

**Title 16. Professional and Vocational Regulations
Division 13.7 Acupuncture Board**

Final Statement of Reasons

Hearing Date: April 30, 2020

Subject Matter of Proposed Regulations: Substantial Relationship Criteria and Rehabilitation Criteria for Denials, Suspensions and Revocations

Sections Affected: Sections 1399.469.4, 1399.469.5, 1399.469.6 of Title 16 of the California Code of Regulations (CCR)

Request for Effective Date on Filing:

The Board requests that this regulatory proposal become effective upon filing to align as closely as possible with the statutory implementation date of July 1, 2020, in AB 2138. AB 2138 changed a policy of automatic denials of licensure for individuals with criminal convictions. These regulations make clear the Program's statutory commitment to providing an opportunity for a "second chance" and explain how the Program will individually examine each licensure, renewal, or reinstatement decision for individuals with a criminal conviction. Further, they clarify to the public how the Program will decide which convictions are substantially related to licensure. These regulations would benefit all Californians, both those given a "second chance" for licensure and those that could employ or receive services from them. Further, allowing for licensure and employment could potentially reduce recidivism as well as provide Californians with greater choices in licensees. Therefore, it would be of public benefit to hasten the effective date of these regulations.

Updated Information: The Initial Statement of Reasons is included in the file.

Revisions were made to the proposed language to resolve substantive concerns with the regulatory proposal based on discussion between Department of Consumer Affairs (DCA) and OAL.

During the course of the rulemaking process, the Board modified the regulatory proposal as follows:

1. Amend 16 CCR 1399.469.4 (Substantial Relationship Criteria) as follows:

(a) Subsection (a):

- (i) Add references to Business and Professions Code (BPC) sections 4955, 4955.1, and 4955.2, which authorizes the Board to deny, suspend, or revoke, or impose probationary conditions upon the license of any acupuncturist for acts the Board's Licensure Act considers unprofessional

conduct for purposes of denial of a license, suspension, or revocation.

(b) Subsection (b):

- (i) Make minor and technical revisions to use the appropriate term “subsection” in place of “subdivision”.
- (ii) Replace semi-colons with periods at the end of (b)(1) and (b)(2).

Remove the word “and” from the end of (b)(2) to accommodate the replacement of a period instead of semi-colon at the end of (b)(1).

(c) Add Subsection (c):

- (i) Add list of substantially related crimes, professional misconduct, and acts that the Board has determined are causes for denial, suspension or revocation of a license for purposes of BPC section 1399.469.4 subsection (a). It also specifies the list of crimes, professional misconduct, and acts are included, but are not limited to, just those listed. Therefore, the regulation does not serve as a comprehensive list.

- (ii) Add a list of crimes as subparagraphs as follows:

(1.) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Acupuncture Licensure Act (BPC Division 2, Chapter 12) (Act) or other state or federal laws governing the practice of acupuncture. Specifying that violations of the terms of the Act or other related state or federal laws, whether they be direct or indirect, is necessary to clarify and identify the professional misconduct and acts that are considered substantially related by the Board, as well as potential causes for denial, suspension or revocation. This specificity will assist the Board, an ALJ hearing a case, an applicant, a petitioner and/or their attorney better understand how these violations relate to the Act and other laws.

(2.) A conviction of a crime involving fiscal dishonesty. Specifying convictions that involve fiscal dishonesty identifies a particular type of crime the Board has determined to be substantially related to the functions, qualifications, and duties of an acupuncturist based upon precedential decisions. The statute identifies, at minimum, that this type of crime is included as a substantially related crime when the Board considers a denial, suspension or revocation. Consumers put trust in licensees when seeking acupuncture treatment and expect they will not be defrauded. Additionally, a regular function and duty of an acupuncturist is to charge for treatments, receive money from patients, and submit insurance claims. Practicing with fiscal honesty is

an essential part of being an acupuncturist. By the Board identifying that fiscal dishonesty crimes are substantially related, public protection can more easily be attained, especially as it serves as statutory justification as part of an administrative case when an applicant or licensee requests a hearing to contest a disciplinary action based upon these forms of acts or professional misconduct.

(d) Made minor revisions to the authority and reference section.

2. Amend 16 CCR 1399.469.5 (Criteria for Rehabilitation – Denial of Licensure):

(a) Subsection (a):

- (i) Remove and replace “was” with “has been” for correct grammar.
- (ii) Delete the text, “and is presently eligible for a license” for increased clarity, since there can be other eligibility requirements for obtaining a license, making this phrase confusing.

(b) Subsection (b):

- (i) Remove and restates the proposal to clarify the circumstances under which the Board will apply rehabilitation criteria to applicants who have not completed a criminal sentence without a violation, where the applicant with a criminal conviction did not make a showing or rehabilitation under subsection (a), the denial is based on professional misconduct (as that term is used under new BPC section 480), or the denial is based on one or more grounds, as specified, under the Acupuncture Licensure Act (Act). This clarifying amendment is necessary to inform the public, applicants, and Board staff that rehabilitation criteria will be considered for all application denials, regardless of whether the grounds for denial stem from BPC section 480. The clarifications promote equity and fairness to all applicants in keeping with the legislative intent of AB 2138.
- (ii) Paragraph (1): replace the term “severity” with “gravity” to align with the language used in the new version of BPC section 481, subsection(b), paragraph (1).
- (iii) Paragraphs (1), (2), and (3): add “professional misconduct” to include the conduct described under the new BPC section 480 as grounds for denial.
- (iv) Paragraph (2): remove “under Section 480 of the Business and Professions Code”, as this paragraph is applicable to all statutory grounds for denial, as specified, not just grounds under BPC section 480, for clarity.

- (v) Paragraph (3): remove the incorrect reference to “subdivision” (1) or (2) and replace the correct reference with “paragraph” instead for clarity.
- (vi) Paragraph (4): Delete the phrase “The extent which” in paragraph (4) and add the word “Whether” for clarity.
- (vii) Paragraph (5): remove the incorrect reference to “subdivision” (b) (1) through (5) and replace the correct reference with “subsection” instead.

(c) Made a minor revision to the authority section.

3. Amend section 1399.469.6 of Article 6 of Division 13.7 of Title 16 of the CCR (Criteria for Rehabilitation – Suspensions or Revocations):

(a) Subsection (a):

- (i) Add “under Section 490 of the Business and Professions Code” to clarify the conditions for applying rehabilitation criteria for suspension or revocation of a license for criminal convictions pursuant to BPC section 490.
- (ii) Remove “and is presently eligible for a license” for increased clarity of the text, since there can be other eligibility requirements for retaining or regaining a license, making this phrase confusing.

(b) Subsection (b): remove and restate the subsection to clarify the circumstances under which the Board will apply rehabilitation criteria to licensees who have not completed a criminal sentence without a violation, the licensee with a criminal conviction did not make a showing of rehabilitation based on the criteria shown in subsection (a), the suspension or revocation is based on a disciplinary action as defined in BPC section 141, or the suspension or revocation is based on one or more of the grounds specified in the Act applicable to denials, suspensions, or revocations of a license issued by the Board (BPC 4955, 4955.1, and 4955.2.) This clarifying amendment is necessary to inform the public, licensees, and Board staff that rehabilitation criteria will be considered for all license suspensions and revocations, regardless of whether the grounds for discipline stem from BPC §490. The clarifications also promote equity and fairness to all licensees in keeping with the legislative intent of AB 2138.

(c) Paragraphs (1) through (7): several modifications were made for corrections and technical clean up.

- (i) Paragraph (1): remove the term “severity” and replace with the term “gravity” to align with the language used in the new version of BPC §481(b)(1).
- (ii) Paragraphs (1) and (3): add “disciplinary action(s)” to include the conduct

described under BPC §141 as grounds for suspension or revocation.

- (iii) Paragraph (3): remove incorrect reference to “subdivision” (1) or (2) and replace with the correct reference to “paragraph” instead.
 - (iv) Paragraph (4): Delete the phrase “The extent which” and add the word “Whether”, and remove the term “such person” and replace with the term “the licensee” for clarity.
 - (v) Paragraph (5): remove incorrect reference and numbering for “subdivision (a) (1) - (5)” and instead replace with the correct reference to “subsection (a) (1) through (5)”.
 - (vi) Paragraphs (1), (2), (3), (4), (5), and (6) make a technical revision to replace semicolons with periods.
 - (vii) Paragraph (6) remove “and” to correspond with the removal of semicolons for a technical revision.
- (d) Add subsection (c) to provide reference to reinstatement petition evaluations, specifying the use of criteria in subsection (b) of this section when the Board evaluates evidence of rehabilitation under the provisions of Business and Professions Code Section 4960.5. It is necessary to include reinstatement petition evaluations, under CCR 16 1399.469.6, to ensure that the Board considers the evidence of rehabilitation criteria identified in subsection (b). This way, there is consistency in the criteria considered by the Board across all decision types and parties; whether it be weighing evidence of rehabilitation for applicants, licensees, or petitioners of licensure.
- (e) Other minor revisions to delete inapplicable authority sections and add additional authority sections. Added statutes that relate to rehabilitation criteria (BPC §475) to the reference section.

Local Mandate: A mandate is not imposed on local agencies or school districts.

Small Business Impact: The Board has determined that the proposed regulations will have no significant statewide adverse economic impact directly affecting small businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the purpose of AB 2138, which sought to reduce barriers to licensure for applicants and licensees with criminal histories or licensure discipline.

This proposal conforms to the new requirements of AB 2138 to reduce barriers to licensure for individuals with prior criminal convictions, which may reduce recidivism and provide economic opportunity to California’s residents. The Board anticipates that the proposed regulations will impact businesses to the extent that individual applicants or licensees are able to be licensed or retain licensure under the proposal. The Board

does not know how many applicants will gain or retain licensure but does not anticipate the number to significantly impact businesses.

Benefits:

The Board has determined that this proposal may benefit individuals, who would have greater access to licensure, reduce criminal recidivism, and provide economic opportunity to California residents with a criminal history. The public may benefit from the proposal with increased access to licensed professionals, which may benefit the health and welfare of California consumers. Acupuncture businesses may benefit as they would have a larger pool of licensed professionals from which to hire. The regulatory proposal does not affect worker safety or the state’s environment.

Nonduplication Statement - 1 CCR § 12

As stated throughout the Initial and Final Statements of Reasons, the proposed regulations partially duplicate or overlap several state statutes amended by the passage of AB 2138. In particular, AB 2138 amended BPC sections 480 (grounds upon which a board can deny a license for applicants convicted of a crime or subject to formal discipline by a licensing board), 481 (the criteria boards can apply in determining if a crime bears a substantial relationship to the qualifications, functions or duties of the profession a board regulates), 482 (the rehabilitation criteria a board must consider when considering the denial, suspension or revocation of a license due to conviction of a crime), and 493 (the evidentiary effect of a conviction and criteria for determining if a crime has a substantial relationship to the profession). By repeating key language from these statutes within these regulations, the steps the Board will take, and the reasoning it will apply, the regulations become significantly clearer, and will better guide Board members, parties, administrative law judges, attorneys, and individuals with criminal convictions.

The changes made by AB 2138 and these regulations are directly applicable to individuals convicted of a crime who seek licensure, and to licensees who are convicted of a crime. As these regulations implement, interpret, and make specific how the laws amended by AB 2138 will be enforced by the Board, some duplication or overlap is necessary to ensure that the steps the Board must follow and the reasoning the Program must apply is clear and consistent with statute. The partial duplication or overlap with the statutes amended by AB 2138 are thus necessary to effectively implement the new standards in a way that satisfies the “clarity” standard of Government Code section 11349.1, subdivision (a)(3).

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal that was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation, would be as effective and less burdensome to affected private persons than the regulatory proposal or would be more cost effective to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures

full compliance with the law being implemented or made specific.

Set forth below are the alternatives that were considered and the reason the alternative was rejected or adopted:

- Option 1: To pursue a regulatory change that requires the Board to find rehabilitation if the applicant or licensee completed the terms of their criminal probation or parole. Courts give little weight to the fact that an applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole, since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the Board believes that reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to the public's health, safety, and welfare. For these reasons, the Board rejected this option.
- Option 2: Do nothing, meaning the Board would not adopt the regulations. The Board opted not to pursue this option because, per AB 2138, the Board is mandated to adopt proposed regulations by July 1, 2020.

Objections or Recommendations/Responses:

Summary of Comments Received During the 45-day Comment Period (January 31, 2020 – March 17, 2020; Extended to April 30, 2020)

First Letter:

Faride Perez-Aucar of Root and Rebound Reentry Advocates and Vinuta Naik of Community Legal Services of East Palo Alto, submitted a letter commenting on the Board's implementation of AB 2138, dated January 31, 2020 (Attachment A). Perez-Aucar and Naik submitted all comments, below, on behalf of their respective organizations, along with A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Criminal Justice Clinic, UC Irvine School of Law, East Bay Community Law Center, Legal Aid at Work, Legal Services for Prisoners with Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Rubicon Programs, and Underground Scholars Initiative.

Below is a summary of each comment and the Board's response:

Initial Comment: General Statement/ Purpose of the Letter

Summary: The letter states that the organizations supporting the letter believe the proposal should go further in order to fully implement the intention and spirit of the AB 2138 text. They believe there is a lack of clarity in the licensure process for individuals who have been impacted by the criminal justice system that leads

many of them to give up. They believe the proposed regulations leave gaps and fail to implement BPC Sections 480, 481, 482, and 493, and fall short of the intent of the bill to combat discrimination against people with records who have demonstrated rehabilitation and are seeking a professional career.

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by BPC Section 481. In particular, consistent with the requirements enacted by AB 2138, these regulations will adopt all of the following criteria, which will assist the Board with a balanced approach to evaluating an applicant’s eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of the profession in which the applicant seeks licensure or is licensed.

Further, clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

1. Comment #1

Summary:

The letter states the proposed regulations should include the seven (7)-year washout period for consideration of convictions or discipline which are not considered serious felonies under the Penal Code Section 1192.7. (BPC §480(a))

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

The seven(7)-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1). As this is already included in statute, adding this provision is duplicative of BPC section 480 and therefore it is not necessary to repeat it in the regulations.

2. Comment #2

Summary:

The letter requests that the proposed regulations provide that a person with a criminal history shall not be denied a license if the applicant has obtained a

Certificate of Rehabilitation, dismissal (per Penal Code section 1203.4, 1203.4a, 1203.41 or 1263.42), or an arrest, which led to an infraction/citation or a disposition other than conviction, or juvenile adjudication. (BPC §480(b-d)).

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

BPC section 480(c) already states that a license may not be denied based on a conviction, or its underlying acts, if it has been dismissed or expunged pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, or 1203.42. In addition, BPC section 480(b) prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. Also, BPC section 480(d) prohibits license denial based on arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. As noted above, BPC section 480(b through d) explicitly prohibits denial of a license in those specific circumstances.

Since these provisions are already specifically covered in statute, adding them again in regulation would be duplicative. Therefore, it is not necessary to repeat them in regulations.

3. Comment #3**Summary:**

The letter states that the regulations fail to include that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC §480(f)(2)).

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response. BPC Section 480(f)(2) already covers this issue in detail. It would, therefore, be duplicative of the statute and is not necessary to repeat this in the regulations.

4. Comment #4**Summary:**

The letter states that the regulations fail to include that the Board must notify the applicant, in writing, if the applicant is denied or disqualified from licensure. The letter also states the Board must have procedures in place for the applicant to challenge a decision or to request re-consideration, and that the applicant has a right to appeal the Board's decision and the process of requesting a complete conviction history. (BPC §480(f)(3)).

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

BPC Sections 480(f)(3), and 485 through 487, and the California Administrative Procedure Act commencing at Government Code Sections 11500, already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial upon the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. It would, therefore, be duplicative of these statutes and not necessary to repeat this in the regulations.

5. Comment #5

Summary:

The letter states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter also states that merely looking to law enforcement will not adequately show how an applicant would do on the job. The letter further says rehabilitation can and does take many forms that extend beyond mere law enforcement supervision and recommends that the Board provide examples of evidence of mitigating circumstances and rehabilitation efforts to better define rehabilitation and to assist both the Board and licensing applicants.

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

BPC Section 482 requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated. Therefore, sections 1399.469.5 and 1399.469.6 of the proposal will provide two-step rehabilitation guidance for the Board in complying with this law:

- First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to sections 1399.469.5 and 1399.469.6 to help the Board determine whether sentence completion demonstrates rehabilitation. The criteria the Board is proposing include length of the parole or probation, whether the time was shortened or lengthened and the reasons, therefore, and any modifications to the parole or probation that may have been made. This represents the first step and includes probation or parole reports, because these are an indication of how well compliance was achieved. However, if the Board does not find rehabilitation based solely on sentence completion, there is still a second step that the Board must consider. An applicant can show rehabilitation, as proposed, in subdivision (b) of the regulations.

- The second step, if rehabilitation is not demonstrated solely based on the sentence completion, is that the Board must consider certain other criteria to evaluate rehabilitation. This includes nature and severity of the crime, time elapsed since the crime, evidence of any subsequent crimes or conduct, compliance with probation or parole, and evidence of rehabilitation submitted by the applicant or licensee. A general category permitting submission of any rehabilitation evidence allows an applicant to demonstrate volunteer or charity work, furthered education, successful employment, or any other activities that they choose to submit to be considered by the Board. The Board can, and already does, give serious consideration to these factors when considering whether an applicant or licensee is rehabilitated.

There are many possible ways of showing rehabilitation, and many unique scenarios of mitigating circumstances. Attempting to specifically list some, but not others, may be limiting or misleading to the applicant and to the staff of the Board. In addition, the circumstances of each enforcement case are unique and what is sufficient evidence of rehabilitation for one case may not suffice for another or may not be relevant for all types of crimes (e.g., attendance at Alcoholics Anonymous is a common demonstration of rehabilitation for alcohol-related crimes but is not a good example of rehabilitation for a crime where alcohol was not involved).

The Board believes that the proposed regulations adequately address the rehabilitation issues while allowing the applicant the flexibility to provide evidence that specifically addresses their rehabilitative efforts relative to a crime or misconduct on a case-by-case basis.

6. Comment #6

Summary:

The letter states that the regulations fail to mention requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial or disqualification of licensure, provided evidence of mitigation or rehabilitation, and the final disposition of the application, and demographic information. (BPC §480(g)(1-2)).

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

These requirements are already stated in statute in BPC Section 480(g)(1-2). It would, therefore, be duplicative of the statute and is not necessary to repeat in the regulations.

Summary of Comments Received During the Second 45-day Comment Period, Pursuant to an Amended Notice of Originally Proposed Regulation Text, to

Properly Provide the Proposed Text to All Interested Parties (September 18, 2020 – November 3, 2020)

Second Letter:

The Board received a letter from Licensed Acupuncturist, Dixie Wall. Licensee Wall's comments relate to Licensee Wall's own experience with being denied an acupuncture license for a substantially related conviction involving substance abuse when Licensee Wall initially applied. Licensee Wall also spoke about the experience when the acupuncturist came to a Board meeting and petitioned for early termination of their probation, when the acupuncturist was already about 14 years recovered, and had two-years of exemplary behavior while on probation with the Board. Licensee Wall's petition was denied by the Board. Despite this, Licensee Wall expressed an overall support for the proposed regulations and a change in Board policy.

1. Comment

Summary:

Licensee Wall states that testimonials from the public, including letters of recommendation, add some weight to the process.

Board Response:

The Board appreciates this comment, but has determined that no changes to the text are necessary in response.

When considering the denial of a license under BPC Section 480, on the ground that the applicant was convicted of a crime, the Board shall consider whether the applicant made a showing of rehabilitation. The Board's proposed regulation, 16 CCR 1399.469.5, subsection (b), Criteria for Rehabilitation – Denial of Licensure, already requires that the Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering specified criteria, the Board finds that the applicant is rehabilitated. One of the specified criteria, under paragraph (6), is that the Board shall consider evidence, if any, of rehabilitation submitted by the applicant. This would include items like testimonials and letters of recommendation, as mentioned by Licensee Wall.

Summary of Comments Received During the 15-Day Notice Period

No comments were received during the 15-day period.

ECONOMIC IMPACT STATEMENT:

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

Section A.3.

The Board currently licenses approximately 12,000 acupuncturists in California. The proposed regulations will impact individuals seeking initial licensure from the Board by

authorizing anyone with a criminal conviction to obtain licensure, as specified.

The Board currently does not track the number of acupuncture businesses operating in the state, but believes that all establishments impacted under these regulations are, likely, considered small businesses.

B. ESTIMATED COSTS

Section B.1.

The Board historically denies a minimal number (ranging from 0 to 5) of initial license applications, per year. The Board notes that while AB 2138 is intended to reduce barriers to initial licensure, it does not anticipate a significant increase (ranging from 0 to 1) of initial license applications to be approved and, as a result, would be required to pay the initial license fee of \$325, as follows:

| Category | Applications Per Year | Fee Amount | Total Cost Per Year |
|----------------------|-----------------------|------------|---------------------|
| Initial License Fee* | 1 | \$ 325 | \$ 325 |

Licensees will also be required to pay ongoing biennial renewal fees as follows:

| Category | Applications Per Year | Fee Amount | Total Cost Per Year |
|----------------------|-----------------------|------------|---------------------|
| Biennial Renewal Fee | 1 | \$ 325 | \$325 |

The total economic impact is estimated to range from \$325 to \$1,625, per year, and up to \$9,750 over a ten-year period, as follows:

| AB 2138 Economic Impact - Estimated Number of Additional Licensees Per Year | | | | | | | | | | | | | |
|---|---------------------|--------------------|---------------|--------------|--------------|--------------|--------------|--------------|----------------|----------------|----------------|----------------|----------------|
| Registration and License Type | Applicants Per Year | Fee Costs Per Year | Years Ongoing | | | | | | | | | | |
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | Total |
| Acupuncture | | | | | | | | | | | | | |
| Initial License | 1 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$325 | \$3,250 |
| Biennial License Renewal | Various | \$325 | - | - | \$325 | \$325 | \$650 | \$650 | \$975 | \$975 | \$1,300 | \$1,300 | \$6,500 |
| Total Costs: | | | \$325 | \$325 | \$650 | \$650 | \$975 | \$975 | \$1,300 | \$1,300 | \$1,625 | \$1,625 | \$9,750 |

FISCAL IMPACT STATEMENT:

B. FISCAL EFFECT ON STATE GOVERNMENT

The Board anticipates that approximately one (1) additional applicant will be provided licensure, per year, as a result of the proposed regulations. The Board indicates an Office Technician will perform any licensing workload related to this issue. Initial registration is anticipated to take approximately 30 minutes, per application, at a cost of \$43, per application; with renewal registration taking approximately 15 minutes at a cost of approximately \$142, per application, (licensing - \$21, plus enforcement-related expenses of \$121).

Initial registration and renewal workload is estimated as follows:

| AB 2138 Fiscal Impact - Estimated Number of Additional Licensees Per Year | | | | | | | | | | | | | |
|--|---------------------|---------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|----------------|
| Registration and License Type | Applicants Per Year | Years Ongoing | | | | | | | | | | Total | |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | |
| Acupuncture | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 10 |
| Initial License | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 10 |
| Licensing Workload (30 minutes) - Office Technician* | | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$425 |
| Total Initial Costs: | | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$43 | \$425 |
| Biennial License Renewal | | - | - | 1 | 1 | 2 | 2 | 3 | 3 | 4 | 4 | 4 | 20 |
| Licensing Workload (15 minutes) - Office Technician | Various | - | - | \$21 | \$21 | \$43 | \$43 | \$64 | \$64 | \$85 | \$85 | \$85 | \$425 |
| Enforcement-related costs per licensee | TBD | - | - | \$121 | \$121 | \$242 | \$242 | \$363 | \$363 | \$484 | \$484 | \$484 | \$2,420 |
| Total Renewal Costs: | | - | - | \$142 | \$142 | \$285 | \$285 | \$427 | \$427 | \$569 | \$569 | \$569 | \$2,845 |
| Total Initial and Renewal Costs: | | \$43 | \$43 | \$185 | \$185 | \$327 | \$327 | \$469 | \$469 | \$612 | \$612 | \$612 | \$3,270 |

*Office Technician (approximately \$85 per hour - includes DCA distributed costs)
 Enforcement Costs (\$1,496,000)/Licensee Population (12,353) = \$121 per licensee

Any workload and costs to process the initial and renewal applications will be absorbed within existing resources. The Board further anticipates that any future enforcement-related workload and costs to be minor and absorbable within existing resources.

The Board estimates increased license fee revenue ranging from \$325 to \$1,625, per year, and up to \$9,750 over a ten-year period.