process within California.

(2) All names, whether real or fictitious, under which the owner is doing and will do business.

(3) The names and addresses of the principal officers of the institution.

(4) A list of all California locations at which the institution operates, its offerings, and, if previously registered, the number of students enrolled in California during the preceding year.

(5) A copy of the registration form or agreement that enrolls the student in the educational service that contains all of the following:

(A) The name and address of the location where instruction will be provided.

(B) The title of the educational program.

(C) The total amount the student is obligated to pay for the educational service.

(D) A clear and conspicuous statement that the enrollment form or agreement is a legally binding instrument when signed by the student and accepted by the institution.

(E) The refund policy developed by the institution unless this article specifies a different refund policy.

(F) Unless this article specifies that the institution is required to participate in the Student Tuition Recovery Fund, a statement that the institution does not participate in that fund.

(G) In 10-point boldface type or larger, the following statement: "Any questions or problems concerning this school that have not been satisfactorily answered or resolved by the school should be directed to the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs (insert city, address, CA ZIP Code number, and telephone number)."

(H) Schools approved under paragraph (1) of subdivision (c) of Section 94931 shall also include with the statement required by subparagraph (G) information referring the student to a consulate of his or her country and the United States Immigration and Naturalization Service.

(6) A brochure or catalog and a sample advertisement used to promote the educational service.

(7) A copy of its certificate of completion.

(8) If the educational service offers short-term career training, the institution shall comply with the requirements of Sections 94804 and 94806.

(9) If the institution assists students in obtaining financing from a third party for the cost of the educational services at the institution, a copy of the contract or finance agreement reflecting that financing.

(e) The bureau shall establish the initial registration fee and the annual fee to be paid by institutions registered under this article. No institution shall be registered pursuant to this article unless it has paid the appropriate fees required by the bureau. Upon receipt of an institution's initial application for registration for a program, the bureau may conduct a site visit pursuant to subdivision (c) of Section 94915.

(f) For the purposes of communication with other state agencies, any organization or individual registered to offer short-term seminar training may state that they are "authorized" by the State of California.

(g) (1) Except as provided by subdivision (f), any institution registered pursuant to this article shall be restricted to stating that their training is "registered" with the State of California and is prohibited from using the words "approval," "approved," "approval to operate," "approved to operate," "authorized," "licensed," or "licensed to operate."

(2) The institution shall place the following statement in all brochures, catalogues, enrollment agreements, and registration forms, in a conspicuous location in at least 12-point boldfaced type:

"We are registered with the State of California. Registration means we have met certain minimum standards imposed by the state for registered schools on the basis of our written application to the state. Registration does not mean we have met all of the more extensive standards required by the state for schools that are approved to operate or licensed or that the state has verified the information we submitted with our registration form."

(h) The bureau may require, at least every three years following the initial registration date, that a registered institution verify all or part of the information required to be provided with the registration form under subdivision (d).

(i) Sections 94812 and 94818, Sections 94822 to 94825, inclusive, and Sections 94829 to 94838, inclusive, and Sections 94841 and 94846 shall apply to any institution registered pursuant to this article.

(j) Article 1 (commencing with Section 94700), Article 2 (commencing with Section 94710), Article 3 (commencing with Section 94750), Article 3.5 (commencing with Section 94760), Article 4 (commencing with

Section 94770), and Article 13 (commencing with Section 94950) shall apply to any institution registered pursuant to this article.

SEC. 7. Section 94999 of the Education Code is amended to read:

94999. This chapter shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund, established pursuant to Section 94932 of the Education Code, to the Director of Consumer Affairs for expenditure for the 2004–05, 2005–06, and 2006–07 fiscal years for the purpose of contracting for the employment of a Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor pursuant to Section 94779.2 of the Education Code.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



AB-1117 Asian medicine. (2005-2006)

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Assembly Bill No. 1117

CHAPTER 649

An act to amend Sections 2075, 3642, 4926, 4935, 4937, and 4939 of the Business and Professions Code, relating to medicine.

[Approved by Governor October 07, 2005. Filed with Secretary of State October 07, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1117, Asian medicine.

(1) Existing law provides for the licensing and regulation of the practice of oriental medicine and acupuncture. An acupuncturist's license authorizes the holder to perform or prescribe, among other things, oriental massage.

This bill would change the term "oriental medicine" to "Asian medicine" and would change the term "oriental massage" to "Asian massage." The bill would state the intent of the Legislature that this change not affect any previous interpretations or judicial decisions.

(2) This bill would incorporate additional changes in Section 4935 of the Business and Professions Code, to become operative only if AB 1116 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

(3) This bill would also incorporate additional changes in Section 4937 of the Business and Professions Code, to become operative only if AB 1113 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that the provisions of this act changing the word "oriental" to "Asian" shall not affect any previous interpretations or judicial decisions insofar as they analyze or use the term "oriental."

SEC. 2. Section 2075 of the Business and Professions Code is amended to read:

2075. The performance of acupuncture by a certified acupuncturist or other licentiate legally authorized to practice acupuncture within his or her scope of practice or a person licensed or certified in another state to perform acupuncture or other forms of traditional Asian medicine, alone or in conjunction with other forms of traditional Asian medicine, when carried on in a program affiliated with and under the jurisdiction of an approved medical school or approved acupuncture school, for the primary purpose of scientific investigation of

acupuncture, shall not be in violation of this chapter, but those procedures shall be carried on only under the supervision of a licensed physician and surgeon.

Any medical school or approved acupuncture school conducting research into acupuncture under this section shall report to the Legislature annually on the fifth legislative day of the regular session of the Legislature concerning the results of that research, the suitability of acupuncture as a therapeutic technique, and performance standards for persons who perform acupuncture.

SEC. 3. Section 3642 of the Business and Professions Code is amended to read:

3642. A naturopathic doctor may not perform any of the following functions:

- (a) Prescribe, dispense, or administer a controlled substance or device identified in Sections 801 to 971, inclusive, of Title 21 of the United States Code, except as authorized by this chapter.
- (b) Administer therapeutic ionizing radiation or radioactive substances.
- (c) Practice or claim to practice any other system or method of treatment beyond that authorized by this chapter, for which licensure is required, unless otherwise licensed to do so.
- (d) Administer general or spinal anesthesia.
- (e) Perform an abortion.
- (f) Perform any surgical procedure.
- (g) Perform acupuncture or traditional Chinese and Asian medicine, including Chinese herbal medicine, unless licensed as an acupuncturist as defined in subdivision (c) of Section 4927.

SEC. 4. Section 4926 of the Business and Professions Code is amended to read:

4926. In its concern with the need to eliminate the fundamental causes of illness, not simply to remove symptoms, and with the need to treat the whole person, the Legislature intends to establish in this article, a framework for the practice of the art and science of Asian medicine through acupuncture.

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

SEC. 5. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) (1) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to hold himself or herself out as practicing or engaging in the practice of acupuncture.

(2) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person to fraudulently buy, sell, or obtain a license to practice acupuncture, or to violate the provisions of this chapter.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed

acupuncturist," "Asian medicine," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, Asian medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed one year in duration at a school approved by the board.

SEC. 5.5. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) (1) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to hold himself or herself out as practicing or engaging in the practice of acupuncture.

(2) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person to fraudulently buy, sell, or obtain a license to practice acupuncture, or to violate the provisions of this chapter.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "Asian medicine," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, Asian medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she meets one of the following requirements:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter.

(2) Is a graduate of a school of acupuncture approved by the board and participating in either of the following:

(A) A postgraduate review course that does not exceed one year in duration at a school approved by the board.

(B) A postgraduate internship pursuant to subdivision (f) of Section 4938.

SEC. 6. Section 4937 of the Business and Professions Code is amended to read:

4937. An acupuncturist's license authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

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

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

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

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

SEC. 6.5. Section 4937 of the Business and Professions Code is amended to read:

4937. An acupuncturist's license authorizes the holder thereof:

(a) To diagnose within his or her scope of practice.

(b) To engage in the practice of acupuncture.

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

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

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

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

SEC. 7. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) On or before January 1, 2004, the board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Standards for the approval of training programs shall include a minimum of 3,000 hours of study in curriculum pertaining to the practice of an acupuncturist. This subdivision shall apply to all students entering programs on or after January 1, 2005.

(c) Within three years of initial approval by the board, each program so approved by the board shall receive full institutional approval under Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code, or the board's approval of the program shall automatically lapse.

SEC. 8. Section 5.5 of this bill incorporates amendments to Section 4935 of the Business and Professions Code proposed by this bill and AB 1116. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 4935 of the Business and Professions Code, and (3) this bill is enacted after AB 1116, in which case Section 5 of this bill shall not become operative.

SEC. 9. Section 6.5 of this bill incorporates amendments to Section 4937 of the Business and Professions Code proposed by this bill and AB 1113. It shall only become operative if (1) both bills are enacted and become

effective on or before January 1, 2006, (2) each bill amends Section 4937 of the Business and Professions Code, and (3) this bill is enacted after AB 1113, in which case Section 6 of this bill shall not become operative.

Assembly Bill No. 2190

CHAPTER 667

An act to amend Sections 4927.5, 4928, 4934, 4938, and 4974 of, and to repeal and add Section 4939 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 26, 2016. Filed with
Secretary of State September 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2190, Salas. Acupuncture Board: executive officer: education.

Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board, within the Department of Consumer Affairs. Existing law authorizes the board, with the approval of the Director of Consumer Affairs, to appoint an executive officer who is exempt from civil service. Existing law repeals the provisions establishing the board and authority for it to appoint an executive officer on January 1, 2017.

The bill would extend the operation of the board and the board's authority to appoint an executive officer until January 1, 2019.

Existing law requires, among other things, the completion of an approved educational and training program in order to be issued a license to practice acupuncture. For purposes of the act, beginning January 1, 2017, existing law defines "approved educational and training program" as a school or college offering education and training in the practice of an acupuncturist who meets various requirements, including offering curriculum that includes specified hours of didactic and laboratory training and supervised clinical instruction. Existing law requires these programs to submit that curriculum to the board and to receive board approval of the curriculum.

This bill would provide that any school or college offering education and training in the practice of acupuncture that was approved by the board prior to January 1, 2017, is deemed to have had its curriculum approved by the board if its approval has not been revoked and it has not changed its curriculum since receiving board approval.

Beginning January 1, 2017, existing law requires the board to establish standards for the approval of educational training and clinical experience received outside the United States.

This bill would repeal that board requirement. The bill would instead require an applicant completing education outside of the United States to submit documentation of his or her education to a board approved credential evaluation service for evaluation and to have the results of the evaluation sent directly from the credential evaluation service to the board. The bill would require the board to examine the received results to determine if an

applicant meets requirements for licensure and, if the evaluated education is not sufficient, would authorize the board to offer the applicant additional education, training, or testing, as specified. The bill would require the board to establish, by regulation, an application process, criteria, and procedures for approval of a credential evaluation service. The bill would require the regulations to, at a minimum, require the credential evaluation service to meet specified requirements. The bill would define, for these purposes, an “approved credential evaluation service” as an agency or organization that is approved by the board to evaluate education completed outside the United States and identify the equivalency of that education to education completed within the United States. The bill would also make nonsubstantive changes.

The people of the State of California do enact as follows:

SECTION 1. Section 4927.5 of the Business and Professions Code, as added by Section 2 of Chapter 397 of the Statutes of 2014, is amended to read:

4927.5. (a) For purposes of this chapter, “approved educational and training program” means a school or college offering education and training in the practice of an acupuncturist that meets all of the following requirements:

(1) Offers curriculum that includes at least 3,000 hours of which at least 2,050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction. Has submitted that curriculum to the board, and has received board approval of the curriculum. Any school or college offering education and training in the practice of acupuncture that was approved by the board prior to January 1, 2017, has not had its approval revoked, and has not changed its curriculum since receiving board approval, is deemed to have had its curriculum approved by the board for the purposes of this section.

(2) Has received full institutional approval under Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code.

(3) Meets any of the following:

(A) Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.

(B) Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.

(C) Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2),

and is granted candidacy status within three years of the date that letter was submitted.

(b) Within 30 days after receiving curriculum pursuant to paragraph (1), the board shall review the curriculum, determine whether the curriculum satisfies the requirements established by the board, and notify the school or college, the Accreditation Commission for Acupuncture and Oriental Medicine, and Bureau of Private and Postsecondary Education of whether the board has approved the curriculum.

(c) This section shall become operative on January 1, 2017.

SEC. 2. Section 4928 of the Business and Professions Code is amended to read:

4928. (a) The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 4934 of the Business and Professions Code is amended to read:

4934. (a) The board, by and with the approval of the director, may appoint an executive officer who is exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 4. Section 4938 of the Business and Professions Code is amended to read:

4938. (a) The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(1) Is at least 18 years of age.

(2) Furnishes satisfactory evidence of completion of one of the following:

(A) (i) An approved educational and training program.

(ii) If an applicant began his or her educational and training program at a school or college that submitted a letter of intent to pursue accreditation to, or attained candidacy status from, the Accreditation Commission for Acupuncture and Oriental Medicine, but the commission subsequently denied the school or college candidacy status or accreditation, respectively, the board may review and evaluate the educational training and clinical experience to determine whether to waive the requirements set forth in this subdivision with respect to that applicant.

(B) Satisfactory completion of a tutorial program in the practice of an acupuncturist that is approved by the board.

(C) In the case of an applicant who has completed education and training outside the United States, documented educational training and clinical experience that meets the standards established pursuant to Sections 4939 and 4941.

(3) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

(4) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(5) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state that is an approved educational and training program. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

(b) Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 5. Section 4939 of the Business and Professions Code, as amended by Section 37 of Chapter 426 of the Statutes of 2015, is repealed.

SEC. 6. Section 4939 is added to the Business and Professions Code, to read:

4939. (a) For purposes of this chapter, "approved credential evaluation service" means an agency or organization that is approved by the board to evaluate education completed outside the United States and identify the equivalency of that education to education completed within the United States.

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

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

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

(c) If the board receives the results of an applicant's evaluation pursuant to subdivision (b), the board shall examine the results and determine whether the applicant meets requirements for licensure. If the evaluated education is not sufficient to meet the requirements for licensure, the board may offer the applicant additional education, training, or standardized testing to satisfy the educational requirements. The board shall not require the applicant to complete education, training, or testing that is not otherwise required of applicants who complete education or training within the United States.

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

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

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

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

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

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

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

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

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

(9) Have an appeal procedure for applicants.

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

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

(A) Its credential evaluation policy.

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

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

SEC. 7. Section 4974 of the Business and Professions Code is amended to read:

4974. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Acupuncture Fund, which fund is created to carry out the provisions of this chapter, upon appropriation by the Legislature.

Assembly Concurrent Resolution No. 260

RESOLUTION CHAPTER 190

Assembly Concurrent Resolution No. 260—Relative to gender-neutral language.

[Filed with Secretary of State September 5, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 260, Low. Statutes: gender-neutral language: pronouns.

This measure would encourage the Legislature to engage in a coordinated effort to revise existing statutes and introduce new legislation with inclusive language by using gender-neutral pronouns or reusing nouns to avoid the use of gendered pronouns. The measure would also encourage state agencies to engage in similar efforts to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.

WHEREAS, California has the highest population of lesbian, gay, bisexual, and transgender (LGBT) people in the United States. It is often the legal “gold standard” for nondiscrimination policies and laws to protect LGBT individuals in the areas of employment, housing, and education, which other states often emulate in their own policies and laws; and

WHEREAS, One area that has come to the forefront in the last few years is the treatment in this state—and even in the state capitol—of transgender people and people who do not identify with the traditional gender binary; and

WHEREAS, Legislatively, this state has done much to address and protect the transgender and nonbinary community, but there are still things transgender and nonbinary people face daily, big and small, that undermine their recognition, representation, and very existence in society; and

WHEREAS, The drafting guidelines of the Office of Legislative Counsel direct drafting the language of legislation in a gender-neutral form. The implementation of the guidelines does an excellent job of reducing the amount of gendered language within codified and uncodified state statutes as legislation is introduced or amended; and

WHEREAS, Gendered language nonetheless persists in state statutes as many older provisions of codified law have not been amended or repealed and thus remain unchanged; and

WHEREAS, The use of the pronouns “he” or “she” for individuals is not inclusive of all transgender people, nonbinary people who may not ascribe to a particular or fixed gender, or people who otherwise use different pronouns; and

WHEREAS, One grammatical technique to avoid gendered pronouns is to reuse the noun in lieu of a pronoun. A number of states' drafting manuals for legislation recognize this style usage, including the manuals for this state, Connecticut, Montana, and North Dakota; and

WHEREAS, Other usages that address the issue include creating new words to serve as gender-neutral pronouns and expanding the use of the word "they" to include its use as a singular pronoun. The latter usage is becoming more widespread; and

WHEREAS, Certain writing style guides, including the "Chicago Manual of Style" and the Associated Press stylebook, have recently accepted the use of "they" as a singular pronoun in certain cases; and

WHEREAS, The use of "they" as a singular pronoun is inclusive of transgender or nonbinary persons in addition to persons of the male and female genders; and

WHEREAS, It should be a priority for this state to make sure that the language we use to draft our laws, applicable to all persons, recognizes and represents all persons; now, therefore, be it


Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature should engage in a coordinated effort to revise existing statutes and introduce new legislation with inclusive language by using gender-neutral pronouns or reusing nouns to avoid the use of gendered pronouns; and be it further

RESOLVED, That state agencies should engage in similar efforts to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for distribution.



Council of Colleges of
Acupuncture and Herbal Medicine

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About Us

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HISTORY

The National Council of Acupuncture Schools and Colleges (NCASC) was incorporated in 1982 to advance the standing of acupuncture and herbal medicine in the U.S. by promoting educational excellence within the field. The founders and early members of the Council were educators who understood that the integrity of any profession is directly dependent upon the quality of its educational system.

Accordingly, the Council created a separate accreditation commission to establish measurement standards for educational achievement with the goal of obtaining formal recognition and approval of those standards in the traditional higher education community. This commission became the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).

In 1989, NCASC was granted federal tax exemption status under IRS Code Section 501(c)(6). By 1990, ACAOM had achieved its original objectives: U.S. Department of Education recognition for accreditation of acupuncture programs at the professional master's degree level and recognition by the prestigious Council on Post-Secondary Accreditation (COPA). In 1993, the

articles of incorporation were amended to change the organizational name to Council of Colleges of Acupuncture and Oriental Medicine (CCAOM). In late 2020, Council members approved the adoption of the trade name Council of Colleges of Acupuncture and Herbal Medicine. The trade name was registered with the District of Columbia Department of Consumer and Regulatory Affairs in early 2021.

Since its inception, the Council has been driven by a single overriding commitment to deepen practitioners' knowledge, understanding and skills. The Council leadership and member colleges are credited for having continually reviewed, refined, and expanded the basic acupuncture & herbal medicine program "core curriculum", the description of essential knowledge and skills taught by all member programs, resulting in:

- A substantial increase in the quality and quantity of didactic and clinical education
- Accreditation of the master's level programs
- Creation of new standards for programs offering complementary training in herbal medicine
- Development and accreditation of doctoral level programs

The incredible results of this cooperative effort among the Council's member colleges have become apparent. Not only has the Council been vital to the evolution of a more highly skilled practitioner, but it has played a pivotal role in the accomplishment of the broader mission of the profession. The Council has influenced the acceptance and accessibility of acupuncture and herbal medicine throughout the country.

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STATUTES OF CALIFORNIA

1991-92

REGULAR SESSION

1991 CHAPTERS

to December 31, 1991. Legislation establishing the agency is currently pending, and if enacted would be effective January 1, 1992. After December 31, 1991, and upon determination that all obligations of the agency in the Office of Planning and Research have been met, the Director of Finance is authorized to transfer expenditure authority not used by the agency and remaining in this item to Item 0558-001-001.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the package affecting the fiscal affairs of the State of California for the 1991-92 fiscal year as reflected by the contents of this act, it is necessary for this act to take effect immediately.

CHAPTER 197

An act to amend Section 15610 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 27, 1991. Filed with
Secretary of State July 29, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 15610 of the Welfare and Institutions Code is amended to read:

15610. As used in this chapter:

(a) "Elder" means any person residing in this state, 65 years of age or older.

(b) (1) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(2) "Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(c) "Physical abuse" means all of the following:

(1) Assault, as defined in Section 240 of the Penal Code.

(2) Battery, as defined in Section 242 of the Penal Code.

(3) Assault with a deadly weapon or force likely to produce great

bodily injury, as defined by Section 245 of the Penal Code.

(4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(5) Sexual assault, which means any of the following:

(A) Sexual battery, as defined in Section 243.4 of the Penal Code.

(B) Rape, as defined in Section 261 of the Penal Code.

(C) Rape in concert, as described in Section 264.1 of the Penal Code.

(D) Incest, as defined in Section 285 of the Penal Code.

(E) Sodomy, as defined in Section 286 of the Penal Code.

(F) Oral copulation, as defined in Section 288a of the Penal Code.

(G) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(6) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(A) For punishment.

(B) For a period significantly beyond that for which the restraint or medication was authorized pursuant to the instructions of a physician licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(C) For any purpose not consistent with that authorized by the physician.

(d) "Neglect" means the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition.

(e) "Abandonment" means the desertion or willful foresaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(f) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(g) "Abuse of an elder or a dependent adult" means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, isolation, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical

harm or mental suffering.

(1) For purposes of this subdivision, "isolation" includes any of the following:

(A) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(B) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor, where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(C) False imprisonment, as defined in Section 236 of the Penal Code.

(D) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(2) The acts set forth in paragraph (1) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician licensed to practice medicine in the State of California, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(3) The acts set forth in paragraph (1) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

(h) "Care custodian" means an administrator or an employee, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff, of any of the following public or private facilities when the facilities provide care for elders or dependent adults:

(1) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(2) Clinics.

(3) Home health agencies.

(4) Adult day health care centers.

(5) Secondary schools which serve 18- to 22-year-old dependent adults and postsecondary educational institutions which serve dependent adults or elders.

(6) Sheltered workshops.

(7) Camps.

(8) Community care facilities, as defined by Section 1502 of the Health and Safety Code and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(9) Respite care facilities.

(10) Foster homes.

(11) Regional centers for persons with developmental disabilities.

(12) State Department of Social Services and State Department of Health Services licensing divisions.

(13) County welfare departments.

(14) Offices of patients' rights advocates.

(15) Office of the long-term care ombudsman.

(16) Offices of public conservators and public guardians.

(17) Any other protective or public assistance agency which provides health services or social services to elders or dependent adults.

(i) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, optometrist, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats elders or dependent adults.

(j) "Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of elders and dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(l) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances

where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

(m) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(n) "Long-term care ombudsman" means the State Long-Term Care Ombudsman, long-term care ombudsmen of the Department of Aging, and persons acting in the capacity of ombudsman coordinators as described in Chapter 9 (commencing with Section 9700) of Division 8.5.

(o) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(p) "Mental suffering" means deliberately subjecting a person to fear, agitation, confusion, severe depression, or other forms of serious emotional distress, through threats, harassment, or other forms of intimidating behavior.

(q) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(r) "Local law enforcement agency" means a city police or county sheriff's department, or a county probation department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

CHAPTER 198

An act to amend Section 31633 of the Water Code, and to amend Section 15.4 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961), relating to water.

[Approved by Governor July 27, 1991 Filed with
Secretary of State July 29, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 31633 of the Water Code is amended to read:

31633. The amount of any replenishment assessment levied within an area of benefit shall be established in the discretion of the board, except that no assessment shall exceed the sum of the following costs and charges:

(a) Those charges under the contract between the Coachella Valley Water District and the state for an imported water supply