

December 30, 2019

Alexis Podesta, Secretary  
California Business, Consumer Services and Housing Agency  
915 Capitol Mall, Suite 350-A  
Sacramento, CA 95814

Dear Ms. Alexis Podesta,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Acupuncture Board submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Benjamin Bodea, Executive Officer, at (916) 599-0218, Ben.Bodea@dca.ca.gov.

## **GOVERNANCE**

### **Mission and Strategic Plan**

#### **Mission**

To protect the people of California by upholding acupuncture practice standards through the oversight and enforcement of the Acupuncture Licensure Act.

#### **Vision**

The exemplary practice of acupuncture for the health and safety of the people of California.

#### **Goals**

##### **Goal 1: Licensing**

*Establishes and maintains licensing requirements that protect consumers through improving standards in licensing examination, continuing education, and access to the profession.*

1. Develop and implement a computerized licensing examination to increase access and facilitate entry into the profession.
2. Seek legislative or regulatory authority to require a passing Test of English as a Foreign Language (TOEFL) score for applicants who have completed their education in a language other than English to enhance communication with the healthcare industry.
3. Research the feasibility of establishing a clinical inspection program to promote compliance with the laws and regulations governing the practice of acupuncture in California
4. Improve pocket license material quality to reduce fraudulent activity.

##### **Goal 2: Enforcement**

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*Protects the health and safety of consumers through the enforcement of the laws and regulations governing the practice of acupuncture.*

1. Develop and implement the continuing education provider audit process to increase compliance.
2. Recruit additional Subject Matter Experts (SMEs) to meet the needs of the Examination, Enforcement, and Education Units to increase enforcement resources.
3. Research the feasibility of requiring licensees to maintain medical records in English to facilitate enforcement efforts and increase accessibility.
4. Update the Board's Disciplinary Guidelines to preserve consistency, fairness, and ensure effective consumer protection when taking disciplinary actions against licensees.
5. Amend regulations to implement the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, developed pursuant to Senate Bill No. 1441 (2007-2008 Sess.), to safeguard the health and safety of licensees and consumers.

### **Goal 3: Education**

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

1. Research and develop transfer credit evaluation policies and procedures to ensure compliance with education requirements.
2. Conduct a cost analysis on training program curriculum application reviews to properly allocate costs and ensure training program compliance.
3. Review current curriculum standards to ensure it prepares licensees for entry-level practice and consumer safety.
4. Define what constitutes "live continuing education courses" to ensure that hands-on training for continuing education in treatment methods is received in the proper setting with the appropriate supervision to practice on the public.

### **Goal 4: Legislation and Regulation**

*Advocates for statutes and adopts regulations, policies, and procedures that strengthen and support its mandate, mission, and vision.*

1. Recommend legislation relating to the number of times an applicant can take the examination for licensure to reduce fraud and enhance qualification of licensees.
2. Investigate the feasibility of obtaining site inspection authority of licensees to increase enforcement resources and access.
3. Seek legislative citation authority over curriculum violations of training programs to enforce existing curriculum requirements established in regulation.
4. Review and update regulations to align with existing statutory requirements.
5. Research and seek amendments to Business and Professions Code section 4935, subdivision (a)(2) to increase the penalty for violations to be equivalent with the penalty provided by Business and Professions Code section 585 and to further deter violations and enhance consumer protection.
6. Implement a continuing education course and monitoring fee structure pursuant to Business and Professions Code section 4945, subdivision (b) to allocate the cost of the

process to the continuing education provider applicant.

### **Goal 5: Outreach**

*Educates consumers, licensees, and stakeholders about the practice and regulation of the acupuncture profession.*

1. Develop and implement a communication plan to inform the public about the practice and regulation of the acupuncture profession.
2. Develop and release a digital newsletter to inform, educate, and update the public on the practice of acupuncture in California.
3. Determine and communicate licensing reciprocity to and from California to convey California's standards to the public and ensure consumer protection.
4. Update and publish an informational brochure to educate the public on the standards of practice.

### **Goal 6: Board Administration**

*Continues to build and maintain an excellent organization through the development of staff, responsible management, strong leadership, and effective Board governance.*

1. Conduct a yearly workload study to ensure adequate staffing levels.
2. Map the Board's business processes to procure an information technology system that addresses the Board's functions.
3. Conduct a fee study at the appropriate time to address the Board's budgetary structural imbalance.
4. Respond to the Department of Consumer Affairs' routine internal audit to address any findings.
5. Expand targeted training and materials to educate Board members on Board governance and subject matter.

The Board does not have a working document for workforce planning but does conduct analyses, forecasts, and planning based on supply and demand, assessing gaps, and determining target talent management. The Board recently produced a fee audit report providing a cost-based accounting of a number of these items and used this to address the Board's workforce planning.

### **Control Environment**

- Board Management demonstrates the importance of integrity and ethical values by modeling the way through their directives, attitudes, and behavior.
- The Board engages in oversight via the management team, executive officer, Department Executives, and the Departments Office of Internal Audits.
- The Board has an organizational chart establishing the structure of the Board and this chart is reviewed by Board Management on a quarterly basis, and by the Department on an annual basis, and with every employment change.

- The Board Maintains a current office expectations document that management reviews on a quarterly basis, providing updates as needed and tracking the revision date. Each revision is reviewed, agreed to, and signed by all staff.
- Board Management conducts annual one-on-one performance evaluations, annual Individual Development Plans, and weekly unit meetings (Enforcement, Licensing, Admin, Policy). These meetings inform management of how to use Board resources to address staff needs (training).
- Management holds Board personnel accountable for performing their assigned responsibilities. The department, in turn, holds management accountable as well as the Board as a whole for its internal control responsibilities.
- Management actively engages in staff development starting with recruitment, moving through active monitoring of performance, encouraging individuals to take training, and providing mentorship for both Board employees as well as employees within the department.
  - Management actively engages in its recruitment process. With a clear understanding of the Board's operational needs, management is able to scrutinize applicants' qualifications, develop applicant screening tools, and create communications and job advertisements to attract the desired qualifications. Thus, if there are no qualified applicants, the Board will re-advertise rather than select an unqualified applicant.
  - Management actively monitors employee performance via weekly standing meetings in the respective unit, as well as weekly check-in meetings with individual employees. All-staff meetings are also conducted on a quarterly basis, or as needed.
  - Management supports and encourages staff to take training courses that will facilitate, and explore, areas of expertise. These are offered by the Department, as well as in-house (Board specific), and with external vendors (Office of Administrative Law, Department of General Services, CLEAR, etc). Management strongly encourages employees' participation in the Department's mentorship program, where employees of all classifications have access to successful leaders in the Department, as well as the Department's Future Leadership Development Program, which allows candidates the opportunity to work with other executives at the Department, as well as the opportunity to meet and learn about key actors and agencies in State government. Not only does management encourage participation in the previous two programs but they are actively engaged as mentors to the participants in those programs.

## Information and Communication

- Board Management identifies information requirements in an ongoing process that occurs throughout an effective internal control system. As the Board and its objectives and risks change, Board management changes information requirements as needed to meet these modified objectives and address these modified risks.
- Board Management communicates internally and externally via the following channels:
  - Up, down, and across the Board: weekly unit meetings (Licensing, Enforcement, Administration, Policy)
  - Across Organizational lines: the Board has designated department experts it works

with, Board Management participates in department functions where all Boards/Bureaus, or a sample, discuss department-wide impacts/concerns, for example, Pro Rata Workgroup, Future Leadership Development, Legislative Roundtable, Licensing, and Enforcement Workgroups, and regular mandated training. Additionally, Board staff have access to and utilize Department experts, either scheduled by the department or initiated by Board staff/management.

- External Stakeholders: Website and email distribution of Board activities and meetings. The Board hosts and attends stakeholder meetings.
- Reporting of inefficiencies and inappropriate actions to management:
  - Staff is encouraged to provide observations of problems and possible solutions to management privately, via email, or at staff meetings. Management also provides the Whistleblower hotline information to staff for anonymous reporting.

## MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Acupuncture Board monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Benjamin Bodea, Executive Officer.

Board management validates the effectiveness of Internal Control Systems by:

- Holding weekly unit meetings, reviewing weekly reports, and serial group review of outgoing documents.
- Annual reporting requirements from State and Department (such as performance-based budgeting, enforcement performance measures, licensing performance measures).
- The Board utilizes staff from the non-targeted unit to review processes.
- Board management utilizes Department and Agency experts to review performance indicators.
- The Board Members review all staff final products at Board Meetings.
- Unit coordinators (as experts in their domain) are responsible for daily review and analysis, as well as presentations to management at weekly meetings. Management then reviews for conflicts and vulnerabilities before issuing corrective measures/process adjustments.
- Management continues to check-in weekly as process adjustments are deployed.

## RISK ASSESSMENT PROCESS

The following personnel were involved in the Acupuncture Board risk assessment process: executive management, and front line management.

The following methods were used to identify risks: brainstorming meetings, employee engagement surveys, ongoing monitoring activities, audit/review results, other/prior risk assessments, external stakeholders, questionnaires, consideration of potential fraud, performance metrics, and other.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, and other.

## **RISKS AND CONTROLS**

### **Risk: Key Staff Dependence**

For a small board, when one staff member is out of the office for an extended period of time (greater than one week), board operations are disrupted.

#### **Control: Cross-training and Sufficient Managerial staff**

Cross-training staff at a small board ensures the resilience of board operations during key staff absences, such as developing the Associate Governmental Program Analyst as a lead to function as a leader in management's absence. In the future, the board is looking to create the position of an Assistant Executive Officer which will allow for the operations to continue during the Executive Officer's absence and allow for additional direction from management in the office.

### **Risk: Fraudulent Foreign Applicant Documentation**

The inability to identify fraudulent foreign documents introduces the risk of licensing unqualified individuals that may cause public harm.

#### **Control: Develop Expertise by Collaborating with the Division of Investigation**

The board is working with the Department of Consumer Affairs (DCA) Division of Investigation (DOI) to develop and implement best practices for reviewing foreign documentation. This activity will allow for the identification of fraudulent documentation and increase public protection from unqualified practitioners.

### **Risk: Business Modernization**

Failure to implement the new Licensing and Enforcement IT system will cause our applicants and licensees, or the public-at-large, to be unable to conduct their business. This may increase public harm as the public may not have access to confirming licensed individuals or be able to view a licensee's disciplinary history. Failure of this implementation could also affect licensees' ability to renew, or applicant's ability to apply for licensure. Failure to implement a functional new system will reduce public confidence in the board.

Failure to implement the new Licensing and Enforcement Software Platform and remaining on the board's legacy system will result in an increased backlog, reduced efficiencies, reduce effectiveness, and deplete the board's resources.

#### **Control: Biz Mod Steering Committee**

The DCA Office of Information Services, as well as the four-member programs of the Business Modernization Cohort 1, which includes Acupuncture, are working with California Department of Technology's AGILE Project Management approach. These entities have established a steering committee to review and approve project parameters and work orders. Risk assessments were defined on this project and are monitored (and re-evaluated) on an ongoing basis to ensure a viable product is implemented.

### **Control: Managerial and Coordinator Monitoring**

Managers and Unit Coordinators will actively monitor incoming applications and workload during and after the transition to the new platform to ensure a smooth transition. Backlogs will be identified and actively monitored. The status will be communicated to the Business Modernization Cohort One Steering Committee, as well as during the daily Scrum meetings, and the weekly sprint reviews during the platform's development, implementation, and ongoing monitoring phases.

### **Risk: New Policies and Procedures**

The Bboard has instituted a number of new policies and procedures. Failure to actively monitor these new policies and procedures may create poor or inaccurate work products.

### **Control: Regular Reporting and Developing Procedure Manuals**

The board is developing new procedure manuals to capture all its new policies and procedures to ensure uniform understanding among staff and complete and accurate work products. Board management has also been holding weekly meetings to monitor and track staff's work. Board management has also included work product review as a requirement before releasing the work product.

### **Risk: Change Management**

Shifts in staffing, including new management, and scheduling (to address open office hours) have created a new social space that has an immediate impact on staff morale and workplace culture as it redefines itself. The emotional nature of these changes (both to employee's relations and to schedule adjustment) may create workplace challenges that can interrupt business processes.

### **Control: Regular Monitoring and Managerial Engagement**

By holding weekly unit and one-on-one staff meetings (as needed), as well as work product tracking, management has created opportunities for check-in with staff directly, and to track workplace productivity.

### **Risk: FI\$Cal - Financial Planning**

Failure to have accurate financial records via FI\$Cal in a timely fashion to meet board needs may cause operational disruption due to the inability to account for the board's resources.

### **Control: Managerial Review**

The board is in communication with DCA on a regular basis to resolve open items which include posting corrections, programming concerns, and report suggestions within the system. The board relies on data tracking outside of the FI\$cal system and regularly works with budget, accounting, and business services staff at DCA to track issues and make forecasting projections. This information is often utilized for meeting materials. Additionally, the board requests information as needed from DCA to try to identify and fix errors.

### **Risk: Reporting - Business Modernization**

Failure to effectively implement the new Licensing and Enforcement IT Platform risks the production and distribution of inaccurate/incomplete/undelivered information to conduct business creating a possibility of public harm through the inability to carry out board functions.

#### **Control: Business Modernization Cohort 1**

The board is on the BizMod Cohort 1 Steering Committee which meets monthly to discuss the planning and implementation of the new platform to ensure the viable deployment of the platform.

### **Risk: Funding Legislative and Regulatory Changes**

Insufficient funds to carry out all statutory and regulatory requirements risks not being able to meet all mandates and stay in compliance.

#### **Control: Managerial Identification and Review**

The board and the board's management team reviews and identifies board projects/mandates and anticipated costs to ensure adequate funding to address mandates.

### **Risk: Online Forms - Regulatory Authority/ADA Compliance**

Failure to address the regulatory constraints of forms previously incorporated by reference prior to the implementation of the Business Modernization will place the board out of compliance by the adherence to underground regulations. The board is now faced with introducing and implementing these new regulations to allow for the implementation of online forms under the Business Modernization effort. Additionally, the board must make all public information it displays on its website ADA compliant.

#### **Control: Review and Identify**

Board staff has identified forms that will require regulatory action and have calendared revision dates for the board to review and approve. The board will utilize the Emergency Rulemaking pathway, if necessary.

The board is working with the DCA Office of Information Services to bring all documents on its website into ADA compliance.

### **Risk: Statute Changes with Short Implementation Deadline**

Statutory changes requiring a re-working of board business processes and a quick turnaround are likely to generate underground regulations if the board does not have time to create regulations.

#### **Control: Review and Update**

Board staff is constantly reviewing legislation throughout the legislative calendar year to ensure adequate models of possible future statutes. Board Management works with analytical leads to ensure adequate coverage of the various changes. Legislation that has passed is entered into the board's regulatory tracker once the requirement for implementation has been identified/signaled.

## **CONCLUSION**

The Acupuncture Board strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

**Benjamin Bodea, Executive Officer**

CC: California Legislature [Senate (2), Assembly (1)]  
California State Auditor  
California State Library  
California State Controller  
Director of California Department of Finance  
Secretary of California Government Operations Agency