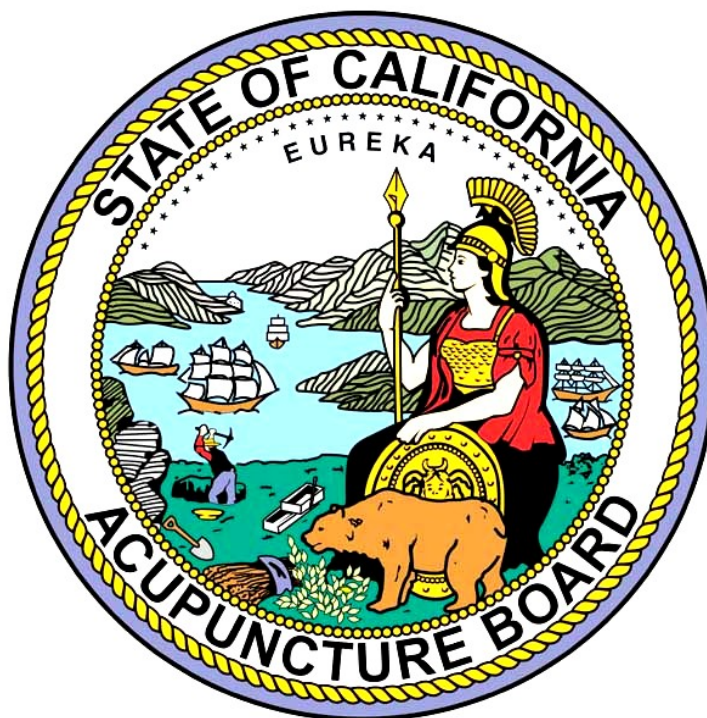


California Acupuncture Board Meeting

December 14, 2016

Oakland, CA



Board Members

Hildegarde Aguinaldo, J.D. – President
Public Member
Jamie Zamora – Vice President
Public Member
Kitman Chan – Public Member
Dr. Michael Corradino, DAOM, L.Ac
Francisco Hsieh – Public Member
Jeannie Kang, L.Ac
Dr. Amy Matecki, MD, L.Ac

Legal Counsel

Kelsey Pruden, Esq.

Staff

Ben Bodea – Executive Officer
Erica Bautista – Administration Coordinator
Cricket Borges – Enforcement Analyst
Kristine Brothers – Enforcement Coordinator
Tammy Graver – Board Liaison
Vacant - Continuing Education Coordinator
Jay Herdt – Education Coordinator
Marc Johnson – Policy Coordinator
Van Martini – Office Technician
Terry Sinkovich – Exam Coordinator
Vacant – Exam Analyst
Tammy Stadley – Licensing Technician
Beck Untalasco – Seasonal Clerk
Sandra Wilson – Licensing Technician



ACUPUNCTURE BOARD
1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

NOTICE OF ACUPUNCTURE BOARD MEETING

WEDNESDAY, DECEMBER 14, 2016
UPON CONCLUSION OF ENFORCEMENT COMMITTEE MEETING

LOCATION:
ELIHU M. HARRIS STATE OFFICE BUILDING
MEETING ROOM #2
1515 CLAY STREET
OAKLAND, CA 94612

The Board plans to webcast this meeting at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

California Acupuncture Board Members

Hildegarde Aguinaldo, President, Public Member
Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Dr. Michael Corradino, DAOM, MTOM, L.Ac, Licensed Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Dr. Amy Matecki, MD, L.Ac, Licensed Member

AGENDA — FULL BOARD MEETING

- 1. Call to Order, Roll Call and Establishment of a Quorum (Aguinaldo)**
- 2. Opening Remarks and Announcement of Executive Officer (Aguinaldo)**
- 3. Public Comment for items not on Agenda (Aguinaldo)**

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

- 4. President's Report (Aguinaldo)**
- 5. Staff Reports**
 - a. Executive Officer's Report (Bodea)**
 - 1. Staff Update**
 - 2. Budget Update**

- 3. Exam Update**
- 4. Human Trafficking Report**
- 5. Strategic Plan Update**

- b. Enforcement Report (Brothers)**
 - 1. Q4 15-16 Enforcement Report**
 - 2. Q1 16-17 Enforcement Report**

- c. Education Report (Herdt)**
 - 1. Status of Training Program Compliance Reviews**
 - 2. Status of Initial Training Program Application**
 - 3. BPPE and ACAOM collaboration on 1/1/17 Training Program Approval**
 - 4. Continuing Education Volume**

- d. Regulatory Update (Johnson)**
 - 1. Title 16, CCR Section 1399.455 – Advertising Guidelines: Display of License Number in Advertising**
 - 2. Title 16, CCR Section 1399.451(a) – Hand Hygiene Requirements**
 - 3. Title 16, CCR Section 1399.469 – Uniform Standards Related to Substance Abusing Licensees (SB 1441)**

- 6. Update, Discussion and Possible Action on Committee Reports and Recommendations (Aguinaldo)**
 - a. Research Committee (Corradino) (See attached agenda)**
 - b. Education Committee (Zamora) (See attached agenda)**
 - c. Enforcement Committee (Aguinaldo) (See attached agenda)**

- 7. Consideration and possible action on proposed amendments to Title 16, CCR Sections 1399.480, 1399.490.1, 1399.49.2, and 1399.490.3 – Sponsored Free Health Care Events - AB 2699 (Johnson)**

- 8. Approval of October 26, 2016 Board Meeting Minutes (Johnson)**

- 9. Scheduling of 2017 Board Meeting Dates (Aguinaldo)**

- 10. Future Agenda Items (Aguinaldo)**

- 11. Adjournment (Aguinaldo)**

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the President. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE ACUPUNCTURE BOARD'S WEBSITE AT www.acupuncture.ca.gov

Please Note: Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you need additional reasonable accommodations, please make your request no later than five (5) business days before this meeting. Please direct any questions regarding this meeting to the Board Liaison, Tammy Graver at (916) 515-5204; FAX (916) 928-2204.

#5a2

Budget Update

0108 - Acupuncture Analysis of Fund Condition

(Dollars in Thousands)

Prepared by 10/20/2016

2016-17 Budget Act w_ Workload Revenue Projections		Budget Act CY 2016-17	Gov Budget BY 2017-18	BY+1 2018-19	
		ACTUALS 2015-16			
BEGINNING BALANCE		\$ 1,922	\$ 1,340	\$ 4,207	\$ 3,064
Prior Year Adjustment		\$ 15	\$ -	\$ -	\$ -
Adjusted Beginning Balance		\$ 1,937	\$ 1,340	\$ 4,207	\$ 3,064
REVENUES AND TRANSFERS					
Revenues:					
125600	Other regulatory fees	\$ 49	\$ 48	\$ 50	\$ 50
125700	Other regulatory licenses and permits	\$ 750	\$ 817	\$ 862	\$ 862
125800	Renewal fees	\$ 1,788	\$ 1,769	\$ 1,788	\$ 1,788
125900	Delinquent fees	\$ 13	\$ 14	\$ 14	\$ 14
141200	Sales of documents	\$ -	\$ -	\$ -	\$ -
142500	Miscellaneous services to the public	\$ 4	\$ 4	\$ 4	\$ 4
150300	Income from surplus money investments	\$ 8	\$ 13	\$ 9	\$ 6
150500	Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400	Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000	Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1	\$ 1
161400	Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues		\$ 2,613	\$ 2,666	\$ 2,728	\$ 2,725
Transfers from Other Funds					
F00683	Teale Data Center (CS 15.00, Bud Act 2005)	\$ -	\$ -	\$ -	\$ -
	GF loan repayment	\$ -	\$ -	\$ -	\$ -
Proposed GF 11-12 Loan Repayment, 1110-011-0108 Budget Act			\$ 4,000		\$ 1,000
Totals, Revenues and Transfers		\$ 2,613	\$ 6,666	\$ 2,728	\$ 3,725
Totals, Resources		\$ 4,550	\$ 8,006	\$ 6,935	\$ 6,789
EXPENDITURES					
Disbursements:					
1110	- Program Expenditures (State Operations)	\$ 3,205	\$ -	\$ -	\$ -
1111	- Department of Consumer Affairs (State Operations)	\$ -	\$ 3,795	\$ 3,871	\$ 3,948
8880	- Financial Information System for California	\$ 5	\$ 4	\$ -	\$ -
Total Disbursements		\$ 3,210	\$ 3,799	\$ 3,871	\$ 3,948
FUND BALANCE					
Reserve for economic uncertainties		\$ 1,340	\$ 4,207	\$ 3,064	\$ 2,841
Months in Reserve		4.2	13.0	9.3	8.5

NOTES: A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
 B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING BY+1.
 C. ASSUMES INTEREST RATE AT 0.3%

**CALIFORNIA ACUPUNCTURE BOARD - 0108
BUDGET REPORT
FY 2016-17 EXPENDITURE PROJECTION
FISCAL MONTH 4**

OBJECT DESCRIPTION	FY 2015-16		FY 2016-17				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	STONE	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	10/31/2015	2016-17	10/31/2016			
PERSONNEL SERVICES							
Salary & Wages (Staff)	508,346	165,233	529,000	168,521	32%	551,071	(22,071)
Statutory Exempt (EO)	72,205	29,336	80,000		0%	49,600	30,400
Temp Help Reg (Seasonals)	59,993	16,321	19,000	12,344		45,374	(26,374)
BL 12-03 Blanket	0	0	0			0	0
Temp Help (Exam Proctors)	0	0	0			0	0
Board Member Per Diem	14,100	1,900	7,000	1,900	27%	14,000	(7,000)
Committee Members (DEC)	0	0	0			0	0
Overtime	1,615	567	5,000			2,500	2,500
Staff Benefits	290,739	92,932	356,000	86,517	24%	270,670	85,330
TOTALS, PERSONNEL SVC	946,998	306,289	996,000	269,282	27%	933,214	62,786
OPERATING EXPENSE AND EQUIPMENT							
General Expense	44,611	32,038	57,000	30,277	53%	50,000	7,000
Fingerprint Reports	613	172	20,000	196	1%	1,000	19,000
Minor Equipment	85	0	0	2,100	0%	2,100	(2,100)
Printing	15,391	7,370	17,000	6,204	36%	12,956	4,044
Communication	11,208	1,853	17,000	2,456	14%	14,855	2,145
Postage	25,802	7,678	27,000	5,448	20%	35,000	(8,000)
Insurance	0	0	0		0%	0	0
Travel In State	38,866	10,891	32,000	8,129	25%	40,000	(8,000)
Travel, Out-of-State	2,861	0	0		0%	4,242	(4,242)
Training	0	0	3,000		0%	500	2,500
Facilities Operations	109,458	106,761	65,000	110,385	170%	113,174	(48,174)
Utilities	0	0	0		0%	0	0
C & P Services - Interdept.	0	0	9,000		0%	0	9,000
C & P Services - External	3	0	4,000		0%	500	3,500
DEPARTMENTAL SERVICES:							
OIS Pro Rata	107,890	67,000	149,000	49,332	33%	149,000	0
Administration Pro Rata	133,859	65,000	185,000	59,668	32%	185,000	0
DOI - ISU Pro Rata	3,933	2,000	5,000	1,668	33%	5,000	0
Communications Division	161,000	2,000	82,000	27,000	33%	82,000	0
PPRD Pro Rata	0	76,500	2,000	668	33%	2,000	0
INTERAGENCY SERVICES:							
Interagency Services	0	0	0		0%	0	0
IA w/ OER	305,652	177,790	334,000	277,690	83%	334,000	0
Consolidated Data Center	934	156	3,000	437	15%	1,000	2,000
DP Maintenance & Supply	449	449	5,000	1,957	39%	2,400	2,600
Central Admin Svc-ProRata	138,730	34,683	180,000		0%	180,000	0
EXAM EXPENSES:							
Exam Supplies	0	0	0			0	0
Exam Freight	0	0	0			0	0
Exam Site Rental	0	0	0			0	0
C/P Svcs-External Expert Administrative	279,186	305,491	287,000	305,491		305,491	(18,491)
C/P Svcs-External Expert Examiners	51,286	7,571	84,000	5,361		43,000	41,000
C/P Svcs-External Subject Matter	0	0	0			0	0
ENFORCEMENT:							
Attorney General	307,042	103,636	386,000	53,033	14%	315,000	71,000
Office Admin. Hearings	77,938	21,658	107,000		0%	65,000	42,000
Court Reporters	3,210	785	0	83		3,500	(3,500)
Evidence/Witness Fees	69,285	10,709	11,000	267	2%	55,000	(44,000)
DOI - Investigations	500,566	247,000	824,000	255,000		824,000	0
MISC:							
Major Equipment	0	0	0			0	0
Special Items of Expense	0	0	0			0	0
Other (Vehicle Operations)	0	0	3,000			0	3,000
TOTALS, OE&E	2,389,858	1,289,191	2,898,000	1,202,850	42%	2,825,718	72,282
TOTAL EXPENSE	3,336,856	1,595,480	3,894,000	1,472,132	69%	3,758,932	135,068
Sched. Reimb. - External/Private	(1,410)		(1,000)	(470)		(1,000)	0
Sched. Reimb. - Fingerprints	(441)		(22,000)	(343)	2%	(22,000)	0
Sched. Reimb. - Other							0
Sched Interdepartmental							0
Unsched. Reimb. - Other	(130,413)			(41,904)			0
NET APPROPRIATION	3,204,592	1,595,480	3,871,000	1,429,415	37%	3,735,932	135,068
SURPLUS/(DEFICIT):							3.5%

#5a3

Exam Update

August 10, 2016

California Acupuncture Board				
August 2016 Examination Results				
Statistics by Language				
FIRST TIME TAKERS ONLY				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	126	19	32	177
FAILED	29	12	17	58
TOTAL	155	31	49	235
PASS RATE	81%	61%	65%	75%
RE-EXAMINEES ONLY				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	38	11	10	59
FAILED	74	26	17	117
TOTAL	112	37	27	176
PASS RATE	34%	30%	37%	34%
OVERALL				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	164	30	42	236
FAILED	103	38	34	175
TOTAL	267	68	76	411
PASS RATE	61%	44%	55%	57%

AUGUST 10, 2016 EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL

SCHOOL	1st TIME TAKERS			OVERALL (includes re-examinees)		
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
<i>Academy of Chinese Culture & Health Sciences</i>	5	2	71%	7	7	50%
<i>Acupuncture & Integrative Medicine College, Berkeley</i>	11	2	85%	12	6	67%
<i>Alhambra Medical University</i>	4	2	67%	5	4	56%
<i>American College of Traditional Chinese Medicine</i>	1	0	100%	6	3	67%
<i>American College of Traditional Chinese Medicine (CIIS)</i>	18	0	100%	20	2	91%
<i>Atlantic Institute of Oriental Medicine</i>	0	0	N/A	0	1	0%
<i>California Trinity University (formerly Kyung San)</i>	0	1	0%	0	4	0%
<i>Dong-guk University, California</i>	16	5	76%	19	20	49%
<i>Emperor's College of Traditional Oriental Medicine</i>	15	2	88%	16	5	76%
<i>Five Branches University</i>	13	3	81%	16	11	59%
<i>Golden State University</i>	0	0	N/A	1	1	50%
<i>Kingston University</i>	0	1	0%	0	1	0%
<i>National College of Naturopathic Medicine</i>	1	0	100%	1	1	50%
<i>New England School of Acupuncture</i>	1	0	100%	2	0	100%
<i>Nine Star University of Health Sciences</i>	1	4	20%	2	7	22%
<i>Pacific College of Oriental Medicine</i>	21	2	91%	27	8	77%
<i>South Baylo University</i>	33	18	65%	45	54	45%
<i>Southern California University of Health Sciences</i>	2	2	50%	6	5	55%
<i>Southern CA Univ. School of OM & Acupuncture</i>	3	2	60%	5	4	56%
<i>Southwest Acupuncture College</i>	2	0	100%	4	0	100%
<i>St. Luke</i>	0	0	N/A	1	0	100%
<i>Stanton University</i>	3	3	50%	5	4	56%
<i>Traditional Acupuncture Institute</i>	0	0	N/A	1	1	50%
<i>University of East West Medicine</i>	13	3	81%	15	11	58%
<i>University of South Los Angeles (formerly LIFE University)</i>	0	1	0%	0	1	0%
<i>YoSan University of TCM</i>	10	3	77%	12	4	75%
<i>Tutorials</i>	1	0	100%	1	2	33%
<i>Foreign Equivalency</i>	3	2	60%	7	8	47%
GRAND TOTAL	177	58	75%	236	175	57%

AUGUST 10, 2016 EXAMINATION RESULTS STATISTICS - FIRST TIME, RETAKER AND OVERALL

SCHOOL	1st TIME TAKERS			Retakers			OVERALL (includes re-examinees)		
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
<i>Academy of Chinese Culture & Health Sciences</i>	5	2	71%	2	5	29%	7	7	50%
<i>Acupuncture & Integrative Medicine College, Berkeley</i>	11	2	85%	1	4	20%	12	6	67%
<i>Alhambra Medical University</i>	4	2	67%	1	2	33%	5	4	56%
<i>American College of Traditional Chinese Medicine</i>	1	0	100%	5	3	63%	6	3	67%
<i>American College of Traditional Chinese Medicine (CIIS)</i>	18	0	100%	2	2	50%	20	2	91%
<i>Atlantic Institute of Oriental Medicine</i>	0	0	N/A	0	1	0%	0	1	0%
<i>California Trinity University (formerly Kyung San)</i>	0	1	0%	0	3	0%	0	4	0%
<i>Dong-guk University, California</i>	16	5	76%	3	15	17%	19	20	49%
<i>Emperor's College of Traditional Oriental Medicine</i>	15	2	88%	1	3	25%	16	5	76%
<i>Five Branches University</i>	13	3	81%	3	8	27%	16	11	59%
<i>Golden State University</i>	0	0	N/A	1	1	50%	1	1	50%
<i>Kingston University</i>	0	1	0%	0	0	N/A	0	1	0%
<i>National College of Naturopathic Medicine</i>	1	0	100%	0	1	0%	1	1	50%
<i>New England School of Acupuncture</i>	1	0	100%	1	0	100%	2	0	100%
<i>Nine Star University of Health Sciences</i>	1	4	20%	1	3	25%	2	7	22%
<i>Pacific College of Oriental Medicine</i>	21	2	91%	6	6	50%	27	8	77%
<i>South Baylo University</i>	33	18	65%	12	36	25%	45	54	45%
<i>Southern California University of Health Sciences</i>	2	2	50%	4	3	57%	6	5	55%
<i>Southern CA Univ. School of OM & Acupuncture</i>	3	2	60%	2	2	50%	5	4	56%
<i>Southwest Acupuncture College</i>	2	0	100%	2	0	100%	4	0	100%
<i>St. Luke</i>	0	0	N/A	1	0	100%	1	0	100%
<i>Stanton University</i>	3	3	50%	2	1	67%	5	4	56%
<i>Traditional Acupuncture Institute</i>	0	0	N/A	1	1	50%	1	1	50%
<i>University of East West Medicine</i>	13	3	81%	2	8	20%	15	11	58%
<i>University of South Los Angeles (formerly LIFE University)</i>	0	1	0%	0	0	N/A	0	1	0%
<i>YoSan University of TCM</i>	10	3	77%	2	1	67%	12	4	75%
<i>Tutorials</i>	1	0	100%	0	2	0%	1	2	33%
<i>Foreign Equivalency</i>	3	2	60%	4	6	40%	7	8	47%
GRAND TOTAL	177	58	75%	59	117	34%	236	175	57%

#5a5

Strategic Plan Update

2013 - 2017 Acupuncture Board Strategic Plan 2016 12-14 Update

GOAL 1: LICENSING

Promote licensing standards to protect consumers and allow reasonable access to the profession.

- 1.1 Work with the Department of Consumer Affairs executive team to resolve cashiering issues causing licensing delays.

COMPLETED

GOAL 2: ENFORCEMENT

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

- 2.1 Review disciplinary guidelines and regulatory standards to determine if standards need revision.

Expected to be completed by or before Q4 2017

- 2.2 Strengthen the Board's enforcement authority through Implementation of Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Probation, and the Consumer Protection Enforcement Initiative.

Expected to be completed by or before Q4 2017

- 2.3 Seek legislation to expand non-complaint based clinic inspection authority to further public protection.

Expected to be completed by or before Q4 2017

- 2.4 Determine feasibility of strengthening the recertification process for reinstatement of an inactive license to further public safety. Promulgate regulations to do so, if found feasible.

Expected to be completed by or before Q4 2017

GOAL 3: EDUCATION

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

3.1 Evaluate curriculum standards to ensure professional qualification and public safety. The Board will evaluate whether financial standards for schools are needed.

Expected to be completed by or before Q4 2017

3.2 To ensure that students are qualified to successfully complete Acupuncture training programs, the Board will explore increasing initial licensure qualifications to a Bachelor's degree or set a score for the Medical College Admission Test (MCAT).

Expected to be completed by or before Q4 2017

3.3 The Education Committee will evaluate school courses and course materials to ensure compliance with the Board's curriculum requirements.

COMPLETED

3.4 Promulgate regulations to require international applicants and students attending non-English track schools to pass the TOEFL exam before being eligible to sit for the California Acupuncture Licensing Exam (CALE).

Expected to be completed by or before Q4 2017

3.5 The Education Committee will evaluate the feasibility of enhancing school curriculum regulations by adding a required course in Standardized Acupuncture terminology.

Expected to be completed by or before Q4 2017

GOAL 4: PROFESSIONAL QUALIFICATIONS

Improve continuing education and examination standards to ensure excellence in practice and promote public safety.

4.1 Evaluate the approved continuing education course list and create a defined scope for continuing education coursework that focuses on improving practice knowledge, best practices, and updated research.

Expected to be completed by or before Q4 2017

4.2 Formalize the continuing education audit process of the Education Committee's review of potentially non-compliant continuing education courses and providers.

Expected to be completed by or before Q4 2017

4.3 Review past occupational analysis studies to identify improvements to the evaluation process and implement those improvements during the next analysis.

COMPLETED/ONGOING

4.4 Evaluate the CALE exam to ensure continued test validity and security.

COMPLETED/ONGOING

GOAL 5: OUTREACH

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

5.1 Form a Licensee Education Committee to create educational materials for licensees and a "What You Need to Know" educational series that will be accessible from the website.

Expected to be completed by or before Q4 2017

5.2 Increase outreach to interested stakeholders by leveraging cost-effective technology to increase understanding of the Acupuncture profession and the Board.

Expected to be completed by or before Q4 2017

5.3 Work collaboratively with state and national professional associations to increase awareness of the Board’s functions.

Expected to be completed by or before Q4 2017

5.4 Educate stakeholders on requirements of the Affordable Care Act and the implications for electronic records management.

Not within the Board’s Authority
Staff Recommendation – Remove Goal

5.5 Modify the Board’s website to ensure accessibility and increase usability.

COMPLETED/ONGOING

GOAL 6: ADMINISTRATION

Build an excellent organization through proper Board governance, effective leadership, and responsible management.

6.1 Ensure adequate staffing levels within all areas of the Board to fulfill the Board’s mandate and achieve Board goals.

COMPLETED/ONGOING

6.2 Establish an ongoing working report of pending regulatory projects and priorities to inform the Board, the legislature, and the public of the ongoing status of these projects.

COMPLETED

6.3 Create targeted training for new Board members to provide further details on Board and government processes.

Expected to be completed by or before Q4 2017

6.4 Develop desk manuals for all Board functions to ensure proficiency, performance, and for succession planning.

COMPLETED/ONGOING

#5b1

Enforcement Report

Q4 2016



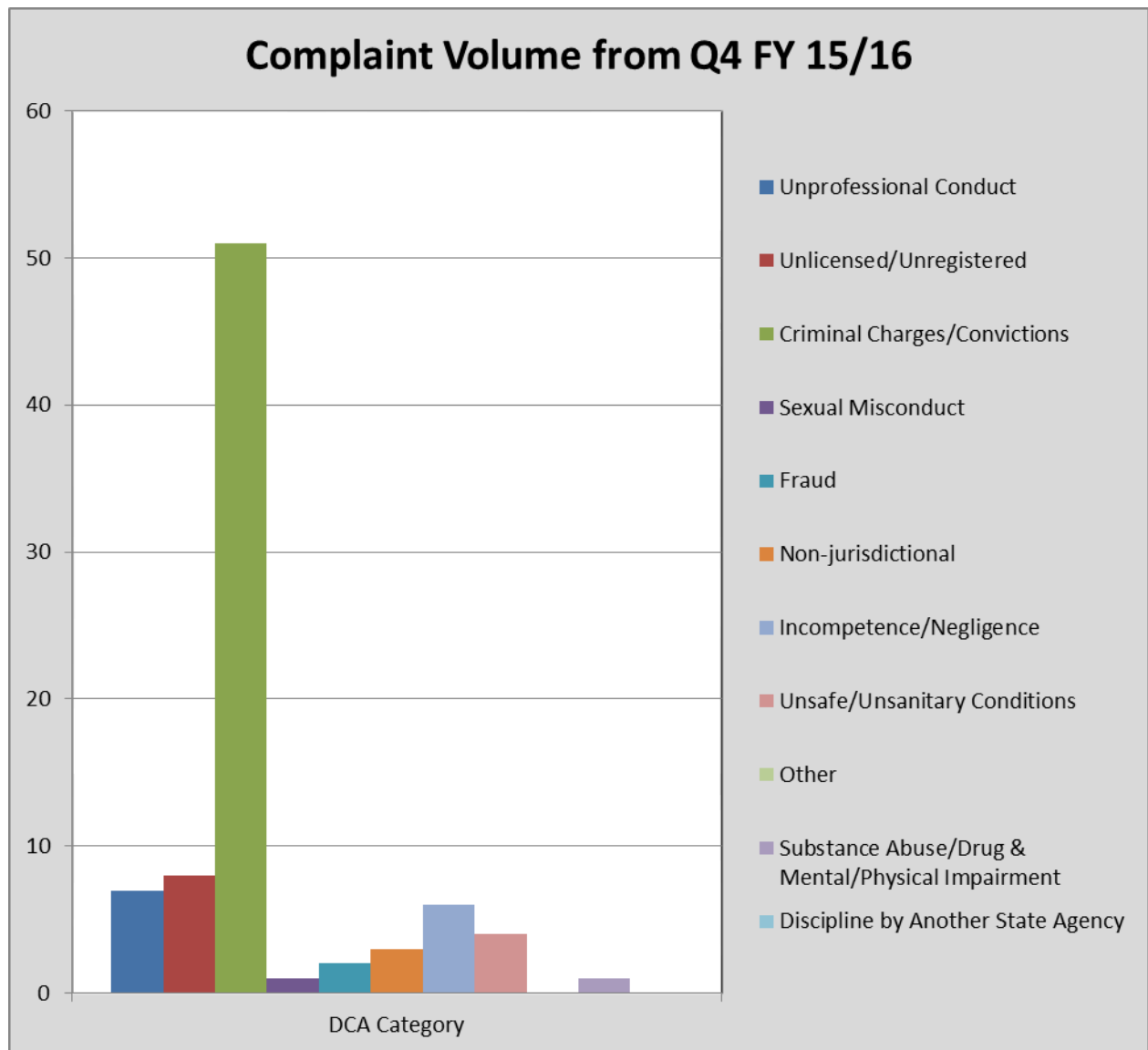
ACUPUNCTURE BOARD
 1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
 (916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

DATE	December 14, 2016
TO	All Board Members
FROM	Kristine Brothers Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter (Q4) FY 2015/2016: April 1, 2016 to June 30, 2016

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Received	Closed/Referred to Investigation
Unprofessional Conduct	7	7
Unlicensed/Unregistered	8	8
Criminal Charges/Convictions*	51	50
Sexual Misconduct	1	1
Fraud	2	2
Non-jurisdictional	3	3
Incompetence/Negligence	6	6
Unsafe/Unsanitary Conditions	4	4
Other	0	0
Substance Abuse/Drug & Mental/Physical Impairment	1	1
Discipline by Another State Agency	0	0
Total	83	82
Average Intake Time: 4 days		

*Of the 50 Criminal Charges/Convictions, 40 were received on Applicants and 11 were received on Licensees.

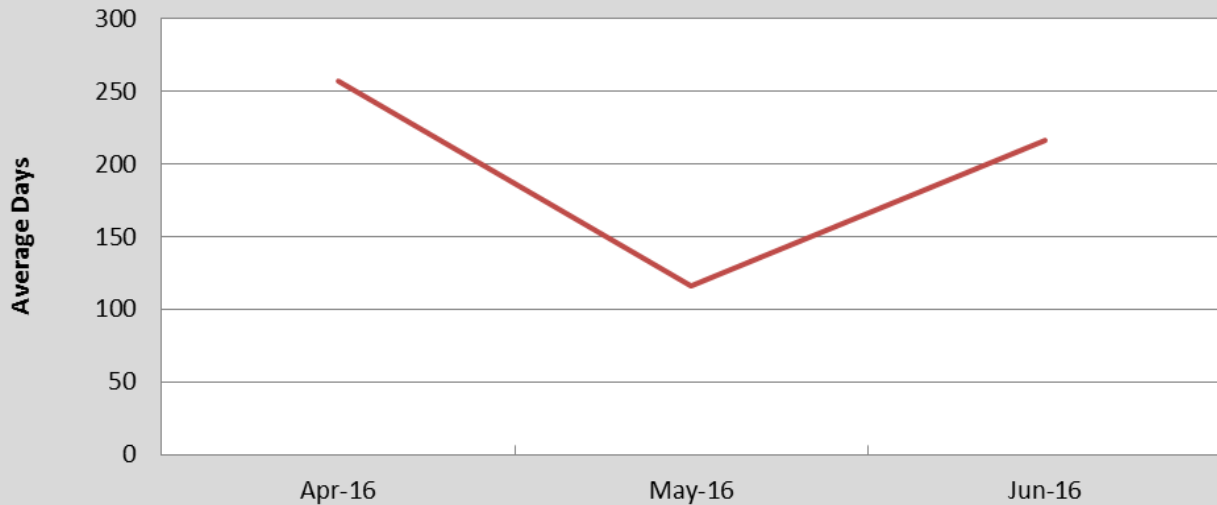


The bar graph above shows the number of complaints received by complaint type for this fiscal year. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

INVESTIGATIONS - Includes formal investigations conducted by DOI and desk investigations conducted by staff

DCA Category	Initiated	Pending	Closed
Unprofessional Conduct	7	50	23
Unlicensed/Unregistered	8	16	7
Criminal Charges/Convictions (includes pre-licensure)	48	50	47
Sexual Misconduct	1	4	2
Fraud	2	20	8
Non-jurisdictional	2	1	1
Incompetence/Negligence	6	22	6
Unsafe/Unsanitary Conditions	4	6	4
Other	0	0	0
Substance Abuse/Drug & Mental/Physical Impairment	1	2	0
Discipline by Another State Agency	0	0	0
Total	79	171	98
Average days			196

Case Aging for Closed Investigations



	Apr-16	May-16	Jun-16
Average Days	257	116	216
# of Cases	33	33	32

The graph above shows the number of investigations closed out each month of this fiscal year. The line illustrates the average number of days the case was open from receipt of complaint to the date the investigative phase was closed. After the investigation is closed the case is either referred for disciplinary action, issued a citation, or closed due to insufficient evidence or no violation. The time it takes during the discipline phase is not captured in these averages. The overall average process time for cases that resulted in disciplinary action this fiscal year is shown below.

DISCIPLINARY ACTIONS

Requested	5
Pending	24
Accusation/SOI Filed	5
Decisions	7
• Revoked	2
• Voluntary Surrender	0
• Probation	4
• License Denied	0
• Public Reprimand	1
Avg. Overall Process Time	1,301 days*
Citations Issued	31
Open Probation Cases	29

*Only applies to cases that result in formal discipline through a Decision and Order, not all case closures.

QUARTER 4 FY 15/16 TREND ANALYSIS

Complaint Trends

This quarter's data is better understood when we use last year's quarter 4 (Q4) data as a point of reference.

This quarter had a slight increase in complaints compared to this time last year from 81 to 83. This is a 2.5% increase in volume. The most notable increase in complaints is found in the charges/convictions received by the Board, which increased from 44 to 51. The Board is seeing more applicants with criminal histories to review and further evaluate. Additionally, staff has dropped the average complaint intake time from seven days to four days this quarter; a 43% decrease. Last quarter's average intake time and this quarter's times are under the Board's performance measure target of ten days.

Investigation Trends

There are not many significant performance changes with regards to investigations. This is likely due to Enforcement staff being consistent between the two quarters as well as complaint volume being very similar. The most notable changes are the total investigations pending decreasing by 16% from 204 last quarter to 171 this quarter. Enforcement staff is working diligently to close cases in a timely manner which in turn produces a more manageable caseload. The other noteworthy change is the average investigation time decreasing by 30% from 281 days last quarter to 196 days this quarter. This change represents the Board meeting and coming under the 200 day target for the performance measure on the average number of days to complete an investigation.

Formal Discipline Trends

This is the first quarter in the 15/16 fiscal year to see a decrease in complaints referred to the Attorney General's Office for discipline. Complaints referred went from eleven in Q4 last year to five this quarter, resulting in a 55% decrease. Much of staff's work during the first three quarters of the last fiscal year concentrated on getting through the backlog of complaints. The decrease in complaints referred may signify that the majority of the backlog has been closed out or referred on already. As a result of a high volume of cases referred to the Attorney General's Office previously in the fiscal year, we are now seeing an increase in Accusations and Statement of Issues filed. Last quarter there were just two Accusations/Statement of Issues filed whereas this quarter five were filed, which represents a 150% increase. The total decisions that became effective have increased by 133% with just three decisions last quarter compared to seven this quarter. The Board continues to see no real consistency in its total average days for discipline. Last quarter the Board experienced a great achievement of 488 days for its total average days for discipline. This signified the Board being well under the Department's performance measure target of 540 days. This quarter the total average days for discipline process time was 1,301 days which can be attributed to the older more complex cases closing out. The average process time may become more consistent after all of the older cases close out. On the other hand, due to the Board's small volume of decisions that become effective each quarter, and the wide variance in case types, there may always be inconsistency in the total average days.

#5b2

Enforcement Report

Q1 2017



ACUPUNCTURE BOARD
 1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
 (916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

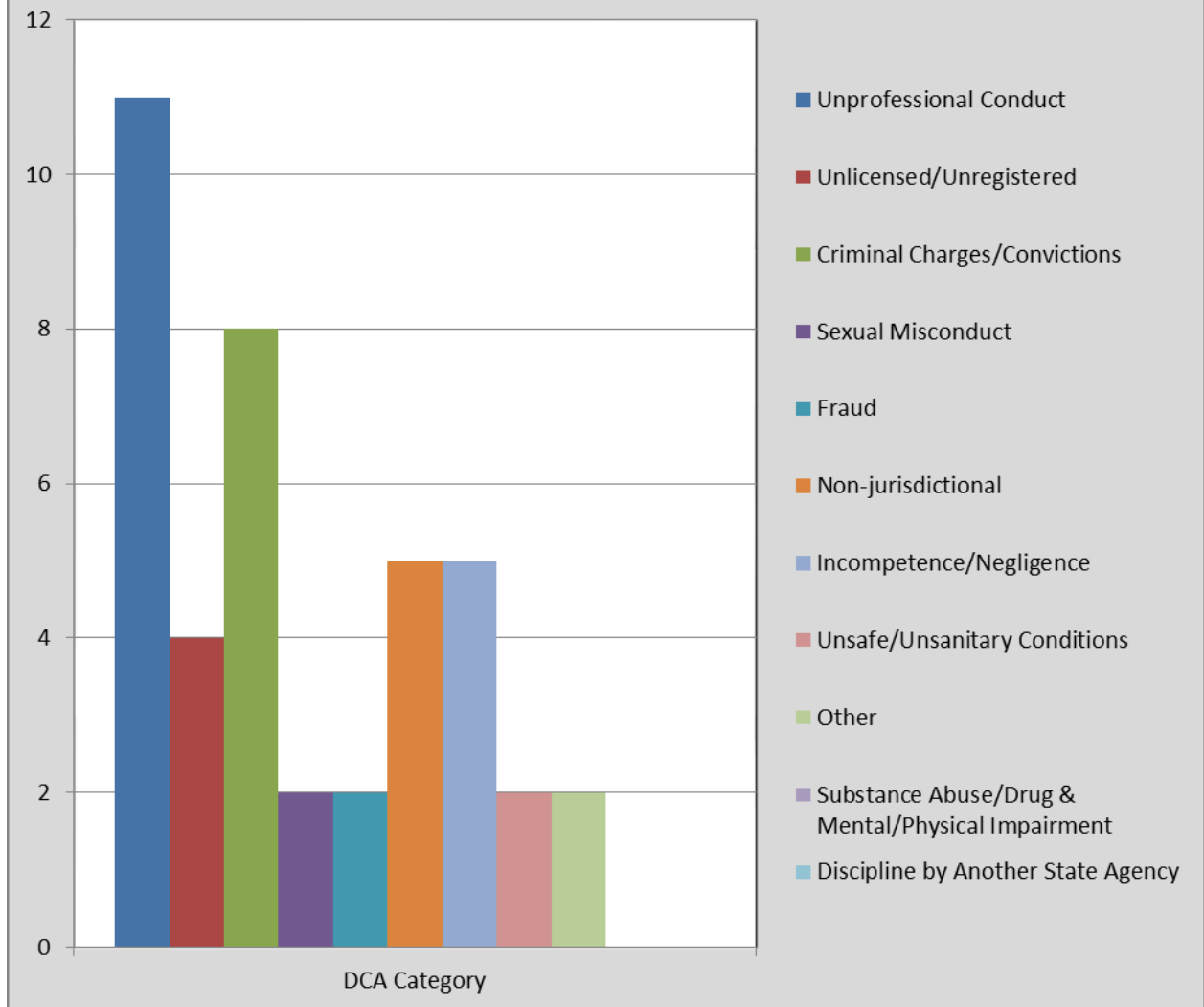
DATE	December 14, 2016
TO	All Board Members
FROM	Kristine Brothers Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter (Q1) FY 2016/2017: July 1, 2016 to September 30, 2016

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Received	Closed/Referred to Investigation
Unprofessional Conduct	11	11
Unlicensed/Unregistered	4	5
Criminal Charges/Convictions*	8	9
Sexual Misconduct	2	2
Fraud	2	2
Non-jurisdictional	5	5
Incompetence/Negligence	5	5
Unsafe/Unsanitary Conditions	2	2
Other	2	2
Substance Abuse/Drug & Mental/Physical Impairment	0	0
Discipline by Another State Agency	0	0
Total	41	43
Average Intake Time: 5 days		

*Of the 8 Criminal Charges/Convictions, 4 were received on Applicants and 4 were received on Licensees.

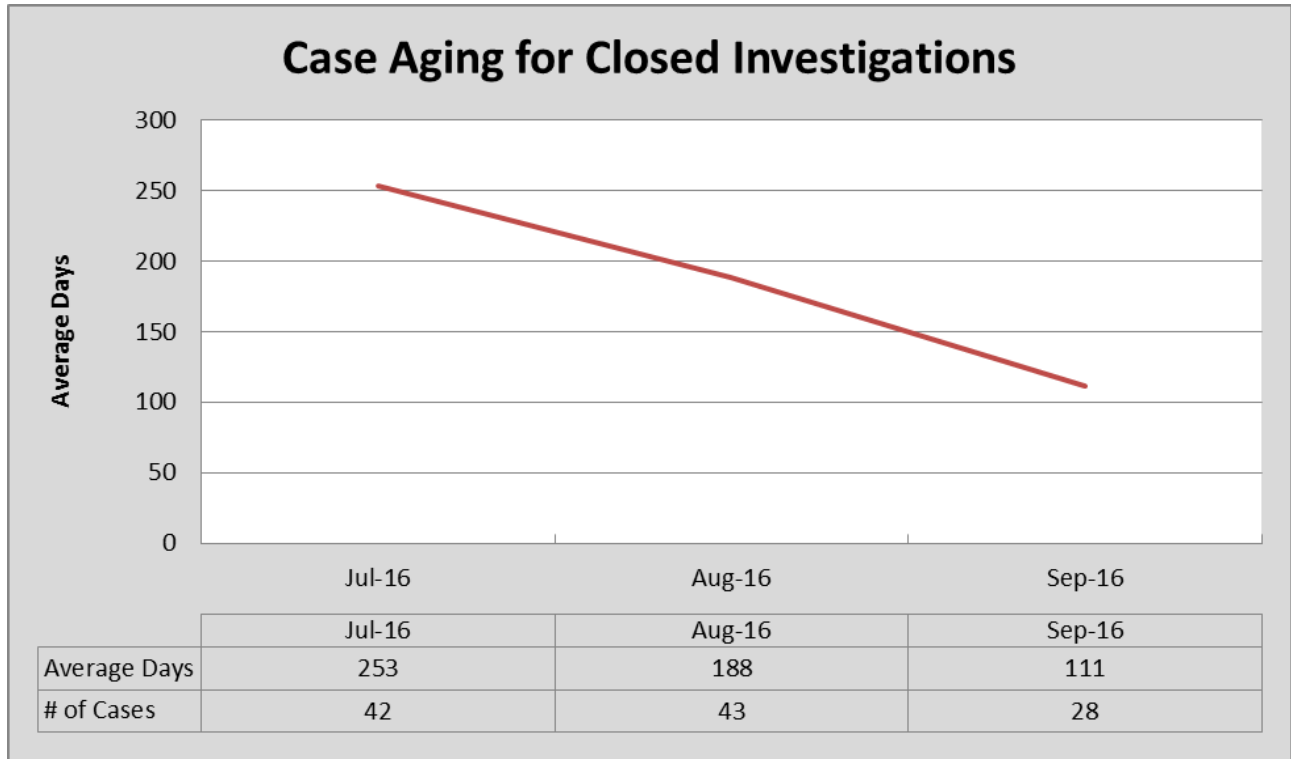
Complaint Volume from Q1 FY 16/17



The bar graph above shows the number of complaints received by complaint type for this fiscal year. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

INVESTIGATIONS - Includes formal investigations conducted by DOI and desk investigations conducted by staff

DCA Category	Initiated	Pending	Closed
Unprofessional Conduct	11	24	43
Unlicensed/Unregistered	5	17	6
Criminal Charges/Convictions (includes pre-licensure)	8	21	46
Sexual Misconduct	2	5	1
Fraud	2	14	10
Non-jurisdictional	2	0	3
Incompetence/Negligence	5	26	1
Unsafe/Unsanitary Conditions	2	7	1
Other	1	0	1
Substance Abuse/Drug & Mental/Physical Impairment	0	1	1
Discipline by Another State Agency	0	0	0
Total	38	115	113
Average days			193



The graph above shows the number of investigations closed out each month of this fiscal year. The line illustrates the average number of days the case was open from receipt of complaint to the date the investigative phase was closed. After the investigation is closed the case is either referred for disciplinary action, issued a citation, or closed due to insufficient evidence or no violation. The time it takes during the discipline phase is not captured in these averages. The overall average process time for cases that resulted in disciplinary action this fiscal year is shown below.

DISCIPLINARY ACTIONS

Requested	4
Pending	21
Accusation/SOI Filed	6
Decisions	5
• Revoked	0
• Voluntary Surrender	0
• Probation	5
• License Denied	0
• Public Reprimand	0
Avg. Overall Process Time	900 days*
Citations Issued	46
Open Probation Cases	33

*Only applies to cases that result in formal discipline through a Decision and Order, not all case closures.

QUARTER 1 FY 16/17 TREND ANALYSIS

Complaint Trends

This quarter's data is better understood when we use last year's FY 15/16 quarter 1 (Q1) data as a point of reference.

This quarter saw a decrease in complaints compared to this time last year from 69 to 41. This is a 41 % decrease in volume. The most notable changes in the types of complaints received were found in charges/convictions, which decreased from 26 to eight (8). Twenty (20) of the charges/convictions received were for applicants whereas the same time of year this year only brought in four (4) applicant charges/convictions. The data indicates that a higher volume of applicants with criminal records were received last year during Q1 compared to this year during Q1. There was a slight drop in the average intake time for complaints received compared to last year, from six (6) days in FY 15/16 to five (5) days this year. Consistently, the Board has been under its target of ten (10) days for this performance measure.

Investigation Trends

In comparing last year's investigation statistics to this year, the primary trend shows a lot of productivity at this phase of the complaint cycle. Although there is a downturn in investigations initiated given the decrease in complaint volume, you can see that the investigations pending at the close of Q1 has gone down significantly. Similarly, the closed investigations have risen a substantial amount. Total investigations went down 42% with 66 opened last year as opposed to 38 this year. The total investigations pending went from 187 to 115, which was a 39% decrease. The total investigations closed went from 86 to 113, which increased by 31%. There was a 42% decrease in total investigations initiated going from 66 last year to 38 this year. Enforcement staff has been working steadily on processing reviews and appropriate case closures to reduce caseload. The other noteworthy change is the average investigation time decreasing by 33% from 287 days last quarter to 193 days this quarter. The Board is meeting its 200 day target for the performance measure on the average number of days to complete an investigation.

Formal Discipline Trends

This quarter continues to show that the majority of the backlog from prior years has been worked through or already referred for disciplinary action. Complaints referred to the Attorney General for discipline went from seven (7) in Q1 last year to four (4) this year, resulting in a 43% decrease. As a result of a high volume of cases referred to the Attorney General's Office in the prior fiscal year, we are continuing to see a slight increase in Accusations and Statement of Issues filed. Last quarter there were four (4) Accusations/Statement of Issues filed whereas this year six (6) were filed, which represents a 50% increase. The total decisions that became effective have decreased by 44% with nine (9) decisions last year compared to five (5) this year during Q1. The Board continues to see no real consistency in its total average days for discipline. The last two Board Enforcement reports showed discipline overall average process times ranging from 488 days to 1,301 days. This quarter is somewhere in the middle of that range. When compared to last year, the total average days for discipline process time went from 1,323 days last year to 900 days this year, which was a 32% decrease. Considering the history of this statistic, it is likely that due to the Board's small volume of decisions that close out each quarter, and the wide variance in case types, there will probably always be an erratic pattern with the overall average for discipline times.

#5c

Education Report

Education Staff Report to the Full Board

Compliance status in relation to the completed site visits at all of the 35 currently approved training programs:

- The Board has completed site visits and has obtained current curriculum from all of the presently approved training programs.
- Twenty-one in-state and three out-of-state compliance site visits were completed in the fiscal year June 2015
- The remaining nine out-of-state site visits were completed as of June 2016.
- Training programs have reimbursed the Board all travel costs incurred by site visit team members conducting the site visits. The Board paid for SME hourly costs and staff time in relation to travel time, conducting the site visit, report processing, creation and delivery (CCR§1399.439(b)).
- The Board has received the full CCR §1399.434 curriculum from all currently approved programs.

Compliance Status as of December 2016:

- 13 programs are in full compliance:
 - Alhambra Medical University
 - American College of Traditional Chinese Medicine
 - Atlantic Institute of Oriental Medicine
 - College of Eastern Medicine at Southern California University
 - Five Branches University, Santa Cruz
 - Five Branches University, San Jose
 - Kingston University
 - Oregon College of Oriental Medicine
 - Phoenix Institute of Herbal Medicine and Acupuncture
 - Stanton University
 - University of South Los Angeles
 - Yo San University
 - Yuin University
- 3 training programs have completed clinical corrective actions; curriculum review has been completed by staff. Programs are in process with curriculum corrective action
- 20 training programs have submitted clinical corrective actions and are pending curriculum review by staff
- All of the currently Board approved training programs have submitted clinical corrective action plans in response to Boards compliance site visits

Changes in Training Program Approval Status

Four previously approved training programs no longer have Board approval:

- a. One program merged with another campus that has the same approved curriculum.
- b. Three out-of-state training programs chose to terminate their CA approval in lieu of a site visit that included both clinical and full curriculum review.

The Board has identified five approved training programs currently lacking accreditation status with The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). In response to outreach the Board has received communications from all of these currently approved training programs that they have initiated intent to pursue accreditation from ACAOM. The Board in addition has established a clear protocol to verify accreditation status with ACAOM and approval status from The Bureau of Private Post-Secondary Education.

The Education Unit has revised and streamlined our training program initial application and compliance reporting for clarity with the aim of presenting a simpler reading format without content loss.

Bureau of Private Postsecondary Education and The Accreditation Commission for Acupuncture and Oriental Medicine Collaboration Update

Board staff has developed processes to facilitate the implementation of SB 1246. This has involved close collaboration with Bureau of Private Postsecondary Education (BPPE) within the department that is supported by an operational agreement that allows for the easy and efficient sharing or critical that comprehensively supports ongoing compliance, enforcement and complaint process. In addition Board staff has developed a similar process to share relevant information and status with The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). Board staff has updated its curriculum review and reporting process that has resulted in a much clearer efficient process of curriculum review. The execution of working relationships with these agencies are critical as the process for training program approval effective January 1, 2017 necessitates Board approved training program curriculum, BPPE approval and ACAOM accreditation status. Finally, completing the approved training program compliance process has resulted in the Board's currently approved programs to achieve compliance with the requirements set forth by SB 1246 moving forward.

Continuing Education Update

Education Unit continues to process a high volume of continuing education provider applications and course approvals. Continuing education currently has a total of 1354 providers and has processed 2524 course applications, since January 2016, an average of 280 applications per month. This unit continues to absorb and process this work load, sharing the duties amongst multiple staff members.

Overall processing times are improving with improved work flow processing efficiencies. Processing efficiency and approval status reporting is expected to improve when full staffing is implemented in the near future.

The newly updated CE Course lists have been submitted to be posted on the website within the week.

Tutorial Program Update

There are currently 49 active tutorials in progress, and 3 applications for tutorial program approval. This program is currently available for students and represents a very historically traditional process of the pedagogical learning of Asian Medicine. Tutorial program pass rates are very close to academic programs: 2014-2016 first time test takers achieved a 66% pass rate; overall pass rate including retakes yielded a 50% pass rate. 10 new licenses were earned in the tutorial program over this 3 year period.

Program administration and application processing status is current.

#5d

Regulatory Update



ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
 (916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



CAB list of past and future regulations

Updated: December 14, 2016

Set out below are a list of past and future pending regulations. Please note this list may be incomplete and subject to change depending upon Legislative or Executive action. Due date to OAL reflects the final due date when regulatory filing is required to be submitted for rulemaking.

Note: Authority for regulatory changes is provided under California Business and Professions (B&P) Code Chapter 12, Article 1, Code section 4933.

Pending regulations					
	Subject	Title 16, California Code of Regulations (CCR) Section referred	Date original authorizing vote taken (vote)	Current Status	Due Dates / Anticipated Filing Date
1	Uniform Standards Related to Substance Abusing Licensees (SB 1441)	Amend Section 1399.469	10/25/2013 (5-0)	Board adopted final text at 10/26/16 meeting. 15 Day modified text period closed on 11/19/16 with no comments received. Final rulemaking will be submitted to DCA/Agency by late December with OAL to follow.	Required to OAL no later than 4/4/2017.
2	Standards for the Approval of Educational Training and Clinical Experience Received Outside the United States; Curriculum Standards for Board Approval of Curriculum; Requirements for Board Approval of Curriculum. (SB 1246)	Adopt Section 1399.433, Amend Section 1399.434, Repeal Section 1399.436, Amend Section 1399.437	11/17/2015 (7-0)	Technical changes to text issued for a 15-day modified text period. Final submission to DCA/Agency and OAL to follow. Regulation would be in effect upon filing with Secretary of State's office.	Required to OAL no later than 4/12/2017.

3	Sponsored Free Health-Care Events (AB 2699)	Adopt Article 8 and Sections 1399.480, 1399.490.1, 1399.490.2, 1399.490.3	11/17/2011 (5-0)	OAL disapproved regulation on 10/13/16. Revised text to Board at December 2016 meeting. If approved, a 15-day modified text notice will be issued, followed by re-submittal to OAL.	Required to OAL no later than 2/10/2017.
4	Advertising Guidelines – Display of License Number in Advertising	Adopt Section 1399.455	2/19/2013 (5-0)	Staff revising language for Board review and possible approval at future Board meeting. If approved, a 15-day modified text notice will be issued.	Anticipated initial filing with OAL upon Board approval.
5	Prostitution Enforcement and Condition of Office	Amend Section 1399.450(b)	2/14/2014 (6-0)	Regulation in Enforcement Committee for further action.	Anticipated initial filing with OAL upon Board approval.
6	Continuing Education Ethics Requirement	Adopt Section 1399.482.2	11/15/2012 (5-0)	Regulation in Education Committee for further action.	Anticipated initial filing with OAL upon Board approval.
7	Hand Hygiene Requirements	Amend Section 1399.451(a)	2/14/2014 (5-0)	Package under staff development.	Anticipated initial filing with OAL by Summer 2017.

Adopted Regulations			
	Subject	Title 16, CCR Sections referred	Date approved by Office of Administrative Law; date in effect with link to text of regulation
1	Educational Curriculum Requirements	Amend Section 1399.415	Approved by OAL 10/5/04 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art2.shtml#1399415
2	Cite and Fine Enforcement	Amend Section 1399.465	Approved by OAL 4/17/06 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art6.shtml#1399465
3	Continuing Education	Amends Sections 1399.480 – 1399.489.1	Approved by OAL on 8/25/08 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art8.shtml#1399480
4	Retroactive Fingerprinting Requirements	Adopts Sections 1399.419.1 and 1399.419.2	Approved by OAL 9/23/10 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art25.shtml#13994191
5	Consumer Protection Enforcement Initiative (CPEI)	Amends Sections 1399.405, 1399.419, 1399.469.1, 1399.468.2	Approved by OAL 9/1/15; in effect 10/1/2015 https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I45A8F9C0D48E11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)
6	Display of Licensure by Acupuncture Board (BPC 138)	Adopt section 1399.463.3	Approved by OAL 7/12/16; in effect 10/1/2016 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/bpc138_orderofadoption.pdf

#7

**Implementation
of AB 2699**



DATE	December 14, 2016
TO	Board Members
FROM	Marc Johnson, Policy Coordinator
SUBJECT	AB 2699 - Free and Sponsored Health Care Events

Introduction and Background:

AB 2699, regarding Free and Sponsored Health Care Events, is a rulemaking package approved by the Board on November 11, 2011. In May 2015, the Board filed the rulemaking package with OAL, and the public comment period on the proposed regulation began on June 5, 2015 and closed on June 20, 2015, and the Board adopted the final Order of Adoption text at the September 18, 2015 public meeting. The rulemaking submission for final approval was filed with DCA/Agency in December 2015.

On October 31, 2016, the Board received a disapproval of the regulation from Office of Administrative Law (OAL), along with a copy of the decision which laid out the specific reasons for the disapproval. Most of the items listed in the disapproval are technical, but do require Board approval of the changes to the regulatory language and forms. The Board has until February 10, 2017, to resubmit the package to OAL for approval.

Action Items for Board:

1. Discussion and possible approval of modified text and forms for AB 2699. If approved, it will be subject to a 15-day modified text period.
2. Delegation to the Executive Officer the authority to continue the regulatory process, re-submit the rulemaking file for approval to OAL and grant authority to make non-substantive changes to the regulation.

“I move to amend the proposed language as staff has recommended, to approve the modified text for a 15-day comment period and delegate to the Executive Officer, if there are no comments received during the public comment period, the authority to make technical, non-substantive changes as necessary in completing the rulemaking file.”

Discussion:

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



In response to OAL's decision, staff is recommending a number of changes to the approved language and the Form 901A and 901B. Set out below is a summary of the proposed changes.

Changes to Regulatory Text:

1. Renumbered sections and changed placement of text into Article 1.5.
2. Correctly cited forms incorporated by reference.

Changes to "Registration of Sponsoring Entity under Business & Professions Code Section 901" -- Form 901-A:

1. Updated contact information and phone numbers for the Department of Consumer Affairs
2. Updated Revision Date.

Changes to "Request For Authorization To Practice Without a License at a Registered Free Health Care Event" -- Form 901-B:

1. Updated Revision Date.

Additional changes made after Board packet completion will be addressed at the meeting if needed.

7b

Modified Text and Forms 901-A and 901-B not finalized as of packet assembly date. Will be available on day of Board Meeting.

#8

Approval of October 26, 2016

Board Meeting Minutes



CALIFORNIA ACUPUNCTURE BOARD
1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

**California Acupuncture Board
Public Board Meeting
DRAFT Meeting Minutes
Wednesday, October 26, 2016**

Site 1

**Department of Consumer Affairs – HQ1
1625 North Market Blvd, 1st Floor Hearing Room
Sacramento, CA 95834**

Site 2

**550 South Hope Street
Suite #1910, Conference Room
Los Angeles, CA**

Board Members Present (Sacramento)

Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Francisco Hsieh, Public Member

Board Members Present (Los Angeles)

Hildegarde Aguinaldo, President, Public Member
Jeannie Kang, L.Ac, Licensed Member

Board Member Absent

Dr. Michael Corradino, DAOM, Licensed Member

Legal Counsel Present

Kelsey Pruden

Staff Present

Ben Bodea, Executive Officer
Kristine Brothers, Enforcement Coordinator
Jay Herdt, Education Coordinator
Marc Johnson, Policy Coordinator

Acupuncture Board Members

*Hildegarde Aguinaldo, President, Public Member
Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Dr. Michael Corradino, DAOM, Licensed Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Vacant, Licensed Member*

FULL BOARD MEETING - 9:30 AM

Agenda Item #1 – Call to Order, Roll Call and Establishment of a Quorum

Hildegarde Aguinaldo (Aguinaldo), Board President, called the meeting to order at 9:45am. Policy Coordinator Marc Johnson (Johnson) called the roll. Hildegarde



Aguinaldo – present in Los Angeles; Jaime Zamora – present in Sacramento; Kitman Chan – present in Sacramento; Dr. Michael Corradino – absent; Francisco Hsieh – present in Sacramento; Jeannie Kang – present in Los Angeles. **5-0 Quorum established.**

Agenda Item #2 – Approval of August 31, 2016, Board Meeting Minutes (Johnson)

The Board reviewed the August 31, 2016 public meeting minutes. Vice President Jamie Zamora (Zamora) requested a minor change on page 3 from “2106” to “2016”.

There was no public comment on this item.

*MOTION: President Aguinaldo made a motion to approve the August 31, 2016 Board meeting minutes with the minor change on page 3. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #3 – Approval of September 21, 2016, Board Meeting Minutes (Johnson)

The Board reviewed the September 21, 2016 public meeting minutes. No changes were made.

There was no public comment on this item.

*MOTION: Vice President Zamora made a motion to approve the September 21, 2016 Board meeting minutes. Board Member Kitman Chan (Chan) seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #4 – Regulatory Update (Johnson)

Johnson gave the Board an update on all regulatory rulemaking packages currently with the Board. President Aguinaldo asked staff to include an additional column on future regulatory updates with due dates for the individual regulations.

a. Title 16, California Code of Regulations (CCR), Sections 1399.480, 1400.1, 1400.2, 1400.3 - Sponsored Free Health Care Events (AB 2699)

This rulemaking was disapproved by the Office of Administrative Law (OAL); the Board has 120 days to cure the issues and re-submit to OAL for approval. Johnson indicated the disapproval was not a major setback, and that staff would be revising the package to resubmit to OAL. The changes will be brought to the Board at the next meeting for possible approval then.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



b. Title 16, CCR Section 1399.455 – Advertising Guidelines: Display of License Number in Advertising

Johnson noted this package was being revised by staff and will be brought back to the Board at a future public meeting.

c. Title 16, CCR Section 1399.450(b) - Prostitution Enforcement and Condition of Office

Executive Officer Benjamin Bodea (EO Bodea) referred this rulemaking package to the Enforcement Committee for further development.

d. Title 16, CCR Section 1399.482.2 – Continuing Education Ethics Requirement

EO Bodea referred this rulemaking package to the Education Committee for further development.

e. Title 16, CCR Section 1399.451(a) – Hand Hygiene Requirements

Johnson noted staff is currently developing this rulemaking package for submittal to OAL by Spring 2017.

There was no public comment on these items.

Agenda Item #5 – Consideration and possible action regarding proposed regulations - Title 16 of the California Code of Regulations (CCR) Sections 1399.433, 1399.434, 1399.437 and Repeal of CCR Section 1399.436 – Implementation of SB 1246 (Johnson)

Johnson provided a short background on the SB 1246 regulatory package. He noted there were two letters received during the second 15-day public comment period. He read aloud the full text of each comment and the proposed Board response. The Board decided to vote on each comment and proposed response individually rather than taking a global motion on all of the comments.

1. Letter received via mail dated October 5, 2016 from Dr. Bob Damone, Doctor of Acupuncture and Oriental Medicine (DAOM), Dean of Southern California University of Health Sciences, College of Eastern Medicine.

Johnson identified five distinct comments to be addressed from Dr. Damone's letter.

First, regarding the proposed language for 1399.433h and 1399.434h, Dr. Damone felt that the practice of Acupuncture needling is something that could be performed safely by well-trained Acupuncture interns early in their training and well before a 700-hour minimum supervisory period. Staff recommended rejection of the comment, on the basis that the proposed changes to the regulation do not alter any of the current clinical

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



requirements that have been in regulation since 2005, and that needling is a precise procedure that requires supervision.

Public comment was taken on this item. Dr. Steven Given, CIIS, disagreed with Staff's recommendation of rejection of the comment. He stated that under ACAOM, schools were required to provide supervision in stages, and that even though there is not always line-of-sight supervision, it doesn't mean there isn't proper supervision. He felt by having the line-of-sight requirement in place students are not learning independence and self-correction in work and that may be hindering public safety. Board Member Jeannie Kang (Kang) commented that she has heard from many schools about this requirement, and that it was difficult for them to abide by the supervision requirement. She wanted the Board to examine the issue more closely.

Legal Counsel Kelsey Pruden (Pruden) clarified that the Board removed the 700 hours and line-of-sight language from the regulation, and that the Board could promulgate regulations to address the issue but did not recommend that at this time due to the pressing timeline. She noted there was still a 'physically present' element to the regulation and that is what people may be commenting on. Member Kang agreed and asked that the issue be addressed in the future at a Board Committee meeting.

Ron Zaidman, Five Branches University, felt that the proposed regulations were troublesome and how it may not support the safety of the patients nor quality of education. Dr. Bob Damone, SCUHS, thanked the Board for its attention on the issue. He felt the comment made by the Board did not address the issue, and felt that excessive supervision can actually lead to an unsafe situation for students.

President Aguinaldo indicated she was comfortable with the proposed language as is, but the language provides the Board the opportunity to make a decision in the future about clinical supervision. She noted the Board needed to focus on the proposed language to move forward.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Sections 1399.433h and 1399.434h. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Second, Dr. Damone pointed out the difference between clinical supervision regulations for acupuncture tutorials and acupuncture training programs by referring to the Board's CCR Section 1399.426. He felt that section reflected a reasonable approach to safe and pedagogically sound clinical supervision for both acupuncture tutorials and acupuncture training programs. Staff recommended rejection of the comment, since a tutorial candidate works in very close proximity at all times with the supervisor in an environment much different from an acupuncture school; thus, the requirements of CCR Section 1399.426 would not be applicable here.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



Public comment was taken on this item. Dr. Bob Damone, SCUHS, disagreed with the proposed staff response. Dr. Steven Given, CIIS, also disagreed with the staff response. President Aguinaldo asked that an Acupuncture School's supervision hours and required supervisory presence be assigned to the Education Committee as a future agenda item.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Section 1399.433h and 1399.434h. Board Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Third, Dr. Damone cited the resident clinical supervision standards from the Accreditation Commission for Graduate Medical Education (ACGME) and felt a similar model would fit perfectly within the clinical supervision regulations for the Board's Acupuncture Training programs. Staff proposed rejecting the comment, as the ACGME standards reflect the Entrustable Professional Activity (EPA) used within the education models for physicians and osteopaths, which staff asserts do not readily translate to acupuncture education models.

Public comment was taken on this item. Dr. Steven Given, CIIS, disagreed with the staff response, stating that the process for levels of supervision is the same for Medical student and Acupuncture, by matching the level of supervision with the needs of the training program. Member Kang agreed there was a need to look at how a student individually gets trained in needling; however she felt there is some justification for a supervisor at the student's training. She also wanted the Board to look at the ACGME standards as a future Education Committee agenda item. Dr. Bob Damone, SCUHS, disagreed with the Board response, and stated he wanted to use the ACGME standards as a model in the future for applying to Acupuncture education.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Section 1399.433h and 1399.434h. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Fourth, Dr. Damone notes the interpretation of 'Immediate and Direct Supervision' by the California Chiropractic Board, and feels that the California Chiropractic Board defines the terms "immediate and direct" supervision in a more liberal fashion than does the California Acupuncture Board. Staff recommended rejection of this comment, as Chiropractic education and practice has a different type of learning and clinical training than Acupuncture.

There was no public comment on this item.

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Fifth, Dr. Damone asked that the Board consider placing on a future agenda the issue of updating and modernizing the California acupuncture clinical supervision regulations. Staff recommended rejection of this comment, as the Board is currently restoring the proposed regulations regarding clinical supervision so that there will be no proposed changes to what is currently in place.

Public comment was taken on the item. Dr. Steven Given, CIIS, encouraged the Board to continue to make space for the discussion.

MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

2. Letter received via mail dated October 10, 2016 from Dr. Gregory Lane, Doctor of Acupuncture and Oriental Medicine (DAOM), Director of Clinical Services, Pacific College of Oriental Medicine.

Johnson noted that in his letter Dr. Lane thanked the Board and acknowledged all of the hard work and time invested by the Board in deliberating the issues. He stated that Dr. Lane's letter had three comments regarding the proposed regulatory action.

First, Dr. Lane felt that there remains work to be done in further revision of the regulatory language as it relates to clinical supervision in acupuncture programs. He asked that the Board consider recommendations for regulation modification that would serve ideal clinical supervision in acupuncture training programs as a future agenda item. Staff recommended rejection of this comment, as the Board is currently restoring the proposed regulations regarding clinical supervision so that there will be no proposed changes to what is currently in place.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Second, Dr. Lane also cited ACGME common program requirements, stating that the current evidence and best practices in health professions education supported a tiered

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



approach, which aims towards a higher level of autonomy of the clinical student utilizing competency-based assessments on the part of the supervisors. Staff recommended rejection of this comment, on the basis that ACGME standards reflect the Entrustable Professional Activity (EPA) used within the education models for physicians and osteopaths. Staff feels those standards do not readily translate to acupuncture education models.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Third, Dr. Lane stated he would like to bring attention to the CAB that there are inconsistencies in the regulations governing clinical supervision in acupuncture tutorials and in acupuncture training programs. He asked that these regulations be considered in a future agenda for re-wording to close disparity and bring into alignment the regulations. Staff recommended rejection of the comment, since a tutorial candidate works in very close proximity at all times with the supervisor in an environment much different from an acupuncture school, and the tutorial program requires more hours to complete. Therefore, the requirements from CCR Section 1399.426 would not be applicable here.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Johnson then turned to the proposed Order of Adoption for the proposed regulatory package. He explained that this would be used to complete the rulemaking file and will be submitted to DCA and Agency for final approval.

There was no public comment on this item.

MOTION: President Aguinaldo motioned to approve the proposed order of adoption for the proposed regulations, to delegate the authority to the executive officer to complete the rulemaking file and to make any technical and non-substantive changes that may be required. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1



Agenda Item #6 – Consideration and possible action regarding proposed regulations - Title 16, CCR Section 1399.469 – Uniform Standards Related to Substance Abuse (Johnson)

This item was continued from the September 21, 2016 Board meeting. Johnson provided a short history on the regulatory package and explained why staff was proposing to create a separate Uniform Standards document, instead of combining with the Board's Disciplinary Guidelines as originally proposed.

Counsel Pruden further explained that based upon changes to Business and Professions Code Section 315 the current SB 1441 regulatory language needed to be changed. She also stated that the current Disciplinary Guidelines were considered outdated and would be taken up by the Board at a future date. For clarity purposes, she felt it would be best if the Uniform Standards were separated from the Disciplinary Guidelines, making two separate documents. She noted a recent opinion by the Attorney General's office which made some changes to SB 1441 implementation, and the new language gives the Board flexibility when considering disciplinary action against a licensee.

Counsel Pruden also noted the proposed Uniform Standards document incorporated by reference was originally in single strikethrough to indicate changes, but double strikethrough would be used.

There was no public comment on this item.

*MOTION: Vice President Zamora made a motion to approve the proposed modified text and document for a 15-day public comment period and if there are no comments, to delegate the authority to the executive officer to make any technical and non-substantive changes that may be required and to adopt the proposed regulatory language. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #7 – Public Comment for items not on Agenda (Aguinaldo)

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

There were no public comments made.

Agenda Item #8 – Future Agenda Items (Aguinaldo)

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



President Aguinaldo asked that all Board Members review their committee agendas for the upcoming committee meetings in December to make sure nothing has been missed.

EO Bodea announced the next public Board meeting would be moved from Friday, November 18, 2016 to Wednesday, December 14, 2016 and would be held in Oakland. He noted there would be committee meetings first and then a full Board meeting. At that time the Board will also set the 2017 public meeting schedule.

President Aguinaldo also announced that Benjamin Bodea had been formally appointed as Executive Officer.

Agenda Item #9 – Adjournment (Aguinaldo)

Adjournment at 11:30 a.m.