

**ACUPUNCTURE BOARD**

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**Approved  
California Acupuncture Board  
Meeting Minutes  
June 27, 2014**

**Sacramento Location:**

**Department of Consumer Affairs  
1747 North Market Blvd.  
HQ2 Hearing Room  
Sacramento, CA 95834**

**Los Angeles Teleconference Location:**

**Junipero Serra State Building  
8<sup>th</sup> Floor Conference Room 8A  
320 West Fourth Street  
Los Angeles, CA 90013**

**Board Members Present**

Michael Shi, L.Ac, Chair  
Kitman Chan, Vice Chair, Public Member  
Francisco Hsieh, Public Member  
Jeannie Kang, L.Ac (in L.A.)  
Jamie Zamora, Public Member (in L.A.)  
Hildegarde Aguinaldo, Pubic Member (in L.A.)

**Board Legal Counsel**

Spencer Walker

**Staff Members Present**

Terri Thorfinnson, Executive Officer  
Terry Sinkovich, Exam Coordinator  
Marc Johnson, Policy Coordinator  
Katie Le, Office Technician

**1. Call to Order and Quorum established**

**2. Discussion and Possible Action Regarding SB 1246 (Lieu) as Amended on June 15, 2014**

Michael started by reminding the board that their business is conducted according to Robert's Rules and that Robert's Rules merely is the framework from which the board arrives at any decisions that they make. Michael also told everyone that he attended the assembly hearing where the Acupuncture Sunrise bill was heard. Michael made a motion to support if amended the

current version of SB 1246, dated June 15, 2014. Then Terri was called upon to review the Acupuncture Board analysis that she had prepared and also review the June 15<sup>th</sup> version with the amendments. Terri reviews the Sunrise bill section by section, in terms of the amendments so that everyone would be informed what was amended and what wasn't as compared to the last version.

- The first summary point repeals the 2015 sunset extensive work to January 1, 2017.
- It terminates the current executive officer and specifically prohibits appointment of an executive officer that has served prior to January 1, 2015;
- Eliminates the board's current approval process and I emphasize "current" – specifically elimination the follow: The board's inspection authority that is critical to clinical training requirements compliance, application fee to reimburse the board for staff time, and reimbursement for schools for direct costs, monitoring, annual reports from schools and ongoing enforcement authority to ensure compliance with board curriculum;
- Eliminates the board's authority for training program, inspection, direct class reimbursement – I mentioned that in the last point;
- Restores the board's authority to set curriculum standards and clinical standards;
- Adds as a condition of licensure that all licensee graduates from an accredited and BPPE approved school. Also adds that the board's required to review and notify the Accreditation commission For Acupuncture and Oriental Medicine (ACAOM) and the Bureau of Private and Postsecondary Education (BPPE) if the school meets curriculum requirements;
- Defines what approved training program is after January 1, 2017 that includes the board conducting a paper review and determining whether schools meet curriculum standards. However, review does not include an inspection and it is unknown whether the review will be approved by staff or the board. There was some clarification on that point in the memo that you also got from LeOndra yesterday, so let me go through section by section.

Section 1 – This section amends a newly created section in the Business and Professions Code, 4927.5, which is a code section of definitions. This new section, point 4927.5(a) creates a new section 4939. This new section is repealed as of January 1, 2017. After January 1, 2017, a new school approval provision is created that is set forth in the section below. This section was unchanged from the June 15<sup>th</sup> amendments, so it's the same as the April 23<sup>rd</sup> version.

Section 2 – This is also in the "Definition" section of 4927.5. This section amends the new school approval section that becomes operative after January 1, 2017. It defines what constitutes an approved training program. The first change that this amendment makes is to replace the word "both" with "all". The provisions related to the board are added in addition to ACAOM and the Bureau of Private and Postsecondary Education in the April 23<sup>rd</sup> version. ACAOM and BPPE were mentioned with the addition of the board so the wording needs to be "all".

The second change is to add the provision that requires a curriculum standard of 3,000 hours, requiring that at least 2050 hours must be didactic and laboratory training and at least 950 hours of supervised clinical instruction. This provision is intended to restore the board's authority to set curriculum standards. The provision also includes that schools must submit a curriculum standard to the board and receive board approval of this curriculum. This provision restores a modified school approval authority to the board. This modified authority does not include any inspection, authority fee, cost reimbursement, or enforcement authority. Does the June 15<sup>th</sup> amendments restore the board's authority to set curriculum standards for training programs? The answer is yes. The new language is in the "Definition" section, so the section

that currently gives the boards authority is still repealed. And so the new language is in a different section. But it's still restored. This modified authority does not include any inspection authority, fee or cost, reimbursement, or enforcement authority. So is it just the assumption that ACAOM would do the inspection?" Answer: I guess.

The third change relates to specifically defining ACAOM status. The provision requires schools to be accredited or have been granted candidacy status by ACAOM. Under this accreditation section, a subsection was added to require the board to review the curriculum based on the board's standards, and determine within 30 days whether the curriculum satisfies the board's curriculum standards, and then notify ACAOM and BPPE of that determination.

The location of this review and approval of the curriculum suggests that when schools in California apply for accreditation, it will include a board compliance review as part of their accreditation process. The board wouldn't have the ability to go out and do the inspection that we would do under our current law. And then there is this, that states that schools that are getting newly accredited, the process is for ACAOM to direct the school to have the board determine whether their curriculum is compliant with the board's curriculum as the first step. And that review has to be done in 30 days. From the memo that Le Ondra sent you, her suggestion is that that would be a board – I mean, a board staff approval. So, you know, given the board's discussion through several meetings about whether staff could do that kind of approval or what our process is, that would be a point to think about because that's a significant change.

Doesn't staff currently do the approval? No, staff does the initial review and then refers the recommendation to the Education Committee and who then makes a recommendation to the Board. The Board has decided that it does not want to delegate final decision-making authority to staff. For pending applications we have created two categories: incomplete and deficient. All schools have been given 60-day notice to either address the incomplete application and/or the deficiency, and the results will go to the Education Committee and they will make the decision about the application, but will then go to the board. Spencer clarified that: "The board has never been tasked with just approving curriculum. So that issue has never come up. What the board has been tasked with, and it's their responsibility at this time to determine whether or not a school will be approved. And of course, curriculum is part of it."

The use of the word "school" versus "training program" may be a word usage that is misleading because we have always, sort of as a shortcut, used the word "school approval." When the Board approves the school, it is really approving the curriculum and the training program. And the training program includes the didactic and the curriculum in the clinical program. In California, clinics/schools are not allowed to have their clinics operate without board approval of the clinic. So they would then have to wait for the final approval, and then the board would then have to go out and approve – look at their clinic as a re-inspection to see that the newly opened clinic is actually operating in compliance. So it's really approval of a training program, which is what I think is intended by the legislative change. We don't really look at the institution because we rely already on ACAOM and BPPE for that kind of review. So what we're really verifying is the curriculum, the curriculum and the clinical training standards. That's what we're doing now.

What is the current review of ACAOM and BPPE? They review the schools, institutions, their processes, how they do governance, how they keep records, how they keep given grades. All the things that you would expect an institution to do. So our checklist includes looking at records and how grades are determined and whether there's a firewall for security to protect those, whether there's an ability of professors to be changing grades or unauthorized change in grades. But the basis of our recommendation is the training program: Do the classes meet our

curriculum, and are the clinic and the clinical training in compliance with our standards? That's the basis of our recommendation, that's the basis of our approval. So that's really not a school approval. That is really a training program approval. As for inspection it appears to be the intention of the legislature to relieve the board of the burden of inspection because that's what we have been unable to do up until now with staffing shortages. But the reality is we need that in order to complete the curriculum approval.

Michael Shi commented, "I think given that we do have curriculum standards to enforce, I think we do need the authority to probably enforce them. And I think I appreciate the Sunset Review, certainly, of incorporating ACAOM to the process. I think that's very valuable to strengthen what we do. But I think as part of my motion, I would like to say that we want to enable and to restore the powers of the inspection as well as fee collection for that inspection process. I think that's very important. I think it's always wise to err on the side of having – double checking, if that is what it comes down to. Certainly, over time, as we go down this path and if there is obvious overlap of the function, at that point the board and future boards can take up this discussion and we can seek further efficiency. But I think right off the bat, it may be wise for us to err on the side of or repeat double inspection, for example".

Hilde asked about the practical effects of the inspection authority for the curriculum or training program approval. Why is this not something that we would be able to simply do by just a paper evaluation? The curriculum standards have very specific requirements that require verification. Our major concern is with respect to clinical training and supervision. We have specific clinical supervision requirements. The first 150 hours our students can observe only; the next 275 hours they are allowed to do assessment and evaluation and treatment, but with a clinical supervisor with five years of experience in the room and present. The third 275 hours is the requirement for needling that, if that's the treatment, and what is done for needling in that treatment, the supervisor must also be in the room. That's what we look for in terms of compliance. We do that through observation for the clinic. We do it through interviewing the clinic director and all of the clinic supervisors. We look at the medical records to see whether it has all of the requisite training, information for diagnosis and assessment that would facilitate both documentation for medical records of traditional Chinese medicine, but also to document an understanding of what would be a basic assessment and of a patient, and then recommendations for treatment that would be documented, because part of the training is that students not only learn how to assess a treated patient, but also to document it in a medical record. We look at the medical records to see that they include both acupuncture and western terminology. What does it have that would allow someone with western medicine training to look at the record and know what else is happening with the patient. So that dual detailed documentation demonstrates to the board that that's a good clinical training program. That is something – because it's medical records, it's an on-site; we have to sign confidentiality agreements. It's not something that we do in the regular desk audit. The interview with all of the faculty, administrators and students is not something we do in a regular desk audit.

Bill analysis continued.

Section 3 – This just amends or extends the board's Sunrise Review date to January 1, 2017.

Section 4 – There's no change from the April 23<sup>rd</sup> version. This is the section that creates and adds the firing authority to the new section for hiring staff.

Section 5 – No change from the April 23<sup>rd</sup> version. This is the provision that terminates the current E.O. and prohibits the board from appointing an E.O. who has worked for the board prior to January 1, 2015. And this provision would be repealed as of January 1, 2017.

Section 6 – This section remains unchanged from the April 23<sup>rd</sup> version. This is the section that amends B & P Code 4935 to eliminate the board's authority to charge a fee for school approval after January 1, 2011. Currently, the board has authority to charge up to \$3,000 per application, but right now only charges \$1,500.

Section 7 – Section 7 amends B & P Code 4938, the licensing provision of the Acupuncture Act. This provision further defines that as a condition of licensure, all applicants must have graduated from a school accredited by ACAOM. A new amendment is added to define eligible students who are ones who are in the first or second graduating class of a school that has been granted candidacy status by ACAOM. Otherwise, if they didn't have this definition, it would allow all graduates from accredited schools to be eligible for licensure without the requirement they graduate from a school whose training program has been approved by the board. This is a section that actually needs clarity that I would recommend, potentially, the board thinking about approving a recommended amendment, which is to clarify this section to include Board approval. It is possible, from looking at the interpretation; a graduate of the first and second class of an accreditation agency could not be approved by the board and still graduate. So having the simple clarification of like an "and" and its curriculum be approved by the board, would clarify this issue. I think it's kind of a minor change, but it would just add clarity, so that you would get the best of both worlds. You'd get the definition of which students can apply and ensure that there are no students that would be graduating from schools that didn't have board approval of their curriculum. While there is good value in defining, there is still a little bit of ambiguity about whether, at what point could you have students that would qualify technically with the letter of the law of being in a first or second graduating class that would be from a school that, at that time, hadn't had the curriculum approved. Now, the reason this is an issue is when we evaluate applicants for sitting for the exam, we want applicants to have 100% of their program complies with our curriculum standards. Some of the transcript course work isn't really from either a BPPE approved or board approved or accredited school. And for that period of time, then those courses, a fraction of those courses and transcript, wouldn't comply with the board's curriculum requirements for the purposes of sitting for the exam. So having a very tight definition of whose eligible is really important for the purposes of reviewing our exam applicants. This section could be tightened up with the addition of "and receive school approval" in the section.

Section 8 – This section amends 4939 to repeal the board's authority to set standards and approve training programs after January 1, 2017 unless it's extended. The board retains its current authority to approve training programs up until January 1 of 2017.

Section 9 – This section amends the post January 1, 2017 4939, board authority to establish "acceptance." The word "approval" was changed to "acceptance" of education training programs that clinical experience received outside US and Canada. This is the new version of section 4939 that takes effect upon repeal of the current board authority to establish training standards for the school approval. The shift from "approval" to "acceptance" suggests a lesser standard, but "acceptance" is still some kind of a decision, some kind of a positive or negative decision. So technically, I guess it's still in the ballpark of "approval." There's another issue-- the current wording exclude Canadians from being either considered US approved or foreign approved. So it creates an island that anybody that graduated from an accredited school in Canada under the current version and under this version wouldn't be eligible to be considered

for sitting for the exam. I don't know what the origin of having the US and Canada be grouped together, but the net effect that staff has been dealing with is that Canadian programs, we have no ability to approve them. So what the people that graduated from Canadian programs have to do is complete tutorials. So I just raise that as potentially an area we can work with committee staff on.

Section 10 – This keeps the April 23<sup>rd</sup> amendments to 4944 to repeal the Subsection B that provides the board's current authority to inspect schools. So the board's inspection authority is repealed after January 1, 2017.

Section 11 – This section repeals the word "board" from "board approved" from approved training programs in the guest acupuncture provision. This is unchanged from the April 23<sup>rd</sup> version.

Section 12 – This section repeals the board's authority to change a school approval application fee that is intended to cover all the costs related to school approval and enforcement. This section is unchanged from the 23<sup>rd</sup> version. This is the provision that financially funded inspection and that is needed to evaluate clinical training compliance and ongoing enforcement compliance with board curriculum standards.

Section 13 – This section repeals that board's authority to charge schools as reimbursement for direct costs for inspection and evaluation. This is also unchanged from the April 23<sup>rd</sup> version. This provision financially funded inspections, which is needed to evaluate clinical training compliance and ongoing enforcement.

The impact of the June 15<sup>th</sup>, 2015 section restores some authority, but the majority of the board's authority for school oversight and enforcement are still repealed. Amendments restore the board's authority to set standards and verify curriculum compliance with those standards for new schools seeking board authority approval status, however, it does not allow for approval of clinical standards because the inspection authority for schools is repealed. Without inspection authority, the board is unable to evaluate clinics and clinical training compliance with the board's standards. In addition, without inspection authority, the board is unable to monitor and enforce ongoing compliance with clinical training standards. The inspection authority for both school approval and enforcement is needed to protect public safety and ensure competency of licensees. The school approval workload remains, but without any reimbursement for the workload because the fee is repealed. So the board will retain a significant workload approval without revenue to pay for the workload. The E.O. provision terminates the current E.O., prohibits the board from hiring the current E.O. or anyone who's worked for the board in 2015. Here are some of the current E.O. achievements:

- Successful in obtaining three additional staff to address workload proficiencies in education, enforcement and licensing. This restored the board's staffing levels to the 2001 staffing levels, even though the workload has tripled.
- Applied for additional staff and facilitate expansion to house addition staff, even beyond those three.
- Applied for additional staff to bring staffing levels to meet its current ongoing workload of the board.

- Addressed regulatory backload by creating a dedicated, full-time regulatory staff position. Resulted in the Consumer Protective Enforcement initiative (CPEI) being submitted for implementation.
- SB 1441 is going through regulatory process.
- Sponsor-Free Health Events is going through the regulatory process.
- Addressed deficiencies in the board's governance structure by arranging for board meetings to be webcast. All agenda items have a policy memo so the board members are informed to make informed decisions.
- Training, enforcement, education, and exams, staff and regulatory staff to write memos and bill analysis to support board member decision-making.
- Increased administrative support staff to address board meeting and travel logistics and general board administration.
- Addressed overwhelming calls workload by shifting calls to DCA call center. This resulted in both increased staff productivity and increased customer service.
- Redesign the board's website with staff.
- Increased the board's enforcement efforts, increased continued education audits to 5% and next year to 8%.
- With an additional staff requested, the board will be able to audit courses and CE providers.
- Instituted creation of staff-training manuals for each of the positions to facilitate training of new staff and strengthens succession planning.
- Oversaw creation of new five-year strategic plan.
- Created nurturing team environment that has resulted in 100% staff retention.
- Work with staff to learn ATS in past database systems to create training materials for them. There are no training materials for either of these complex date systems that existed prior to our training materials.
- Created a project team in charge of training, Monitoring and updating DCA call center on acupuncture issues.
- Worked with staff to create training manual for the DCA call center.
- Updated California licensing exam occupational analysis.
- Wrote BCP to fund the formal review of the national certification pursuant to Business and Professions Code 139 and made arrangements with the office of professional exam services to conduct a review of the national exam.

- Worked with CPS, HR and OPES to increase exam security and follow up on potential cheating allegations.
- Reengineered school approval and enforcement site visits to include subject matter expert onsite visit team, and an exit report that is used as the basis to report decision on applications and enforcement visits.
- Increased the number of subject matter experts for education and enforcement.
- Updated hand hygiene standards for proposing update to the board, which resulted in board approval of regulatory packages.
- Addressed rampant prostitution within acupuncture professional by creating a prostitution-prevention regulatory package that gives board authority to discipline licensees who allow prostitution or sexual relations in their offices.
- Secured board approval of regulatory packaged increased ethics course for continuing education.
- Secured board approval of regulatory package to prevent illegal use of acupuncture licensees by requiring licensees to include their license number on all advertising.
- Created a project team to update regulations and forms.
- Created protocol for use of E.O. and chair electronic signature.
- Updated Board Administrative Manual.
- Prepared Sunset Review report in 2013 and 2013 Annual Report.
- Replaced all old office equipment, including copiers, faxes, computers, printers, monitors, recorders, conference phones, and this resulted in increased staff productivity.
- Created project team to work with OIS by creating a drop box capacity to facilitate document sharing with the board members with an eye to cutting down on copying and mailing costs of board packet materials.
- Conducted overall evaluation assessment of workload and resources that resulted in BCP's and reclassification of staff in the creation of two permanent intermittent staff for administrative support.
- Seeking special investigator position; approved the board's enforcement. With this position, the board can go into the field and investigate unlicensed activity.

Michael asked if Terri or LeOndra could provide clarification on the differences between the analysis from the committee and Terri's analysis. There seems to be agreement that the language has restored the board's authority to set curriculum standards and to approve curriculum and to repeal the inspection authority and the fees and reimbursement of costs. The process going forward is not clear with respect to the Board's involvement in school oversight.



I guess that would just go to ACAOM and BPPE and that would be the end of the board's involvement. So that part is still unclear on my part, but she's indicating that that would probably just be taken over by BPPE and ACAOM.

The other part that I was concerned with in terms of the defining in the licensure, of our licensure section of the graduating classes of who would be eligible to sit for the exam, I think it's worth putting in "and board approved" language to clarify that. But other than that, I think we're in agreement.

Hilde asked the following question: "The point that Terri just brought up regarding the possible clarity on the graduating class that you just brought up and a couple of the other points, does Dr. Clark have a comment to that?"

Dr. Clark: "I have to say that I am confused by, Terri, your analysis of Section 7. It didn't make a lot of sense to me. So let me try to clarify what Section 7 does".

Section 7. There seemed to be some confusion about, you know, why there was the first two graduating classes and what that really meant and what the intent was. So I'll clarify the intent of the author. When we worked with BPPE and DCA to figure out how to protect students, it was clear that this language needed to be added because if the school is in candidacy status, they are not yet fully accredited. And it is possible that, when their first class of students graduates, then they may have not achieved accreditation status yet. And so to protect those students, it was a request from the Bureau of Private and Postsecondary Education that there would be language to allow them to sit for licensure. Now, a statement was made earlier that this means that these students are going to come from schools that curriculum won't be approved, and that's just not accurate. Every school first has to go to this body, the Acupuncture Board, for approval of curriculum. If that curriculum is not approved, they do not advance. So I hope that that clarifies. I did try to put that in a memo to clarify. But you all are, in essence, the gatekeepers in terms of curriculum. Not only do you set the standards, but you enforce the standards. The standards in a sense that if you look at those standards and that school's curriculum are not in concert with the standards that this body has laid out, then you will not approve them. You will deny them. And that means that they will not be allowed to be fit for accreditation, they will not be allowed to move forward to BPP & E. So BPPE and ACAOM look to you to give them first authority to even review those applications. And so this has been an amendment that has been done in the spirit of collaboration because we've heard a lot about how you all want to work with ACAOM, and so we've created this to allow you to work with ACAOM and BPPE. So they are in agreement with us. We would hope that you all would be. I hope that clarifies.

Terri – "The language specifically that we're recommending clarification -- if you look at the bill language in Section 7 and Sub 1, the new amendment language reads: "An individual who graduates in the first or second graduating class of a school or college that has been granted candidacy status by the Accreditation Agency For Acupuncture and Oriental Medicine shall be deemed to -- shall be deemed to have had a completed approved education training program."

Dr. Clark: "Yes"

Terri: "Okay. So we would add before "shall" -- so we would say:

"the individual who graduates in the first or second graduating class of a school or college who's been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine and its curriculum has been approved by the board

shall be deemed to have completed an approved education and training program."

Dr. Clark: "So let me clarify: That in order to even be mentioned in this section, in order for someone to have been granted candidacy status, that insinuates that they have already met board approval. So there is no need to spell it out further here, if that makes sense. So you're not even going to be able to graduate from a school or college that's been granted ACAOM candidacy status until the board has already approved them. So this is step 2".

Terri: Is that really true, though? That they can -- this law wouldn't affect whether a student could graduate. That's what she's saying, is that they couldn't graduate. But they can. What we get is a lot of graduation ..."

Spencer: "What she's saying is that a school will not be granted candidacy status --"

Dr. Clark: "No, that's not what I'm saying".

Spencer: "No, what she's saying is that a school will not be granted candidacy status."

Dr. Clark: "Until"

Terri: "Unless"

Spencer: -- "it's approved its curriculum --"

Terri: I see. So that is where you're saying is the inclusiveness? "

Dr. Clark: "Right".

Terri: We thought that that was true, but we thought it would be also adding strength to that because we would tie back to the "approve" to the definition. You can also interpret it that way.

Dr. Clark: "So the approved educational training program, if you go back, is defined as a school that has curriculum standards that have been approved by the board, as well as the other requirements as well. So if you look at the definition of "approved training and education program", Education training program that includes the fact that the board has already done the curriculum review and approved it. So I appreciate the concern. I think it's important to look at these things and make sure that the board is really going to be able to maintain that first look at that authority and so I want to assure you that that's the spirit of it, and that's what that means.

Terri: The other clarification was that, given the timing of when the accreditation can happen for a school, that first and second graduating classes could have some of the time period be during a time when the school hasn't been granted the candidacy or the board approved it, because you begin a class and this statute comes into play for the graduating class. So one of the things we see is that for a two-year process, let's say, for one and two years, is at the end of the year part of their school year, if they receive the accreditation during the school year, the first part of the school year technically wasn't approved.

Dr. Clark: "That's why we've added language and believe you me, I ask that you all trust us on this. We have talked to BPPE, folks here at the DCA and ACAOM. And so this language is intentional to provide all of those protections. BPPE, your sister board, are really the experts in this. And so we got the signal from them and they understand that the language has been

crafted in a way to protect students. We ask that you understand that. I'm more than willing to explain, but your concern is what now? Your concern is that –“.

Terri: Well, our concern is this is our licensing statute. So this is a condition of licensure. We interpret these conditions of licensure for people to allow or deny them to sit in for the exam in terms of eligibility. Currently, we expect that a student, 100 percent of their credits be from an accredited, BPPE approved school. So if accreditation comes some time during that time period, there are some credits that were not taken and completed during an accredited time period for either BPPE, we have seen, and an accreditation. We have seen on a daily basis and it's a problem.

Dr. Clark: What this bill does is it allows students that are attending a university or a school or training program that is accredited by ACAOM or in candidacy status by ACAOM to be able to sit for licensure”.

Terri: Right. I understand that. Look, what I'm trying to convey in the spirit of collaboration and explaining what our concerns are, since this is the first time we're having this conversation on this particular section, is that when we interpret the courses, we look at: Do they have BPPE approval, are they accredited, and what period of time in their whole transcript did that happen? Because students transfer from schools that are unapproved, that's subject to transfer credit rules. And so this is something that we have expertise in that I'm just signaling to you might need some further conversation. That's all.

Dr. Clark: “And so what I would say to that is because of recognition for your expertise in setting those curriculum standards, that's why students cannot even get to this point unless you all have first approved the curriculum standards for that university”.

“So if you're talking about a student that comes from a school that's not quite accredited, that means they are in candidacy status. If they are in candidacy status, that means that you've already approved their curriculum”. So you're looking at it as step two and three and saying, “Well, there's stuff missing”. But what I'm trying to let you know is that in step one, you all are the gatekeepers. You set that curriculum. They can't even get to step two and three until you've approved step one”.

Terri: “Okay. So if I understand, then when they are granted the status, that is retroactive because – let's say the first graduating class or the second, they graduate with accreditation, which would include the board curriculum approval. But if they get that – let's say they graduate in April and get that in March, how do you characterize the first year or year and a half for the second year graduates? Is that curriculum that is from an approved curriculum program and accreditation? Because accreditation is after that.

Dr. Clark: “Terri, that's why we've included candidacy. So that covers the school up until they're approved. And again, this is the same curriculum that you all would have already approved.

Terri: “Right. So then the candidacy has a start date when they apply for candidacy, but you have the word “granted”. “Because they don't get granted because ACAOM has to do something, some action to grant that, right?”

Dr. Clark: “ACAOM grants candidacy status. That's why that language says “granted”.

Terri: “And so my point is when they are granted accreditation it in the middle of those two years, how does this—“

Dr. Clark: “ACAOM candidacy status, per our conversations, can be granted within the first six months. And I’ll review my notes. But it’s not a two-year until they grant. Granting – the actual process of granting is not a long process. And before you even can grant a candidacy status, again, you have already approved their curriculum. So it’s not as though they just go straight to ACAOM, get granted a candidacy status, and then you all are in the position, which you’re concerned about, I hear, the position where it’s like “Oh goodness. They have candidacy status. They’re accredited. They are on their way. Yeah. We didn’t look at the curriculum”.

Terri: There’s a real solution that would clarify from us, is usually, there’s a date for decisions. Like accreditation granted, board approval granted. And if the start, rather than the graduation, if students that start after that date are considered approved, there is no question. That’s my main concern with the wording.

Dr. Clark: “I am not clear where that’s concerning. We’re protecting students. We allow the first two graduating classes. And to be quite honest, I think the first two was to make sure that there was extra protection because acupuncture and schools are – what? Three or four years long – the programs? So if candidacy status takes about six months and we’ve been told that the accreditation process takes another two years, two and a half years, then the likelihood that there would be more than one graduating class during candidacy status is incredibly low. But in order to make sure, just in case there was some crazy fluke and some program took five years to get accredited, those two classes would be protected. So number one, it’s unlikely that that first graduating class is going to graduate from a program that has not already been accredited. But in case they do, we’ve added language per conversations with BPPE and ACAOM to allow programs that are still in candidacy – candidacy status to produce students that have already taken curriculum that’s been approved by the board to be able to sit for licensure. So we have done our homework in making sure that students are protected enough. I hear your concern. I think it’s important. But I don’t think that it’s valid based on the language in the bill”.

Terri: So just to clarify, so you wouldn’t be willing to entertain any kind of clarification?

Dr. Clark: “I think what you’re asking for is already done. I think that’s the issue that we’re having here. There’s a lack of understanding. The students are protected and covered and the curriculum has already been set by the board and approved by the board. So I don’t see the loophole where students are being left out or the board is not having the ability to approve curriculum that the students had to take. I just don’t see that in the language. I hear your concern, but I just don’t see that here”.

Terri: So the other universe in question would be the schools that don’t have board approval but are accredited and are out-of-state. Nationwide, there are about 60 accredited schools. So 33 of those would be board-approved schools. So the difference between 33 and 60 would be this other universe of schools and graduates that would be applying for approval that are already accredited. So there wouldn’t be that it wouldn’t be the application trigger, nor would there be the accreditation process because they’re already accredited. So then the board would just say yes, get the approval, right?

Dr. Clark: “I don’t think that’s accurate. So if someone’s coming from out of the state, from a school that’s out of state, and they are coming and they want to sit for licensure, you must have come from an approved educational and training program. That is defined in the bill as well”.

Terri: Right. But they could conceivably under that not have been board approved because they are not a board-approved school and there's no trigger unless they specifically applied for approval of the board for them as a condition of licensure, but also being board-approved for the curriculum.

Dr. Clark: "There is no board approval. Second, that's part of the problem here. We're mixing your current process – you're talking from your current process and current concerns of things you run into and you're mixing that with what the bill will do. "I want to be very strict and say let's talk about the hypotheticals based on the bill".

Terri: The thing that what I want to point out to the board is that this amends both the school approval process and the licensure, the condition of licensure. And so the condition of licensure brings in the idea of how the board would look at for determining eligibility to sit for an exam, we would use this criterion to determine who is eligible for the exam. And I'm looking at this and interpreting that there would be all of the unapproved board-approved schools that are out of state that are accredited would be – not have an opportunity in this new scenario to be able for the board to say, hey, they need the curriculum standard. So we'd be getting a flood of applications that we would look at and say, "Well they're not board approved, the curriculum doesn't meet the standard, they already are accredited, they are already in these one or two graduating classes from a school that received BPPE-like approval and accreditation. But the part that's missing is they won't have necessarily met our curriculum.

Dr. Clark: "And I will say that that's just factually not correct. If you look at the bill, in order to be licensed in California, you have to come from an approved educational and training program. That is defined as a program that offers curriculum that includes at least 3,000 hours, of which 2,050 are didactic and laboratory training, and 950 are supervised clinical instruction. That 3,000 hours, the didactic piece of it is your curriculum standards. So they cannot come here and sit for licensure unless they can demonstrate that the program that they came from includes the curriculum standards. So it would be incumbent upon the schools out of state, if they want their graduates to be able to be licensed in California, then they probably need to look at California's high curriculum training standards. But that's nothing the board – you all don't have to do anything about that. You set your standards and the rest of the country can follow if they want to or not. But if they choose not to, they cannot practice in this state".

Terri: "That's clear now".

Michael: "I want to thank both of you because I know that in my conversations with Terri, in terms of how things are going on the board, she often talked to me about transcripts. Do we accept that or don't we, when students transfer and they go from unapproved schools to approved schools and there are all of these deadlines that could happen. And it is – for the staff a concern.

Jamie: "Just to clarify for people down here in L.A. if there's an example, and just like Le Ondra had mentioned, if you're a student going into junior college, there are two tracks you can do. You can do the UC track or the CSU track and you have to decide which schools you want to go to. So then you go and take those classes. That's pretty much the same example. It's up to you as a student to do that".

Dr. Clark: "Right. It's incumbent upon the student or the program, if they want to offer that extra curriculum".

Terri: “What about the Canadian issue?”

Dr. Clark: “I’m glad you brought that up, and we’re more than willing to work with you on that. I’m not sure what the background or what the issue is with that. It sounds like you all already have some restrictions or inability to license. I mean, if you could talk a little bit more about that”.

Terri: The way that our licensure act is written is it makes this inclusion. It says, when referring to out-of-country programs that we would review and would be eligible, it specifically excludes Canada because it says “program training outside the United States and Canada”, which means that that puts Canada as not a foreign country training program, but we don’t go into Canada to do any kind of approval because it’s a foreign country. And so I don’t know why that ended up being like that, but the net result is that people that graduate from Canadian schools have no eligibility to take the licensure exam. And I think that could be – I’m not sure why it was like that initially drafted, but it would help create access for Canadian programs if we just removed the word – if we define “outside” as “training received outside the United States” and delete “Canada”. Then everybody, including Canada, outside the United States would be then applying based on these new training standards that we’ll set.

Dr. Clark: “So it sounds like this was a preexisting issue that the board had, and that you’re asking us, well, we have this bill, to go ahead and make the change to help you all clarify and it will help you with your process. We have no issue with that. If you would send me language as you think it should be appropriate. If it makes sense to the board, it makes sense to us. We don’t want to hinder you and if we could help expedite your process, we’re more than happy to do so.

Terri: “Okay. Great”.

Hilde: “You mentioned earlier that there are some things that you can’t do with curriculum standards. You would need to do it in person. You would need to interview students, interview faculty, look at complete medical records that have actually been populated and signed confidentiality agreements on the spot. LeOndra, can you address that, please?”

Dr Clark: “Sure. So there is a difference – it’s I think this is also a byproduct of your current process. And so your current process, you do a lot. You do curriculum standard review, you set the standards, you also do the clinical standards, the faculty interviews and all the different things that Terri mentioned earlier. This bill will allow the board to continue setting the high curriculum standards and reviewing and approving those. There will no longer – the task of interviewing faculty and going to see the clinic and all of that, those will be tasks that will then be taken over by ACAOM. They too, have the ability, standards, to do that. In fact, when we compared their standards and their process to that of the CAB, it’s pretty similar”.

Hilde: “What I understood from Terri’s answer, though, is that those things, the faculty interviews, the document interview, etc. that that was part of the curriculum standard reviews, separate and apart from where it may be elsewhere in the accreditation process”.

Dr. Clark: “So if you look at your regulations in regards to curriculum standards, that doesn’t include the clinical piece. You also have regulations regarding what you do as part of your ensuring compliance with your clinical regulations. You all will not need to ensure compliance with your clinical regulations because there is a body that is prepared to do so. So you all will

continue – the CAB will continue to do the curriculum review and approval. And the other pieces of it, traveling to the schools to do the site reviews, the faculty, all of those other duties would now be assumed by a national body that does those processes as well. And so what we compared what this national body does in terms of site review, looking at the clinical standards, and compared it to what the board does, there were not significant differences. And so what we compared what this national body does in terms of sight review, looking at the clinical standards and compared it to what the board does, there were not significant differences”.

Hilde: “So if I’m understanding both of you correctly, in a review of faculty, review of completed medical records, interviewing students to see if they’re in compliance with the curriculum standards, treated like it’s in person, those are separate and apart from any evaluation of the curriculum standards themselves?”

Dr. Clark: “Yes”.

Terri: Under the setting “curriculum standards”, 950 of that are clinical hours”.

Dr. Clark: “Right. So I’ve put in the statute, just to be clear, because we’ve got to be clear about this. I took language from your regulations that talks about the 3,000 hours and the 2,050 and the 950. That is not to grant the board authority to review and to monitor that 950. It’s just saying that a student that graduates from a program must meet those same clinical educational standards to be California recognized, if that makes sense. So if I’m coming from out of state, I want it to be clear, when I look up California statute, that not only do I need to come from an approved program and that program must have 3,000 hours – 2,050 of which are didactic instruction, and then 950 which are clinical, this does not mean that the board then still goes on the clinical visits and takes care of that process, if that makes sense”.

Hilde: “I think the overarching concern here is that we have a relationship between ACAOM and the board”.

Dr. Clark: “Right”.

Hilde: “That is collaborative, and I think the intent behind the new construction of the statutes is that we’re trying to improve upon the process and make sure that there is ways to utilize the strength of both organizations”.

Dr. Clark: “Well said”.

Hilde: “So, also, as far as the exchange of the work product between CAB and ACAOM, I think there was a concern raised by another board member that there is not as much transparency on ACAOM’s side. Is that something that we’ll have to kind of work through with ACAOM and figure out exactly what kind of finding they made and what are the facts supporting that finding in a report of some sort?”

Dr. Clark: “When you’re talking about findings, you’re talking about their decision to accredit or not accredit? Is that what you mean?”

Hilde: “Yes”.

Dr. Clark: “Yes, that information would be provided to you. That is public information, as I understand it, based only conversations with the ACAOM. And that’s a part of their process.

They operate just like any other national accrediting agency that is approved by the US Department of Education”.

Hilde: “So just to clarify, there is a report that would be issued out of ACAOM. It’s an ultimate decision. There would be facts supporting that decision and all of that is public information”.

Dr. Clark: “According to my understanding, that is public information. I can double-check with ACAOM just to make sure. But if, in fact, the goal of this is to work in collaboration, then it would seem to me to make common sense that the ACAOM would be willing to share with the CAB if they accredited a school or not, and for which reasons. It would also make sense if that school, in my opinion, would be able to share that with the CAB as well”.

Hilde: “Okay. And ultimately, if this relationship between ACAOM and CAB doesn’t work out, given the Sunset time frame we’re looking at in this bill, this would be an opportunity for us to revisit this in a couple years to refine the relationship”.

Dr. Clark: “So you had two years to talk and collaborate. And to Terri’s credit, I know that she has been in contact with ACAOM. We’ve been in contact with ACAOM. BPPE has talked to ACAOM. So there have been a lot of conversations about processes, some which need to be reflected in statute and some, which can be done via, you know, MOUs and administrative processes. So there is very much the spirit of collaboration included in this bill. That is the goal here. And you have two years to figure that out”.

Hilde: “And the MOU would theoretically include information like how much is paid to ACAOM by the CAB to execute this type of accreditation or is that coming from the school themselves?”

Dr. Clark: “The CAB does not owe any money to ACAOM. I don’t think that that would be appropriate, my personal opinion”.

Hilde: “And the school themselves doesn’t pay any money to CAB for its evaluation of the curriculum standards?”

Dr. Clark: “No, and this is a simple desk audit. That’s why it’s very simple. It’s not overly time consuming and cumbersome. You all already have your curriculum standards laid out. So it’s not as though you’re going to have to spend a lot of time coming up with those. One thing I do know from interacting with this board is that you are very proud of your curriculum standards. So those are already set in stone and it’s basically a checklist and a review. Does the school meet the curriculum standards? If not, you all can disapprove, you know, then moving forward to being accredited. You have that power and that authority”.

Michael: “I know that we, over the last year we’ve gone through a couple of approval processes. So schools can actually – one single issue that came up that I think you’re well aware of and I know that at least one of the schools that we denied actually was ACAOM approved. So in the event that we actually have the standards in terms of clinical supervision, how will that be enforced, in your vision?”

Dr. Clark: “That’s an excellent question, and that’s exactly why we put it here in statute that they have to have 950 face-to-face, so to prevent that issue. If this wasn’t spelled out in statute, the 950 face-to-face, that means that the scenario that you are talking about could hypothetically happen where we can say – you all would say, “Oh, they have the curriculum standards. But then they go to ACAOM because ACAOM has and I think this is what we’re



getting at. ACAOM has a minimum in terms of their clinical supervision. And so to make sure that anyone that's coming from a school that is going to produce students that come and sit for licensure in California, they have to basically respect the 950 hours face-to-face supervision requirement that California has set. So that's exactly why we put that here".

Michael: "So our language for clinical supervision will stay. And ACAOM will have to enforce that?"

Dr. Clark: "Yes, they have to and we've talked to them about that. That was one of the first things that I brought up, that this board feels strongly about their high clinical standards and their curriculum standards".

Michael: "So I'm curious. For example, that New York school that we denied Board approval, so what's their accreditation? I guess ACAOM would have different tiers of accreditation?" "New York versus California versus – is that how it's going to happen? I'm just curious because, for example, that school's already accredited". "But it's denied based on our standards".

Dr. Clark: "Yes, exactly".

Michael: "So now they have ACAOM approval?"

Dr. Clark: "Right. So they have ACAOM approval in their state. But if their graduates wanted to sit for licensure here, the board would step in and say, "Have you met the 950 face-to-face direct" – "you know what it says – the clinical standards here. A student could not sit for licensure if they come from a school that does not meet your clinical and your curriculum standards. Because in Section 1, subsection 1, and Section 2, it is required that the students have – that the program offer 3,000 hours. Of those, 950 have to be supervised clinical instruction. Does that make sense?"

Terri: "Yeah. So then, I guess, we would have to work with ACAOM to create another, maybe, hybrid notification before – to be clear that while that school in the state still continues to be accredited, they're not approved for California licensure. So they could add that to their accreditation, you know".

Dr. Clark: "Yeah. They already know that this is going to be a requirement for California, that this is going to stand and that that will not change. And licensees would know when they applied to your board that they have to meet California standards.

Spencer: "Also, keep in mind that even if they are ACAOM approved, if the board has not approved its curriculum.

Dr. Clark: "Right. It doesn't matter actually".

Spencer: "It doesn't matter?"

Dr. Clark: "Right. And that will happen at the point where the licensee is coming to you. You all won't necessary be involved in telling the schools. You don't have even to get into that. You are dealing with a person that's coming from a different state that wants to sit and be licensed in California. At that point, you can say, "One, was your university accredited by ACAOM? They would say "yes". Did your training program offer 3,000 hours? If they say

“no”, they’re not eligible to sit for licensure. Just like now, you know. So nothing changes in that respect”.

Michael: “Is there a process of thought to think about collaboration in a way that somehow we have some notification from site visit teams or site visit individuals to report back to us about that process? Because I think it would benefit the board to know a little bit more information beyond just the curriculum”.

Dr. Clark: “So I don’t know all the ins and outs in terms of if ACAOM reports the results of the site visit, if they’d be willing to share that with you. Personally, based on my conversations with them, they seem very open and collaborative. So I think that that’s something that you all can talk about over these next two years. If you want to report back, I don’t know the privacy issues, the confidentiality issues around that, so I don’t want to speak to that in terms of their working with the schools that are going through their process. But I think that that’s something that you could speak with them about”.

Michael: I want to ensure that we are doing our due diligence, just to make sure that we have as much information about programs as you can, given what our roles are”.

Jamie: “Right. And that all could be done through an MOU, correct?”

Dr. Clark: “Exactly. So you all can use these next two years to say, “Hey, ACAOM. We understand that you all are taking over the clinical site vision, you know, portion of this. Would you mind checking in with us or letting us know, you know, the results of that, or what are the limits around that?” “I think that that sound like a conversation that could happen between you and ACAOM, your executive officer and the folks at ACAOM.

Michael: “Terri, would you take up that thought process and get that line and maybe report back to us as to what your suggestion is?”

Terri: “Okay. I have had preliminary conversations raising this exact issue, how did ACAOM deal with taking over, you know, taking over the process of the approval, and particularly the clinical approval and our concerns about the clinical noncompliance in – I haven’t gotten an answer. Mark McKenzie indicated that they were looking at that and trying to formulate how they would address that particular issue. Initially, he had indicated that they would look at our clinical compliance and curriculum standard would fall under their legal evaluation, not necessarily their program evaluation criteria. And so I suggested that there probably needs to be a specific revision of their current process and evaluation to accommodate this new responsibility. What would that would mean in their process is that a program would be looked at and if the clinical standards are not compliance with California standards, they have two years to remedy that, to become in compliance.

Dr. Clark: “No, that makes sense and I’m glad you guys had that conversation. I’ve also talked with them. So again, what makes sense to me, just hearing that, based on your conversation, is that a school does go out of compliance with California standards, I would think – it seems logical that there should be some notice sent to you all – and again, this is all technical stuff that can be worked out. But since we’re here, I would think that it makes sense that a notice be sent to California to say, “There is a school that you all have to approve curriculum for, and we have accredited, but we are aware, based on our site visit, that they are not in compliance with your standards. That would be important for you all to know and to, you know, make decisions based on”.

Michael: “I do have one more questions. I know, LeOndra, we talked about this briefly. And that is the profession’s ability to have input into standard setting. And I think, traditionally, our profession has always prided itself in talking and discussing what our standards are. And in the event that California comes up with a whole discussion of where we want to go in terms of training and come up with a suggestion to produce standards, how will that then play out with respect to ACAOM?”

Dr. Clark: “So I appreciate that. Respectfully, I have to say that our concern, meaning the Business and Professions Committee and the Joint Sunset Review Committee, is that you all really focus on public protection and consumer protection versus the profession and standard setting. I understand that that’s important. You set standards as a part of your school-approval process. You ought to know we’ll no longer be approving the schools, per se. You’re setting curriculum standards”.

Michael: “There’s a new suggestion coming out of this profession that suggests let’s go to 4,000 hours, whatever the suggestion is.

Dr. Clark: “Oh, or your curriculum standards”.

Michael: “Right. And so the board can still take on that discussion. And we can still implement it”.

Dr. Clark: “So the board has the ability to set the standards and approve or deny, based on those standards. That gives you loose and broad authority. So if you want to go 4,000 to make it comparable to western medicine programs, you can do that. That means that ACAOM will have to abide by. And any person that comes – any licensee or potential licensee applicant that comes here has to have met those hours. So, you, you all have the ability to change the standards, if you want to”.

“So what I’ve heard, just in my own notes, just to make sure I’m clear, is that this board is, of course, concerned about all the hypotheticals. It sounds like we’ve been able to talk through many of those, which is great and wonderful. The ability to change standards, amend them, which is authorized by this legislation, the ability to maintain the current clinical standards, which is also authorized in this legislation. And then it sounds like you all have the intention within the next two years, to work with ACAOM to, for instance, get a notice if a school falls out of compliance with your standards, or a memo if, you know, the clinical standards aren’t met or the report or the site visit results. So it sounds like the type of technical things that you all are looking at having continuing conversation with ACAOM about figuring out what that process might look like. Is that accurate?”

Terri: “Yes. I’m in agreement with LeOndra on our understanding of the bill. What we’re not in agreement on is just – I mean, we are in agreement on what the bill changes. So I just wanted to say agreement-wise, we’re good. What the bill does is more at issue at this point. So this was to try to clarify our disagreements, which I think we’re in agreement between your memo and mine and how the bill affects the board.

Public Comments:

Removing the board’s approval authority and imposing ACAOM accreditation as the main training program approval will create something of an education free-for-all. Removing

California from the oversight process does not protect Californians.

The amendment does have problems because there is no ability to really look at clinical education. This does not protect public safety. The 3,000 hours is not enough practice and experience at the school.

Section 6 – Board’s authority to charge a fee for school approval.

Jamie: “Maybe just clarification, but considering we wouldn’t be involved in the process of approving schools anymore, we wouldn’t have to worry about charging a fee”.

Spencer: “That’s correct, Jamie”.

Terri: I’m going to comment on workload. The perception that there’s no workload involved in a review or desk audit is untrue. And so to not have any kind of a fee or revenue source for workload that doesn’t go away will strain the Board’s finances and staffing. The inspection goes away, but the actual review of the workload and the review of the curriculum doesn’t go away. And it is a substantial workload. It’s very detailed. The binders are very large. It’s a lot of documentation that we have to go through. I would not characterize it as no workload. And so the concern, in terms of our fiscal stability, is that we are continuing in a lesser capacity to still do a significant workload. And minus any revenues that would go about it. And the approval process could generate through our regulatory process a more detailed approval follow-up, whatever. So it’s not just a one-time review of an application. And I would be concerned about losing revenue for still what would be significant workload.

Michael mentioned that we charge \$1,500 and maybe it could be raised to \$3,000 and instead of calling it school approval fee maybe reword it to call it curriculum-approval fee.

Then Kitman mentioned if we need something to increase, we have to have the revenue to increase. So the board should restore the authority to charge the fee for the application.

Michael asked who pays for the annual monitoring.

Terri commented: So let me clarify. In terms of revenues, anything that is not fee-generated specifically, like this for education, our education unit has just increased to an additional person. And the only thing that right now supports that would be either this fee or general renewal licensure fee. So one of the things from a fiscal perspective is that most of the board’s operation that doesn’t take in any revenue, like enforcement is all paid for by the renewal fees and general fees. It puts pressure on that general funding source when potentially an opportunity to bring in a revenue to offset a new staff. We will have shortly two staff – double the staff that we have currently in that position. And quite frankly, even the fees don’t cover the workload. So that will go towards our general revenue stream, which is where everything comes from. So I just am raising the issue of losing an authority to get revenue. We’ll put everything back and put pressure on the renewal fees as a source of revenue. And we’re at the point that with new staff that we will be soon or in the near future, we’ll be in a position where our budget will be around what our revenue is. So at this point, thinking about increasing staff to meet workload needs, enforcement workload needs in particular, where there’s no revenue stream, it becomes, really, kind of a holistic view of finances to think in terms of fees. We need to start thinking about other ways in subject areas to maximize and bring in some revenue”.

Michael added "I see our concern about revenue. I think we all have to keep our eye on that as well, members – make sure financially we're sound. I think we have to figure out allocation".

Michael asked if any further discussion was needed for Section 7, which everyone said they understood that section.

Section 8 – This section is repealed after 2017, the current approval of the wording and the 3,000 hours of curriculum requirements. And then it sets forth after 2017 a new authority that is just limited to setting new standards, curriculum training program standards for training programs outside the USA and Canada. And remember, we talked a little bit about the Canada one.

A board member asked whether their authority only lasts until 2017? Yes. And then it's taken over by the new provision that we talked about earlier in the "definition" section, which is in Section 2 of the bill, which lays out in the "definition" section – it eliminates the section, eliminates our current authority to set standards, and what those standards are in after 2017. And then at that same point at 2017, this new provision in the definition section 4927.5 is where it ends in that new authority to set curriculum standards and approve curriculums. There are amendments to make it streamlined, the authorities".

Section 9 – Terri: "This is the one that creates that new authority, not approval, but acceptance of educational training and clinical experience received outside United States and Canada".

Section 10 – Terri: "this one is the board repealing the board's authority for inspection. I think this would be of the schools. And this remains in Sub B, Subsection B:

"The board shall investigate and evaluate each school or college applying for approval under 4939 and may utilize contract consultants – contracted consultants to evaluate these training programs".

This authority to do the inspections and enforcement will be inoperative as of January 1, 2017. And there's no other amendment that restores that beyond 2017. Before 2017, the Board retains the current authority.

Section 11 – This makes minor changes regarding our guest acupuncture. It just removed the word "Board" from "approved.

Section 12 – This is related to the fee charged for applications in Subsection (f):

"Application fee for approval of school or college under 4939 shall be \$3,000".

This subdivision will become inoperative as of January 1, 2017".

Section 13 is a fee for inspection or re-inspection of school by the board. This is a reimbursement authority for inspecting schools. Schools reimburse the Board for direct costs incurred for inspection. This reimbursement comes into play with out-of-state travel. The way that out-of-state travel is restricted is that we have to apply for all of the visits for authority and it has to be specifically under a criterion of audit or inspection. And it makes a difference for receiving that approval whether the costs are covered. So removing or losing these costs,

which we currently have authority for would mean that we would be up against probably no approval for any kind of travel out of state.

Michael then opened the floor to public comments:

Comments were made regarding the provisions to terminate the E.O. without cause in 2015. Terri has resurrected the board into a functioning board that is on plan, on mandate and on mission. This criticism of the Board's past is the past, new Board and EO are on message and doing what needs to be done. Clarification was given about that there are more than one accreditation agency approved by the Federal Department of Education. Several groups supported E.O. Opposition to defunding the board with respect to not permitting on-site inspections was expressed. Many of the public think that the next Sunset Review should be in four years, not two years. ACAOM and CAB should work together under the leadership of CAB. Two of Terri's staff read letters of support from 8 staff members in support of the E.O. retaining her current position with the Acupuncture Board.

Comment from Dr. Clark: "This is Le Ondra, representing the Senate Business, Professions and Economic Committee and Senator Lieu, the author of this bill. So thank you, everyone, for sharing but I would really want us at this point to stick to the bill and not the conjecture that's been shared. There's been a lot of mud thrown in the water. There have been personal attacks from the public. But today, you have heard many appeals to emotion and statements of fear. I'm not going to personalize some of these baseless attacks because I deliver the message. I do not solely create it, and I need to board and the public and the staff to know that. I, nor the senate committee, are the enemy here. We very much want to collaborate with you. I am doing a job that requires me to sometimes deliver news, based on our oversight of this board, and that news is not always comfortable. It's not always pleasant, but that is my job. So here are the simple facts. The board has an undisputed history of poor performance. There was an eight-year lag in which there was no Sunset Review done of this board. And I believe that this contributed to the dysfunction of the board. And as soon as the Sunset Review finally happened in 2012, you'll notice that the deficiencies were exposed and that led to the executive officer retiring. This –we have clearly listened to the concerns of this board and stakeholders on every side of this issue – of these issues, and as evidenced in our amendments to the bill. You heard the staff comments about their personal relationships with Terri, which are very touching and sound very nice, but I have to say that many of the comments are not fully informed. For the first time in two years, you witnessed today the working-through process that we have been longing for and lacking and so desiring. We would not be at this point if the collaboration that you witnessed today had been happening all along. There would be no reason for certain things to be in the bill. Putting something like this in legislation is highly unusual, but it is not unprecedented. Mr. Herdt, the intern of the board, was correct. He said that this is something that – it must have come as a result of a number of issues. I want you all to also notice that no legislator to date on the policy committees or on the Senate floor has questioned this provision. There must be a reason why. Contrary to popular belief, this is not the first time a decision about an E.O. has been put in legislation. Just last year, there was a provision put in a bill about the medical Board E.O. This committee has met with the E.O., Senator Lieu has met with the E.O., we have met with the board members about the performance. Yes, it is up to you to decide what to do today. In terms of accreditation, it's not just for law schools. I heard that thrown out there earlier. The majority of health care boards and other boards have accreditation. In terms of the two-year Sunset Review, this is due directly to the history of problems that this board has had and outright refusal to address outstanding issues. So it would be irresponsible at this point to give the board four years if there's been outright refusal for the last 20 years to address any of the concerns that have

been brought up. However, on my break, I did call my boss and consult, and we are willing, similar to what we recently did for another board, to revisit the Sunset date next year. What this means is we will sit down with the board and, hopefully, we will have, going forward, constant communication between the E.O. and our committee. And if at that time, it is determined that you all are well on your way to achieving the three – only three issues that we’ve highlighted, we would be willing to negotiate another year. But for you to ask the committee and the legislature to say, “Yes, there’s been bad behavior, bad acting, and that’s okay. We’re just going to give you another four years”, that would be irresponsible on our part”. But that does not mean that we are not willing to come back next year and work with you. We are fully willing to do that. Thank you”.

## **Motions**

Michael asked that the motion on the floor be repeated. Katie Le repeated the motion as follows: “Michael Shi made a motion to support, if amended, the June 15<sup>th</sup>, 2014 version of Senate Bill 1246. Kitman Chan seconded it. A vote was taken and the motion passed unanimously. 6-0-0.

Michael identified three big issues: 1) school oversight; 2) Sunset Review process timeframe; 3) The executive officer provision. He characterized the school oversight issue as multifaceted.

Michael made a motion to retain inspection authority, Kitman seconded. Motion passed 5-1.

Michael made a motion to amend the bill to delete "Canada" so Canadian training programs can be considered outside the U.S. Hildy seconded. Motion passed 6-0.

Jamie made motion to accept 2-year sunset process timeframe in the bill, seconded by Hildy. Motion failed 3-3.

Kitman made a motion to amend the bill to extend the board for 4 years for the next sunset review process, seconded by Francisco. Motion failed 3-3.

Kitman made a motion to amend the bill to extend the board for 3 years, seconded by Francisco. Motion failed 3-3.

No position on sunset time frame.

Kitman made a motion to retain current E.O and strike the EO termination provision from the bill, seconded by Francisco. Motion passed 4-0-2.

Michael committed to communications with all levels of government.

Public Comment. Concerns about a loophole created by the licensure amendments related to accreditation were expressed. Since each state varies in its laws, accreditation across states varies in terms of curriculum and licensure standards.

## **3. Public Comments on Items not on the Agenda**

Concerns were expressed about Jeannie Kang's meeting with Senator Lieu.

#### 4. Adjournment

THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE ACUPUNCTURE BOARD'S WEBSITE AT: [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)

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