

California Acupuncture Board Meeting

November 17, 2015

Teleconference Locations:

Oakland, CA, San Diego, CA, Los Angeles, CA



Board Members

Michael Shi, L.Ac – President

Hildegarde Aguinaldo, J.D., Vice President

Public Member

Kitman Chan – Public Member

Dr. Michael Corradino, DAOM

Francisco Hsieh – Public Member

Jeannie Kang - L.Ac

Jamie Zamora – Public Member

Staff

Terri Thorfinnson, J.D. - Executive Officer

Van Martini – Office Technician

Legal Counsel

Tamara Colson



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

November 17, 2015

OAKLAND Meeting Location
Elihu Harris State Building, 1515 Clay Street, 2nd Floor, Room 12
Oakland, CA 94612

LOS ANGELES, CA Teleconference Location
Junipero Sera Building, 320 West Fourth Street, Conference Room 8A
Los Angeles, CA 90013

SAN DIEGO, CA Teleconference Location
Pacific College of Oriental Medicine
7445 Mission Valley Road
Conference Room, Main Building 2
San Diego, CA 92108

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

<https://thedcapage.wordpress.com/webcasts/>

Acupuncture Board Members

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

AGENDA

FULL BOARD MEETING - 9:00 a.m.

- 1. Call to Order and Establishment of a Quorum**
- 2. Opening Remarks**
- 3. Public Comment for items not on Agenda**
- 4. Approval of Board Meeting Minutes for:**

**September 18, 2015
February 14, 2014 Revised**

- 5. President's Report**

6. Executive Officer's Report

- Staff Update
- Budget Update
- Exam Update: Audit of NCCAOM exam, August 2015 Exam Statistics, ACAOM update
- Enforcement: Data Report
- Legislative Update
- Regulatory Update

7. Education Committee Report

- 8. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.434 Proposed Regulatory Revisions to Curriculum Standards for Training Related to Implementation of Senate Bill (SB) 1246**
- 9. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.433 Regulatory Language Establishing Standards for Education and Clinical Experience Outside the United States Pursuant to Business and Professions Code Section 4939 Related to the Implementation of SB 1246**
- 10. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.436 Proposed Regulatory Revisions to Curriculum Standards for Training Beginning Prior to 1/1/05 Related to Implementation of SB 1246**
- 11. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.437 Proposed Regulatory Language Related to Documentation Required for Board Approval of Curriculum Related to Implementation of SB 1246**
- 12. Consideration and Possible Action Related to the Sunset Review Report**
- 13. Future Agenda Items.**
- 14. Adjournment**

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. 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

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APPROVAL OF BOARD MEETINGS MINUTES

SEPTEMBER 18, 2015

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

Draft Minutes

September 18, 2015

**FOUR POINTS SHERATON LAX
CALIFORNIA ROOM
9750 AIRPORT BOULEVARD
LOS ANGELES, CA 90045**

A webcast of this meeting can be viewed at:

<https://youtu.be/S8pke1S3RC0>

Board Members Present

Michael Shi, L.Ac, President, Licensed Member
Kitman Chan, Public Member
Jamie Zamora, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Dr. Michael Corradino, DAOM, Licensed Member

Board Member Absent

Hildegarde Aguinaldo, Vice President, Public Member

Legal Counsel

Tamara Colson
Kurt Heppler

Staff Present

Terri Thorfinnson - Executive Officer
Ben Bodea - Continuing Education Coordinator
Van Martini – Office Technician

FULL BOARD MEETING – 09:10 a.m.

1. Call to Order and Quorum established

2. Opening Remarks

Michael welcomed the Acupuncture Community in Los Angeles, and thanked everyone for attending.

3. Public Comment for items not on Agenda

A representative from the Division of Workers' Compensation (DWC's) Medical Evidence Evaluation Advisory Committee informed the Board of their commitment to adhere to the changes of the Acupuncture Board guidelines in the next two years. Michael thanked Ted Priebe for his continued support of the California Acupuncture Board.

4. Approval of Board Meeting Minutes for:

- **June 19, 2015** - Legal counsel revised the language in paragraph 11 to reflect "*the coursework that EMS Safety Services, Inc. and Save-A-Life Educators, Inc. needs to be equivalent to the coursework of the courses approved by the Board in our regulations for certification for students as stated in our regulations*".
 - Jeannie moved to pass the June 19, 2015 Meeting Minutes with the revisions.
 - Jaime seconded the motion.
 - Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes to approve the minutes. **MOTION PASSED 6-0**.
- **September 12, 2014 Revised Board Meeting Minutes** - Terri informed the Board of the need to revise the minutes to reflect specific reference to the proposed language's requirements for implementing the Business and Professions Code Section 138 that the Board approved at the September 12, 2014 meeting. This proposed regulation would require that all licensed acupuncturists post a consumer notice in their offices stating they are licensed by the California Acupuncture Board and include the contact information of the Board for consumers.
 - Kitman moved to approve Sept 12, 2014 Revised Board Meeting Minutes.
 - Jeannie seconded the motion.
 - Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes to approve the minutes. **MOTION PASSED 6-0**.

5. President's Report

Michael welcomed Legal Counsel Kurt Heppler and appreciated the double dose of advice from the two-person legal team of the Board.

6. Executive Officer's Report

- **Staff Update** - Terri and Michael welcomed Van Martini, who was present to take the Board meeting minutes as the new Office Support Personnel. Krystle Englehart was recently added to the Board as the Examination Analyst, and she came with research and data management skills. Terri concluded that the Board is now fully staffed.

- **Budget Update** - Terri began the budget review making the point that the Board ended the fiscal year \$380,000 under their authorized budget. This was a relief since the budget update all last year included a projection of being within \$50,000 of their budget. The close margin of the budget was the result of the precautionary overestimation to account for some of the unforeseen expenses. A reminder that the recently filled positions mentioned above were empty for most of the year. So this number might not be accurate for next year, but the overall message is the budget is in the black. Terri also clarified that the budget was created by the Department of Consumer Affairs by averaging the Board's two years expenditures and general needs. And this percentage reflected in some red numbers in the unencumbered balance report such as in the enforcement area. The red amount was due to the increase in investigating cost when the budget was calculated two years behind. Kitman Chan reminded the Board to be cautious that the appropriation can be higher than the revenue and that maybe the number will need to be adjusted by the inflation rate. He also cautioned that the Board needs to deal with its structural imbalance of more expenditures than revenues.

- **Exam Update: Audit of NCCAOM Exam** - The audit of the NCCAOM exam has been continuing, and the projection date for the release of the report remained to be December/January timeframe. Currently, the review is undergoing subject matter expert workshops and information gathering for further analysis. There will be an extensive legal review and writing of the report with a projected target date at the end of the year. Jeannie inquired about the selection process of the expert's panel conducting the audit of the NCCAOM exam. Terri informed the Board that she chose to have a panel of three experts to perform the audit instead of the Office of Professional Exam Services (OPES). The two independent experts were selected from a list of experts in the industry based on recommendations from OPES. These members have expertise in the type of exam format that NCCAOM uses. This panel of three experts will have combined expertise in the three components of the auditing process.

- **Enforcement: Data Report** - Terri began the report by explaining that the largest category convictions consisted of both licensees and pre-licensure; and 80% of conviction cases are from a pre-licensure group. In reviewing the investigation numbers, 90% of enforcement cases are closed in 2 years. The rest remained open for further processes such as appeals, and formal disciplinary actions including hearings. The Board has been prioritizing closing aging cases. Terri clarified that the number of days it takes during the discipline phase is not calculated in these averages until the Board closes the cases. Hence, case closing is useful for enforcement statistic purposes, but it] only captures processing time for cases closed, not those that are pending. As more aging cases are closed, this may drive up the average time for discipline. Terri cautioned that this trend will continue next year. Regarding the high number of criminal/conviction types of complaints, Jamie suggested making a notation in the conviction data statistic to indicate that this figure included pre-licensure convictions to minimize the misleading number of a more serious nature of criminal charges/convictions.

- **Legislative Update** – The Board's position on AB 85 was one of opposition, and was on the Governor's desk waiting final decision. The Board took a supportive position on SB 800. This committee bill had the Board's fix for the Canadian program, where Canada will be considered foreign for the purposes of the existing statute. For many years, their training programs were denied for California Acupuncture Licensing Exam (CALE) due to the definition of a foreign program outside U.S. and Canada in the current statute. The new bill will go into effect as of

January 2016 if passed. There were additional bills added to the list over the summer that came up late after the Board took positions, but were included for information purposes.

- **Regulations Update** - The Administrative Office of Law (AOL) approved the Consumer Protection Enforcement Initiative (CPEI) and will be effective 10/01/15. Sponsored Free Health-Care (AB 2699) and Display of Licensure by Acupuncture Board (BPC 138) are heading to the final stages to be approved. The Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation (SB 1441) is also on the pending regulations agenda. The Board is making progress and on target with the regulations for SB 1246.

7. Consideration and Possible Action to Adopt the Revised Administrative Manual

The Board's Sunset review report required a copy of the Administrative Manual. Any changes that were made to the manual the Board had to adopt. One of the recent changes was to add Dr. Corradino, DAOM to the manual. Terri suggested that the number of the committees go up from two-person to three-person committees. Legal counsel cautioned the Board for the decision to go beyond three Board Members, because then a quorum of the Board is established. A quorum had very strict rules about Members of the Board who were not part of the committee; they could not participate in that meeting. While keeping the number to two-person committees, the Board will not be subject to other meeting laws, so there will be more flexibility with a two-person committees. The Board decided to keep at least two Board Members Committee, the same as in the current Administrative Manual.

- Jeannie Kang made the motion to adopt Dr. Michael Corradino's name into this manual, as well as changing the adoption date.
- Kitman Chan seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.

MOTION PASSED 6-0.

8. Consideration and Possible Action to Adopt Proposed Regulations 16 CCR 1399.469.3 Regarding Consumer Notice Pursuant to Business and Professions Code section 138

Terri informed the Board that this final rulemaking package had been voted and filed with the Office of Administrative Law with no comments and changes to the language. This bill passed in 1999, and the requirement is for all the offices to display a notice to notify the consumers that Acupuncturists are licensed and regulated by the California Acupuncture Board. This notice also contained the Board's telephone number and website for the consumer's interest if they experienced any difficulty or had any complaints without having to look up the Board contact information. The acupuncturists can download the actual language of the Notice to Consumers directly from the Acupuncture website.

- Jeannie made the motion to adopt the proposed regulatory changes as noticed, and delegate to the Executive Officer the authority to make any technical or non-substantive changes in completing the rule-making file.
- Dr. Corradino seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.

MOTION PASSED 6-0.

9. Consideration and Possible Action to Adopt Proposed Regulation 16 CCR 1399.480, 1400.1, 1400.2, and 1400.3 Regarding Sponsored Free Health Care Events Pursuant to Business and Professions Code section 901

Terri informed the Board that this final rulemaking package (AB 2699, BPC section 901) had been voted on by the Board initially and filed with the Office of Administrative Law. However there were comments received for which the Board must approve the response. The Board needed to consider whether to adopt the staff's recommendations and proposed response to the comments, in addition to taking an Order of Adoption of the approved regulatory language. This bill is free and sponsored healthcare events that took effect in 2010 with the purpose of providing access to healthcare to the uninsured or under-insured individuals by volunteer healthcare practitioners. This may include licensed or unlicensed professionals in California

The Board discussed the first proposed response regarding the one treatment during a "Free Healthcare Event." The public comment claimed that acupuncture treatments cannot be effective unless it was to be a repeated process that exceeded the time-limit of these sponsored events mentioned above. Dr. Corradino disagreed as he participated in a three-day, free, healthcare event, and some patients came in every day for treatments. Also, Business and Professions Code section 901 provided for the provision of services by out of State licensees at healthcare events to participate in any particular sponsored event for no more than ten days. Hence, if the length of the event allows, a person may be able to receive more than one treatment. The Board rejected the comment.

The Board continued with the second proposed response regarding not allowing out-of-state practitioners at these sponsored events while there are plenty of unlicensed practitioners' in-state. Also, the public comment was concerned with the quality of practice from out-of-state licensees versus the high standards of practice from California trained unlicensed practitioners. Terri reminded the Board of the Business Professions Code section 901 with a provision of services by out-of-state licensees at a healthcare event when meeting certain criteria. This proposed regulation is consistent with this section. Hence, the comments were not sufficient for the Board to change the proposed response. The Board rejected the comment.

- Dr. Corradino made the motion to adopt the staff's recommendations to reject the comments and proposed responses to the comments.
- Francisco seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.

MOTION PASSED 6-0.

There was a public comment asking for the proper procedure of notifying the Board regarding out-of-state licensees attending an upcoming healthcare event that is taking place in December 2015. The question was if "*these licensees will be automatically covered by this regulation at a three-day event?*" Legal counsel advised that the statute and provisions of the law were in effect as to the parameters of who can participate. But the Board's actual regulation requirements were not in force yet. Therefore, legal counsel recommended the public member to contact the Board's staff with the exact details of the dates and verify with the staff regarding the progress of the regulation. Terri confirmed that the Board planned to make this process as transparent as possible as the Board likes to promote these Sponsored Free Healthcare Events.

Michael reminded the Board with moving forward and finalizing the regulation process by adopting the language for AB 2699.

- Jeannie made a motion to adopt the proposed regulatory changes as noticed and delegate to the Executive Officer the authority to make any technical or non-substantive changes in completing the rule making file.
- Dr. Corradino seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

10. School Compliance Site Visits: Consideration and Possible Action of Non-compliance Exit Reports and Possible Action Related to Program Approval Pursuant to Regulation 16 CCR 1399.438

The purpose of this agenda item is to consider possible action on compliance reports. Additionally, the Board wanted to discuss how the Board is planning to take additional action of Non-Compliance Exit Reports and possible action related to program approval pursuant to Regulation 16 CCR 1399.438. There was concern raised by some Board members to why it took a while for some of the schools to get into compliance. Also, why there were a good number of compliance issues in the Exit Report prior to being in compliance. Terri explained that the process of School Compliance Site Visits is new, and this Board had not done these site visits before. Michael reported that his experience of school site visits was very positive. As word got out, a lot of schools were very forthcoming and proactively made changes post-visit to get those non-compliances remedied. Jeannie concurred with her experience with school site visits. She noted that the institutions were very cooperative and compliant. However, she was still concerned about the substantive non-compliances.

• Alhambra University

Ben gave a summary of the school's non-compliance findings and what they did to come back to compliance. The majority of the non-compliance findings are from the curriculum, where they did not use the wording that the Board had in the regulations in their syllabi. The staff also did a clinic site visit with the Subject Matter Expert (SME) and noted those findings as well. Legal Counsel Kurt Heppler advised the Board to proceed with accepting the finding of staff that they are in full compliance, and therefore, no disciplinary action is warranted at this time. Tamara also counseled that if the schools are in compliance with the regulations, the Board has no authority to impose upon them some additional term on their approval. A University representative reported on how the school discussed and implemented the changes to the syllabi among the staff. Public comment suggested the Board follow up on the enforced changes with a standard practice of an audit as in many other industries.

- Jeannie moved to accept staff's findings of compliance and no action will be taken regarding approval at this time.
- Dr. Corradino seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

• Kingston University

The staff visited Kingston University on January 22. This school had a few non-compliance issues, and they brought themselves into compliance. Rosalie, a representative from the

University, informed the Board that the school had received ACAOM accreditation, and appreciated the Board's support.

- Dr. Corradino moved to accept staff's findings of compliance and no action will be taken with regard to the approval at this time.
- Jamie seconded the motion.
- Kitman, Jamie, Francisco, Jeannie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

- **Stanton University**

Stanton University had several curriculum issues, and a few clinical findings of non-compliance. The school's corrective action has brought the school into full compliance. A representative from the University explained that most of the discrepancy issues come from the school's first syllabi that had since been revised. Dr. Corradino questioned the ACAOM accreditation of these non-compliant schools. Ben replied that not all of them have gone through ACAOM's processes. Public comment brought up an Advisory Committee called NACIQI (National Advisory Committee on Institutional Quality and Integrity) under the U.S. Department of Education who reviewed all accreditation bodies for the Board to follow up with their report on ACAOM if desired.

- Jamie moved to accept the staff's finding of compliance and no action will be taken regarding the approval at this time.
- Jeannie seconded the motion.
- Kitman, Francisco, Jeannie, Jamie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

- **University of South Los Angeles**

The Compliance Site Visit staff found some non-compliance issues with the school's curriculum, and several clinical non-compliances. The University corrected the curriculum findings. However, the Board's Subject Matter Expert panel found the University's Standard Physical Assessments such as the Orthopedic Exam was incomplete. The patient's chart was incorrectly documented with pain description and findings. Ben reported that the school was approved in 2006 and the University is not ACAOM accredited. This school was visited over half a year ago, and they have made several attempts to come into compliance. Representatives of the school requested the Board to give detailed non-compliance guidelines explaining why their Western Assessment report was incomplete. Terri emphasized that the Subject Matter Expert (SME) was not going to be made available to give details of the corrective action, and the schools should stand on their own merits when being evaluated by the Compliance Site Visit team. Jeannie suggested the Board to move the motion to keep the record open for the University of South Los Angeles, to provide documentation that can fulfill the compliance of this section within the next 30 days, and be brought back to the Board by the next Board meeting in November. Michael emphasized that the Board does not want to set this as a precedent for other schools that have not come to the Board. This was an exception. Public comment was made to support Michael's emphasis.

- Jeannie moved the motion to leave the record open for the University to provide documentation to fulfill compliance within 30 days to the Board staff and it is to be brought back before the Board at the next meeting.
- Dr. Corradino seconded the motion.

- Kitman, Francisco, Jeannie, and Dr. Corradino voted yes. Jamie abstained. Michael voted no.

MOTION PASSED 4-1-1

11. Consideration and Possible Action of Proposed Regulatory Language to Amend 16 CCR 1399.469 Disciplinary Guidelines Including Incorporation of Uniform Standards Related to Substance Abuse Pursuant to Business and Profession code section 315

Terri presented the updated version of SB 1441 Uniform Standards & Updated Disciplinary guidelines Rule Making Package. The revised proposed language is similar to the version the Board approved in 2013, but with the addition of the definition of a substance-abusing licensee. The changes also included minor modifications to the 1996 guidelines. This proposed regulation is to implement Uniform Standards 1-12 in its proposed 2015 disciplinary guidelines through the regulatory process.

A question was raised regarding the definition of substance-abusing licensee. Terri explained that "*If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be the substance-abusing licensee for the purposes of section 315 of the Business and Professions Code.*" She defined further that if the licensees had some conviction involving a substance abuse like a DUI; the Board is going to presume that they were a substance-abusing licensee. And the current guidelines allow the licensee the opportunity to rebut it. And if they were not substance-abusing licensees, but still involved in discipline and related to substance abuse, the Board could use the existing guidelines.

Uniform Standard #1: Clinical Diagnostic Evaluation. This standard lists specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee. Terri emphasized that this standard is geared specifically to the substance-abusing licensees.

Uniform Standard #2: Practice Restrictions. This standard lists specific requirements for temporary removal of a licensee from practice to enable the licensee to undergo the clinical diagnostic evaluation and any treatment recommended by the evaluator and approved by the Board. It also lists specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis. Terri clarified that this kind of process is needed because the existing guidelines do not have this kind of provisions. Hence, when the Board wants the licensee to cease the practice, there's a need to have both due process and a process. And this guideline is setting that up.

Uniform Standard #3: Notification to Employer. This standard sets out specific requirements that govern the ability of the Board to communicate with the licensee's employer about the licensee's status or condition.

Uniform Standard #4: Drug Testing. This standard governs all aspects of required testing, including, but not limited to, frequency of testing, randomicity, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collectors, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test. This standard further details various outcome and amendments and data

collection requirements as well. Terri emphasized the difference in these guidelines is that there is a much higher frequency of testing, and this would only apply to substance-abusing licensees.

Questions were raised to why there was a need for the Board to make this change? And were there a lot of substance abusers found in the Acupuncture profession?

Terri explained that the Board needed to adopt some specificity about defining a substance abusing licensee. The statute required a guideline on determining appropriate disciplinary action depending on how many substance abuse incidents or frequency and alcohol blood levels. Also, it is a priority for the Sunset Review Committee to see regular updates. Additionally, there were a couple of incidents where providers had been involved in DUI accidents. And the concern about the effectiveness of diversion programs that some Boards had and that there was a need for much more stringent disciplinary actions. Hence, since the Board did not have a diversion program, it chose guidelines one through twelve to have somewhat of a disciplinary, and uniform structure showing how harsh the terms and conditions would be.

Uniform Standard #5: Group Meeting Requirements. This standard sets out requirements governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

Uniform Standard #6: Treatment Programs. This standard determines whether inpatient, outpatient, or other types of treatment are necessary.

A Board member questioned if the Board planned to govern the treatment programs, or intended to outsource that for a medical specialist?

Terri explained that the first standard is that the Board needed to evaluate if there were a substance abusing licensee and what exact services the licensee required. For example, if there were a substance abusing licensee, but he did not need to cease practicing his profession. However, he still needed to go into drug treatment programs or participate in group therapy.

Uniform Standard #7: Worksite Monitoring Requirements. This standard sets out various Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors. For example, if a licensee were intoxicated at work, a worksite monitor would be observing that this person was not being a danger and complied with their probation. This proposed change was one of the terms that the Board can impose in the probation guideline.

Uniform Standard #8: Test positive for banned substance. Sets forth procedures to be followed when a licensee tests positive for a banned substance.

Uniform Standard #9: Procedures to be followed when a licensee is confirmed to have ingested a banned substance. When the Board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in Uniform Standard #10 and the Board shall impose the consequences set forth in Uniform Standard #10.

Uniform Standard #10: Specific consequences for major and minor violations. This standard details how the Board shall consider the use of a “deferred prosecution” stipulation described on

Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency until or unless the licensee commits a major violation, in which case it is revived and license is surrendered.

Uniform Standard #11: Return to practice. This standard details the criteria that a licensee must meet in order to petition for return to practice on a full time basis.

Uniform Standard #12: Petitions for reinstatement. This standard sets out criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

Terri summarized the list of policies and terms, and reviewed the underlined languages that the Board was newly adding to the Disciplinary Guidelines and Regulations beyond the language approved by the Board in 2013. The proposed additions to the existing approved language include:

- Adding Condition: Substance-Abuse 1 – Clinical Diagnostic Evaluation – to reflect language as set out in SB 1441.
- Adding Condition: Substance-Abusing 2 – Notice to employer – to reflect language as set out in SB 1441
- Adding Condition: Substance-Abuse 3 – Biological Fluid Testing and Abstaining from Drugs and Alcohol – to reflect language as set out in SB 1441
- Adding Condition: Substance-Abuse 4 – Facilitated Support Group Meetings – to reflect language as set out in SB 1441
- Adding Condition: Substance-Abuse 5 – Treatment Program for Cases Involving Substance-Abusing Licensees – to reflect language as went out in SB 1441
- Adding Condition: Substance-Abusing 6 – Worksite Monitor – to reflect language as set out in SB 1441

Board members thoroughly discussed the process of defining, evaluating and mandating practice restrictions if there were a substance-abusing licensee. Terri emphasized the importance of how the new proposed language is needed to clarify the substance-abusing licensee definition before invoking penalty restrictions.

- Jeannie moved to approve the proposed regulatory language for noticing.
- Kitman seconded the motion.
- Kitman, Francisco, Jeannie, Jamie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

12. Consideration and Possible Action Related to Potential Legislative Proposal Related to Foreign Credential Evaluators

The Board discussed the proposal to request the authority to establish the quality criteria that would allow the Board to evaluate what standards the Foreign Credential Evaluators have in place that assures accuracy and reliability in verifying foreign equivalency training. The problem prompting this proposal is that the Board has received fraudulent documents not detected by Foreign Credential Evaluators, and conflicting evaluations regarding foreign schools' accreditation. Hence, the proposed language would provide the Board with the authority to establish criteria for Foreign Credential Evaluators and set up a process for approval. Also, the

approved language would be included in the Sunset Report with a request that it be included in the Board's sunrise bill.

Terri detailed the proposed Statuary Authority Language and highlighted the need for transparency in recommending the criteria requirements for Foreign Credential Evaluators. Legal counsel advised changing the language "*approved as opposed to recommended*", and also advised to not include this proposed language but to instead put in a placeholder in the Sunset Report to say it is necessary to grant the Board authority to set standards. The legal team also suggested the Board to consider assessing fees for the proposed workload. Public comments questioned the effectiveness of this proposed language, and asked if this new criterion will adequately address the problem? Michael asserted that this is not the complete process, and the Board will continue with this discussion in the Continuing Education Meeting.

- Jeannie made a motion to seek authority to be able to set criteria and approve foreign credential evaluation services and to charge a fee within your Sunset report.
- Dr. Corradino seconded the motion.
- Kitman, Francisco, Jeannie, Jamie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

13. Consideration and Possible Action to Approve the Sunset Review Report

Terri reminded the Board that this was a proposed draft report that needed approving, and revising before giving it to the legislature. This 52 page report summarized the responses to questions given by the committee. She provided an overview of the report:

- Page 38, Section 9, Current Issues – What is the status of, and specific questions.
- Section 10, Board Actions and Responses to Prior Sunset Issues, and responses.
- Page 51, Appendices and Attachments with reports:
 - Meeting the criteria for attendance and participation (Appendix A)
 - Strategic Plan 2013-2017 including the Board action plan (Appendix B)
 - Specific Performance Measures – An aggregate of four years of performance (Appendix C)
 - Customer Satisfaction Survey – including two survey reports (Appendix D)
- Attachments:
 - Revised Org Administrative Manual (Attachment A)
 - Org Chart to Form Committee Structure (Attachment B)
 - Occupational Analysis (Attachment C)
 - Four years of Org Charts (Attachment D)

Michael complimented Terri for the work it took to produce this large volume report. Terri emphasized the importance of giving this some serious thought since this document is what the legislature will be using as the launching point. A recommendation to form a two- person committee along with advice from legal counsel to consider it, and then bring it back to the next meeting for the Board to review it was proposed. Legal counsel suggested making a motion to form a committee, and the president has the ability to appoint committee members.

- Michael made the motion to appoint a two person Sunset Review Report Committee. One of the persons being appointed would be Jeannie. And Hilde will also be appointed to that committee. However, if she declines to participate in that committee, the president may select and appoint another person to be the second person of that committee.

- Jeannie seconded the motion.
- Kitman, Francisco, Jeannie, Jamie, Dr. Corradino, and Michael voted yes.
MOTION PASSED 6-0.

14. Committee Reports: Education Committee – Implementation of Senate Bill 1246

Kitman noted that the Committee voted to use the current standard, and not appointing an advisory panel of experts to establish uniform education standard for graduating from acupuncture training program outside the United States. There was confusion about why the Board is spending too much time on this particular section when the language already existed. Terri clarified that there were two different parts to this discussion: 1) Setting the standards for those trained outside of the United States, and 2) Changing the wording to reflect “*curriculum approval*” instead of the current “*curriculum requirements*”. The Board can choose to keep those same curriculum requirements as your curriculum approval for schools within the United States, and for evaluating those who have been educated outside of the United States. The objective is for the two standards to stay the same.

15. Future Agenda Items

- Jeannie requested that at the next Board meeting there be a closed session on personnel matters.
- Jeannie requested the formalization of the process in which whoever the Board members meet in between meetings, they have to come back to the full Board meeting at the beginning to report who they spoke to or met with.

20. Adjournment – 04: 03 p.m.

Public Comment on items of discussion will be taken during each item. The Chairperson will determine time limitations. 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**

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APPROVAL OF BOARD MEETINGS MINUTES

FEBRUARY 14, 2014



DRAFT REVISED
California Acupuncture Board
Meeting Minutes
February 14, 2014

First Floor Hearing Room
1747 North Market Blvd., Sacramento, CA 95834

Board Members Present

Michael Shi, L.Ac, President, Licensed Member (MS)
Kitman Chan, Vice President, Public Member (KC)
Jeannie Kang, L.Ac, Licensed Member (JK)
Jamie Zamora, Public Member (JZ)
Hildegarde Aguinaldo, J.D., Public Member (HA)
Francisco Hsieh, Public Member (FH)

Board Legal Counsel Present

Spencer Walker

Staff Members Present

Terri Thorfinnson, J.D., Executive Officer (TT)
Tammy Graver, Board Liaison
Terry Sinkovich, Examination Coordinator
Ben Bodea, Education Coordinator
Kristine Brothers, Enforcement Coordinator (KB)
Marc Johnson, Policy and Regulatory Coordinator

- 1. Call to Order and Quorum established.**
- 2. Election of Officers for Chair and Vice Chair.** Michael Shi was re-elected President and Kitman Chan was re-elected Vice President.
- 3. Opening Remarks.** Michael Shi wished everyone Happy Chinese New Year.

4. Petition for Early Termination of Probation:

Yihan Fang, AC 4603 (Case No. PETP-1A-2010-197).

5. Petition for Early Termination of Probation:

Kisoo Song, AC 7495 (Case No. PETP-1A-2008-135).

CLOSED SESSION

6. Pursuant to Government Code Section 11126(c) (3) the Board convened in closed session to deliberate on the Petitions and take action on disciplinary matters.

7. Pursuant to Government Code Section 11126(a) (1) the Board met in closed session to conduct the annual evaluation of the Executive Officer.

OPEN SESSION – Announcement Regarding Closed Session

8. Minutes for the May 23, 2013 and November 14, 2013 Board meetings were approved.

9. President's Report. MS reported on meeting with the Chinese delegation. Their mission was to get to know the status of TCM overseas. He explained that the Board had two Stakeholder meetings: one in Northern California and one in Southern California. TT prepared a presentation about workforce data which is on the Board's website. The discussion focused on the challenges facing the profession. It was also the kick-off for the Occupational Analysis. Three of the four committees met last month. The new structure of committees is for the majority of the Board work to be completed in committees.

10. Executive Officer's Report. Katie Le was introduced as the newest Board staff. TT explained that the Governor's Budget had authority for three new Board staff. Those positions need to be approved by the Legislature in this legislative session. TT further explained the budget process. DCA Budget Chief, Taylor Shick was introduced to answer any specific budget questions. The question about where unspent money goes was answered. It was explained that it goes back into the Board's special fund. Other questions that were raised included: when the fiscal year ends, how budget projections are estimated, how the budget is created. All questions were answered.

There was a question about staffing temporary versus permanent staff, which TT explained the difference between the position types. Temporary staff does not need any authority to create, but it is limited to part-time at 1500 hours per year. TT went on to explain that to date the Board has under-spent its budget approximately \$760,000 per year. This year the amount has decreased significantly due to increased staff and enforcement expenditures. Drawing attention to the enforcement line items in the

budget, TT explained that every enforcement category has significantly increased across the board this year due to increased enforcement work. Even though our performance measures are still high, we are doing more enforcement work than in the past. Eventually, with more staff the budget may turn into a structural deficit in which we expend more than we take in as revenues. However, for now and years to come, the Board has a financial cushion to deal with that deficit. TS explained that while the Board has a reserve, it is unable to raise fees, but as the Board gets closer to spending down its reserves, DCA budget staff will work with the Board about shifting to fee increase proposals. We would look at what fees are at the statutory cap or what fees the Board can raise through regulations.

TT provided an update on the status of the occupational analysis. Phase 1: the stakeholder input process has drawn to a close. Now we are in Phase 2: the subject matter expert phase that involves interviews and subject matter expert workshops. After this phase, the final phase involves surveying licensees and the final report. The next California Acupuncture Licensure Exam is February 20th in Long Beach, a new location for Southern California.

TT provided an update on the Sunset Review hearing that is set for March 17, 2014 and encouraged stakeholders to attend the meeting. The Board will send out materials and hearing dates and times to the list-serve as soon as we know more. TT provided an update on the Strategic Plan 2013-2017. The staff met with SOLID training staff to create an Action Plan for the strategic plan. The Action Plan will be presented as a separate agenda item today, but an initial explanation of the role of the action plan was provided to demonstrate that the Board was on track with its strategic planning implementation. The purpose of the Action Plan is to provide more specifics on how each of the goals and objectives are to be accomplished, by whom and by a targeted completion date.

Kristine Brothers (KB) provided the enforcement report explaining enforcement data. In response to Board requests to see more long-term data, she created some annual charts of enforcement data. She showed a graph depicting aging cases but explained that the measure only included the investigation phase, not the subsequent disciplinary phase including DOJ and hearings. It was pointed out that few cases can skew the performance targets upwards to increased disciplinary days; whereas, more cases tend to lower disciplinary days. She answered questions from Board members. The most common question is why the intake number does not match the number of cases. The answer is that each category numbers are a point in time for that category; and, typically, cases take more than a year to complete. Therefore, pending cases include cases from last year's intake. It was also pointed out that there are an unusually high number of criminal charges and convictions. This is something that should be looked at by the Education Committee. MS confirmed that it would be reviewed by the Education Committee.

11. Committee Updates.

Education Committee. MS reported on the January 17, 2014 Committee meeting. All five Committee members were in attendance. The Committee reviewed two school approvals application requests. The Phoenix Institute of Herbal Medicine and Acupuncture (PIHMA) was recommended for Board approval by the Committee. The New York Chiropractic College- Finger Lakes School Acupuncture and Oriental Medicine (NYCC-FLSAOM) application for school approval was reviewed and was recommended to the Board to deny the application due to deficiencies in clinical supervision that the school refused to correct. The number of continuing education providers and the continuing education process as an issue referred by the Board to the Committee for consideration. The discussion focused on the fact that there are 800 plus CE providers serving 12,000 licensees. There was concern that the quality of these courses may not be very high. The Committee is continuing to discuss this issue.

Enforcement Committee. HA reported that the three members of the Committee were in attendance at the January 17, 2014 meeting. The Committee discussed the need for recommending legislative authority to create a standardized 801 reporting form. This was a recommendation from the Sunset Review Committee. TT explained that the need for Legislative authority is because the Board is not receiving many reports and anecdotal evidence indicates that there are more unreported settlements and actions that the Board does not receive. Having the authority to create a standardized form would require reports to be provided to the Board. The recommendation from the Committee was for the Board to approve seeking legislative authority to create a standardized 801 reporting form. This issue is to be discussed later as a separate agenda item. The remaining committee issues that were discussed and are agendaized later included updating the hand hygiene regulation and the proposed prostitution prevention regulatory change.

Examination Committee. FH explained that the Committee discussed several issues. The first issue discussed was to place a cap on the number of times applicants can retake the California Acupuncture Licensure Exam (CALE). The Committee is continuing that discussion. The second issue discussed was the Herb List in the Exam Preparation Guide, which the Committee decided to leave to the Exam Subject Matter Experts. The third issue that the Committee discussed was the August 2012 exam results. The Committee reviewed the Investigation Report and the Independent Expert Report that concluded nothing was wrong with the exam. The Committee concluded that the Board has sufficiently addressed concerns raised about the exam results and that the matter was closed.

12. Assignment of Strategic Goals and Objectives to Board Committees:

- Goal 1 – Licensing
- Goal 2 – Enforcement (Enforcement Committee)
- Goal 3 – Education (Education Committee)
- Goal 4 – Professional Qualifications (Education Committee)
- Goal 5 – Outreach
- Goal 6 – Administration

Please see document at end of these minutes for committee assignments.

MS went through each Goal and objective and assigned them to their respective committees to work on accomplishing the goals and objectives. There was public comment that claimed that the Objective 5.4 does not need to be accomplished because there is no mandate for acupuncturists to go to electronic medical records under the Affordable Care Act. They offered to provide the Board a written document related to electronic medical records. Other comments included the fact that there was no mention of the accreditation and national exam issues in the strategic plan.

13. Final Decision on School Applications:

Phoenix Institute of Herbal Medicine and Acupuncture (PIHMA). KC motioned to approve the school, FH seconded. MOTION TO APPROVE PIHMA AS AN APPROVED SCHOOL PASSED BY THE BOARD 6-0.

New York Chiropractic College- Finger Lakes School Acupuncture and Oriental Medicine (NYCC-FLSAOM). KC motioned to deny school approval, seconded by FH. MOTION TO DENY NYCC-FLSAOM AS AN APPROVED SCHOOL PASSED BY THE BOARD 6-0. Like the Committee, the Board felt strongly about the school's non-compliance with clinical supervision standards, and that it is a threat to public safety and violated the Board's curriculum standards. Public comment from several speakers indicated that this was an unrealistic standard and that none of the schools were in compliance with the Board's clinical standards. The Board clarified that this is an existing regulation so there has been no regulatory change.

14. Standardized Malpractice form 801 proposed legislation. Enforcement staff KB presented the need for seeking legislation. The problem is that the Board receives few reports and the Board believes that are settlements not being reported. In Fiscal year 2012/13, the Board did not receive any reports. The Sunset Review Committee recommended that the Board seek this authority. Approving the proposal to seek legislative authority for this form would resolve this issue and satisfy the Sunset Review Committee. There was further discussion about why the current law is not sufficient to require reporting. The fact that the Board receives few to no reports indicates the current statutory authority is not sufficient. JK motioned to seek legislative authority to create a standardized 801 reporting form, seconded by HA. MOTION APPROVED BY THE BOARD 6-0.

15. Proposed regulatory language for prostitution prevention.

KB began with a brief overview of the issue. HA noted the previous enforcement committee meeting discussed the issue but did not formally adopt the motion. This proposal would add a regulatory change to the condition of office regulatory section. It would prohibit sex in the office space and in effect create an administrative standard that would be violated by use of an acupuncture office for prostitution. Currently, prostitution is a crime that District Attorneys are not prosecuting, so the Board has no disciplinary recourse against providers who use their license for prostitution. This would

create an administrative action related to prostitution that would provide the Board the administrative authority to bring disciplinary actions against licensees who allow prostitution on the premises regardless of whether they were prosecuted for the crime or prostitution. This would prevent prostitution from spreading within the acupuncture profession. Board members all agreed with the proposed regulation.

MS asked for further public comment. None was made. JK motioned to adopt the language as underlined on the last page of the memo, seconded by HA. MOTION APPROVED BY BOARD 6-0. Motion to delegate authority to the executive officer to commence the regulatory process and to make non-substantive changes made by JK, seconded HA. MOTION APPROVED BY BOARD 6-0.

16. Proposed update of hygiene regulations. HA provided the explanation of why this regulatory change is needed and what it does exactly. The current regulations related to hand hygiene are outdated and non-compliant with health industry and public health standards. This change would bring our hand hygiene standard into compliance. The change would add the use of alcohol-based hand sanitizers. The Board member discussion reflected support and that the change is needed and uncontroversial. JK made the motion to approve proposed regulation and language, seconded by HA. MOTION APPROVED BY BOARD 6-0. Motion to authorize the executive officer to commence the regulatory process and make non-substantive changes by JK, seconded by HA. MOTION APPROVED BY BOARD 6-0..

Public comment raised the concern not to put this in regulations, which are cumbersome, but to simply amend the Infectious Disease Guidelines instead, which are not in regulations and can be easily changed. In the discussion it was determined that the Infectious Disease Guidelines are not actionable and updating the regulation is the only way to make it an actionable standard and update current outdated standards in regulations.

17. Proposed regulatory change that sets limits on the number of times applicants can re-take the CALE. This is an issue of concern that MS assigned to the Exam Committee for further study.

18. Regulatory Update List.

- Acupuncture Advertising Guidelines
- Continuing Education Ethics Requirement
- Consumer Protection Enforcement Initiative (CPEI)
- Sponsored Free Health Care Events
- Uniform Standards Related to Substance Abuse and Recommended
- Guidelines for Disciplinary Orders and Conditions of Probation

TT explained that staffing shortage and meeting preparation was causing delays in completing regulatory packages. JK expressed concern that regulatory packages were not completed and particularly CPEI and SB 1441. She specifically requested that CPEI

be completed by the next Board meeting. In setting priority next should be SB 1441 then Free Sponsored Health Events.

19. Requests Pursuant to B & P Code Section 4967.

Marlene Louisa Isidro (license cancelled 8/20/12) presented her request for a new license without having to retake the exam. JK moved to approve reinstatement, seconded by MS. MOTION APPROVED BY BOARD 6-0. Discussion included why should reinstatement be allowed because then everyone would simply let their licenses lapse and come to the Board to request reinstatement. The answer was the statute allows the option.

Poongwon Peter Lee (license cancelled 9/26/13) No show. Tabled by Chair.

Future Agenda Items. None.

Public Comment on Items Not on the Agenda. A comment requesting merged file of all materials. Reverse public comment and future agenda items on the agenda.

Adjournment.

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**Committee Assignments from Action Plan
February 14, 2014 Acupuncture Board Meeting**

Enforcement Committee Assignment

- ✓ Review existing disciplinary guidelines to identify revisions and update the regulatory standards language (p.11)

Education Committee Assignment

- ✓ Review international terminology standard including the World Health Organization (WHO) (p. 19)
- ✓ Review continuing education standards, course lists and review scope of required course work (p.20)

Exam Committee

- ✓ Review what regulatory changes would be required to shift to computerized exams (p.23)
- ✓ Propose a limit on the number of times a person can take the CALE (p.23)

Executive Committee

- ✓ Identify current training needs for Board members (p. 28)

EXECUTIVE OFFICER'S REPORT

BUDGET UPDATE

ACUPUNCTURE BOARD

BUDGET YEAR 2015-16

6500 / 63200

		BUDGET STONE 2015-16
PERSONAL SERVICES		
AUTHORIZED POSITIONS - PERM (PY)		11.0
003.00 SALARIES & WAGES	513,925	
063.00 S & W - EXEMPT STATUTORY	84,180	
TOTAL SALARIES & WAGES	598,105	
033.04 TEMPORARY HELP (907)	19,000	
063.01 EXEMPT/STAT-PER DIEM BD MBRs (901,920)	7,463	
083.00 OVERTIME	5,000	
TOTAL BLANKETS	31,463	
NET TOTALS, SALARY & WAGES	629,568	
TOTALS, STAFF BENEFITS	331,166	
TOTALS, PERSONAL SERVICES	960,734	
OPERATING EXPENSES & EQUIPMENT		
	BUDGET STONE 2015-16	
201.00 GENERAL EXPENSE	53,050	
213.04 FINGERPRINT REPORTS	20,045	
226.00 MINOR EQUIPMENT	5,000	
241.00 PRINTING	17,331	
251.00 COMMUNICATION	16,958	
261.00 POSTAGE	24,773	
291.00 TRAVEL IN STATE	31,141	
311.00 TRAVEL OUT-OF-STATE	0	
331.00 TRAINING	3,129	
341.00 FACILITIES OPERATIONS	65,195	
382.00 C & P SVCS. - INTER	8,771	
402.00 C & P SVCS. - EXTERNAL	3,965	
SUBTOTAL	249,358	
DEPARTMENT PRORATA		
424.03 DP BILLING (OIS)	134,198	
427.00 ADMIN / EXEC	129,979	
427.30 DOI-PRO RATA INTERNAL	3,755	
427.34 PUBLIC AFFAIRS OFFICE	3,688	
427.35 CONSUMER & COMM. RELATIONS	153,463	
SUBTOTAL	425,083	
427.01 INTERAGENCY SVCS	650	
427.10 INTERAGENCY SVCS - OER	333,119	
428.00 CONSOLIDATED DATA CNTR (TEALE)	2,604	
431.00 INFORMATION TECHNOLOGY	5,494	
438.00 STATEWIDE PRO RATA	138,674	
SUBTOTAL	480,541	
EXAM EXPENSES		
207.20 EXAM FREIGHT	25	
404.00 EXAM CONTRACT	286,772	
404.01 C/P SVS - EXPERT EXAMINERS	83,944	
SUBTOTAL	370,741	
ENFORCEMENT EXPENSES		
396.00 ATTORNEY GENERAL	379,123	
397.00 OFFICE OF ADMIN. HEARINGS	106,670	
414.31 EVI./WIT. FEES	10,795	
427.31 DOI-INVESTIGATIVE	494,305	
SUBTOTAL	990,893	
524.00 VEHICLE OPERATIONS	2,650	
SUBTOTAL	2,650	
TOTALS, OE&E	2,519,266	
TOTALS, PERSONAL SERVICES	960,734	
TOTALS, EXPENDITURES	3,480,000	
<i>Reimbursements - Other</i>	<i>(1,000)</i>	
<i>Reimbursements - Fingerprints</i>	<i>(22,000)</i>	
TOTAL REIMBURSEMENTS	(23,000)	
NET TOTAL, EXPENDITURES	3,457,000	

0108 - Acupuncture Analysis of Fund Condition

Prepared 09/11/2015

(Dollars in Thousands)

* 5 million in outstanding GF loans

	Governor's Budget			
	ACTUAL 2014-15	CY 2015-16	BY 2016-17	BY+1 2017-18
BEGINNING BALANCE	\$ 2,128	\$ 1,922	\$ 1,178	\$ 1,473
Prior Year Adjustment	\$ 85	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 2,213</u>	<u>\$ 1,922</u>	<u>\$ 1,178</u>	<u>\$ 1,473</u>
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 53	\$ 47	\$ 47	\$ 47
125700 Other regulatory licenses and permits	\$ 684	\$ 1,086	\$ 1,086	\$ 1,086
125800 Renewal fees	\$ 1,869	\$ 2,073	\$ 2,073	\$ 2,073
125900 Delinquent fees	\$ 16	\$ 13	\$ 13	\$ 13
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ 5	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 5	\$ 6	\$ 1	\$ 2
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	<u>\$ 2,634</u>	<u>\$ 3,225</u>	<u>\$ 3,220</u>	<u>\$ 3,221</u>
Transfers from Other Funds				
Proposed GF 11-12 Loan Repayment			\$ 1,000	
Totals, Revenues and Transfers	<u>\$ 2,634</u>	<u>\$ 3,225</u>	<u>\$ 4,220</u>	<u>\$ 3,221</u>
Totals, Resources	<u>\$ 4,847</u>	<u>\$ 5,147</u>	<u>\$ 5,398</u>	<u>\$ 4,694</u>
EXPENDITURES				
Disbursements:				
1110 - Program Expenditures (State Operations)	\$ 2,923	\$ 3,457	\$ 3,557	\$ 3,628
8880 - Financial Information System for California	\$ 2	\$ 5		
Total Disbursements	<u>\$ 2,925</u>	<u>\$ 3,969</u>	<u>\$ 3,925</u>	<u>\$ 3,996</u>
FUND BALANCE				
Reserve for economic uncertainties	\$ 1,922	\$ 1,178	\$ 1,473	\$ 698
Months in Reserve	5.8	3.6	4.4	2.3

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%

EXAM UPDATE

AUGUST 2015 EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL						
SCHOOL	1st TIME TAKERS		OVERALL (includes re-examinees)			
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
Academy of Chinese Culture & Health Sciences	6	1	86%	8	7	53%
Academy of Oriental Medicine at Austin	1	1	50%	1	1	50%
Acupuncture & Integrative Medicine College, Berkeley	8	2	80%	11	8	58%
Alhambra Medical University	3	1	75%	6	3	67%
American College of Traditional Chinese Medicine	16	9	64%	17	13	57%
Atlantic Institute of Oriental Medicine	0	1	0%	0	1	0%
Bastyr University	1	0	100%	1	0	100%
California Trinity University (formerly Kyung San)	0	1	N/A	0	3	0%
Dong-guk University, California	8	5	62%	15	18	45%
East West College of Natural Medicine	1	0	100%	1	0	100%
Emperor's College of Traditional Oriental Medicine	14	5	74%	16	8	67%
Five Branches University	22	8	73%	32	16	67%
Golden State University	1	1	50%	1	1	50%
Kyung San University	0	0	N/A	0	1	0%
Maryland Institute of Integrative Health (formerly Tai Sophia)	1	0	100%	1	0	100%
National College of Naturopathic Medicine	0	0	N/A	0	1	0%
New England School of Acupuncture	1	0	100%	2	0	100%
New York College of Health Professions	1	0	100%	1	0	100%
Nine Star University of Health Sciences	1	3	25%	1	4	20%
Oregon College of Oriental Medicine	1	0	100%	2	1	67%
Pacific College of Oriental Medicine	22	5	81%	32	16	67%
Samra University	0	0	N/A	0	1	0%
Santa Barbara College of Oriental Medicine	0	0	N/A	1	1	50%
Seattle Institute of Oriental Medicine	0	0	N/A	1	0	100%
South Baylo University	27	18	60%	36	45	44%
Southern California University of Health Sciences	1	3	25%	3	10	23%
Southern CA Univ. School of OM & Acupuncture	3	1	75%	3	1	75%
Southwest Acupuncture College	0	1	0%	1	1	50%
St. Luke	0	0	N/A	0	2	0%
Stanton University	2	1	67%	2	3	40%
Traditional Acupuncture Institute	0	1	0%	0	2	0%
University of East West Medicine	11	3	79%	11	11	50%
University of South Los Angeles (formerly LIFE University)	0	1	0%	0	1	0%
YoSan University of TCM	12	1	92%	14	4	78%
Tutorials	1	1	50%	1	4	20%
Foreign Equivalency	5	4	56%	9	10	47%
GRAND TOTAL	170	78	69%	230	198	54%

California Acupuncture Board				
August 2015 Examination Results				
Statistics by Language				
FIRST TIME TAKERS ONLY				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	116	29	25	170
FAILED	54	12	12	78
TOTAL	170	41	37	248
PASS RATE	68%	71%	68%	69%
RE-EXAMINEES ONLY				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	44	9	7	60
FAILED	86	20	14	120
TOTAL	130	29	21	180
PASS RATE	34%	31%	33%	33%
OVERALL				
	ENGLISH	CHINESE	KOREAN	TOTAL
PASSED	160	38	32	230
FAILED	140	32	26	198
TOTAL	300	70	58	428
PASS RATE	53%	54%	55%	54%

ENFORCEMENT DATA REPORT

ACUPUNCTURE BOARD

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

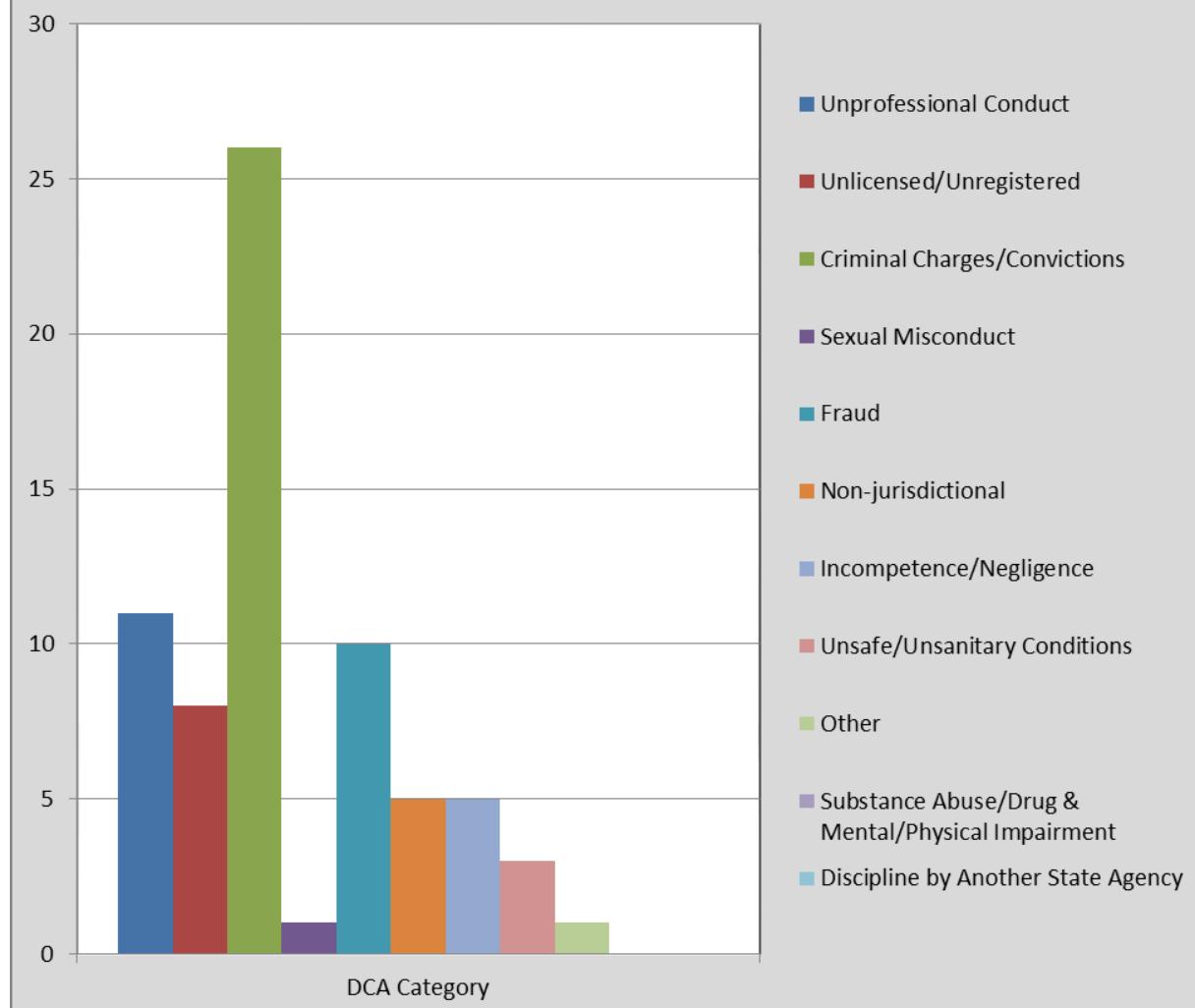


DATE	November 17, 2015
TO	All Board Members
FROM	Kristine Brothers Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter 1 (Q1) FY 2015/2016: July 1, 2015 to September 30, 2015

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Received	Closed/Referred to Investigation
Unprofessional Conduct	11	10
Unlicensed/Unregistered	8	8
Criminal Charges/Convictions (includes pre-licensure)	26	29
Sexual Misconduct	1	1
Fraud	10	8
Non-jurisdictional	5	5
Incompetence/Negligence	5	5
Unsafe/Unsanitary Conditions	3	3
Other	1	1
Substance Abuse/Drug & Mental/Physical Impairment	0	0
Discipline by Another State Agency	0	0
Total	70	70
Average Intake Time: 6 days		

Complaint Volume from Q1 FY 15/16



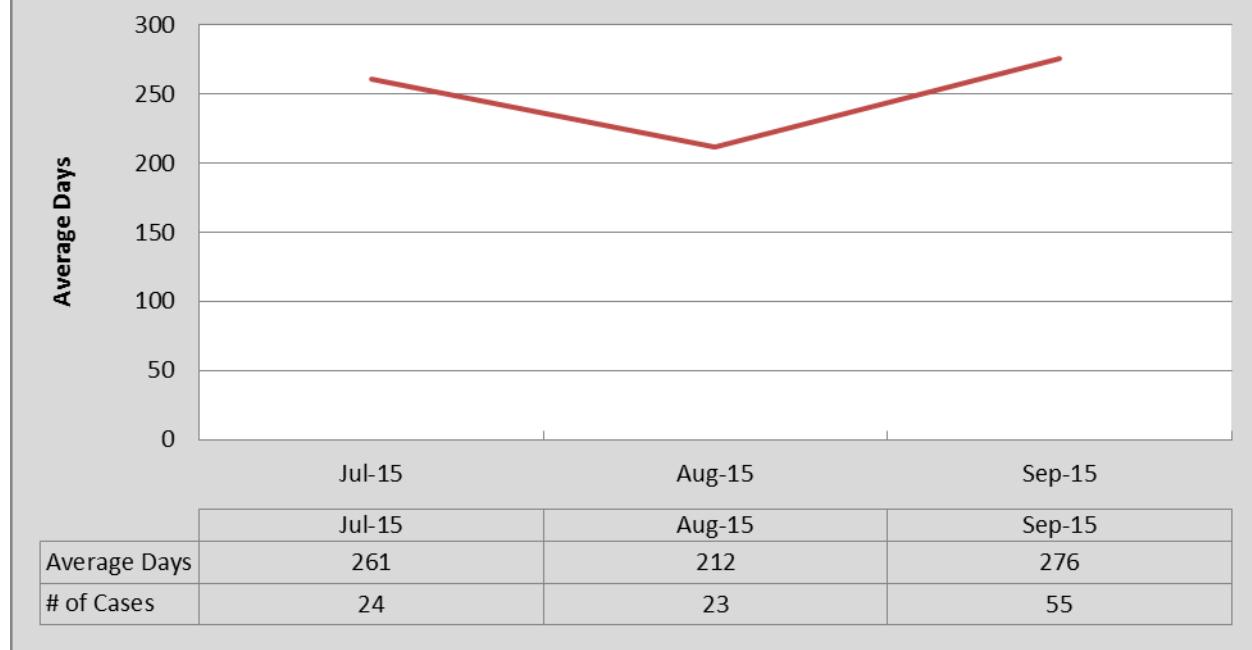
The bar graph above shows the number of complaints received by complaint type for this fiscal year. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

*INVESTIGATIONS

DCA Category	Initiated	Pending	Closed
Unprofessional Conduct	10	27	33
Unlicensed/Unregistered	8	24	15
Criminal Charges/Convictions (includes pre-licensure)	29	45	35
Sexual Misconduct	1	5	1
Fraud	8	22	7
Non-jurisdictional	2	1	2
Incompetence/Negligence	5	23	4
Unsafe/Unsanitary Conditions	3	4	1
Other	1	0	1
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	0	0	1
Total	67	151	102
Average days			258

*Includes formal investigations conducted by DOI and desk investigations conducted by staff

Case Aging for Closed Investigations



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	7
Pending	31
Accusation/SOI Filed	4
Decisions	9
• Revoked	1
• Voluntary Surrender	2
• Probation	6
• License Denied	0
• Public Reprimand	0
Avg. Overall Process Time	1,323 days
Citations Issued	25
Open Probation Cases	25

QUARTER 1 FY 15/16 TREND ANALYSIS

Complaint Trends

To understand what this quarter's data mean, let's compare it to last year's (Q1) quarter 1. This quarter had a drop in complaints compared to this time last year from 97 to 70. The reason for the difference is that last year's complaint volume was attributed to CE audit enforcement cases opened that quarter. In comparison, this quarter's largest increase in volume of complaints is attributed to criminal charges/ convictions category, not the CE audits. The volume for the criminal charges/convictions has increased by 100%, from 13 to 26. The increase is mainly attributed to more applicants reporting criminal records.

Investigation Trends

Similarly, this quarter had a drop in investigations initiated compared to last year 67 this quarter compared to 100 last year. Last year's higher volume of investigations initiated were the result of all of the CE audit failures being assigned. There were 242 pending investigations at the close of last year's quarter and 151 pending investigations this quarter, reflecting a 38% decrease. This demonstrates that the staff's hard work has resulted in a significant drop in the number of pending investigations compared to last year. The exact work that leads to case closures includes desk audits, reviewing DOI investigation reports, and completing either case closures or referrals on a high volume of cases.

Additionally, there has been a 218% increase in the investigations closed this quarter—102 cases closed this quarter compared to 32 cases last year in Q1. Furthermore, the average investigation time to complete investigations has gone down from 369 days last year Q1 to 258 days for this year's Q1. This is a 30% decrease. The process time for investigations should continue to decline with having two enforcement staff to split the case load. However, even with the decline in average process time for investigations, the Board's performance target of 200 days is still not being met. This indicates that the Board's enforcement unit is still not adequately staffed given the backlog, current complaint volume, and the varied duties.

Overall Trends

Another trend is more decisions this quarter compared with the same time last year. Last year, there was one final disciplinary decision, compared to 9 final disciplinary decisions this quarter. This is a significant increase in final decisions. However, with this increase in final disciplinary decisions, there has also been an increase in the overall average process time for cases that result in disciplinary action. It should be noted that the total days for discipline only measures cases that go to hearing or stipulated settlement for final board decision; it does not measure cases that do not go to final discipline which are the vast majority of the cases. Last year's Q1 overall average process time was 1,211 days and this year's overall average is 1,323 days. This increase in days reflects the volume of cases closing out this quarter and that these cases are more complex cases having required more investigation time. The higher number of days is also attributed to time the cases spent pending at the Attorney General's Office and waiting for a hearing.

The main point that may not be obvious is that only a small portion of the total caseload results in final disciplinary action. For example, this quarter there were 95 complaints closed without discipline, 25 citations were issued, seven (7) complaints were referred to the Attorney General's Office for discipline, and nine (9) complaints resulted in discipline. The nine (9) cases or decisions that became effective in Q1 15/16 depict a high average number of days

from complaint receipt to the effective decision date. However, these cases only represent .07% of closed cases when you compare it with all of the other types of closures enforcement staff processes. This average number of days for discipline measure only applies to a small subset of cases and is not indicative of the way the Board's overall enforcement operates; rather, it is more of a reflection of case complexity. This is an important point to understand—not every case takes over 1000 days, just the complex or backlogged cases. This data actually captures how well the Board's enforcement is actually performing with its current staffing level.

LEGISLATIVE UPDATE

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

bill	author	subject	info	status	notes
AB 12	Cooley	State government: administrative regulations : review	This bill would require every state agency, department, board, bureau or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revisions as emergency regulations by January 1, 2018. Additionally, this bill would require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions. Finally, this bill would require each Agency to compile and submit to the Legislature an overview of statutory law the Agency administers by January 1, 2017. These provisions would be repealed by January 1, 2019.	In Sen Appr. Held under submission	
AB 19	Chang	Governor's Office of Business and Economic Development: small business: regulations.	This bill would require the Governor's Office of Business and Economic Development, under the direction of the advocate, to review all regulations affecting small businesses adopted prior to January 1, 2016, in order to determine whether the regulations need to be amended in order to become more effective, less burdensome, or to decrease the cost impact to affected sectors.	In Asm Appr. Held under submission	
AB 41	Chau	Healing arts - provider discrimination	Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits certain discriminatory acts by health care service plans and health insurers. Existing federal law, beginning January 1, 2014, prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from discriminating with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable state law. Beginning January 1, 2016, this bill would prohibit a health care service plan or health insurer from discriminating against any health care provider who is acting within the scope of that provider's license or certification, as specified.	In Asm Appr. Held under submission	
AB 85	Wilk	Open Meetings	<u>As amended 4/16/15:</u> This urgency bill would require two-member advisory committees or panels of a "state body" (as defined in the Bagley-Keene Open Meeting Act) to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body and the advisory committee is supported, in whole or in part, by state funds.	Vetoed by Governor 10/28/15	BOARD OPPOSE

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

AB 159	Calderon	Investigational drugs	This bill would allow a physician to administer drugs that are still undergoing clinical trials and have not yet been approved for general use by the federal Food and Drug Administration. Additionally, this bill would allow manufacturers of such drugs to provide them to the patient; authorize health benefit plans to cover the cost of the drugs, and; prohibit state agencies from interfering with the distribution of the drugs or disciplining physicians for recommending them to qualified patients. This bill is similar to SB 149 (Stone, 2015), and would impact the Medical Board and Osteopathic Medical Board.	Vetoed by Governor 10/11/15	
AB 269	Dababneh	Personal Info Privacy	This bill would require a public agency that is the source of a data breach to provide at least 12 months of appropriate identity theft prevention and mitigation services at no cost to the affected persons if the breach exposed unencrypted social security, driver's license, or California identification card numbers.	In Sen Appr. Held under submission	
AB 333	Bonilla	Healing Arts: Continuing Education	This bill would allow specified healing arts licensees to apply one credit, as defined, of continuing education credit once per renewal cycle towards any required continuing education units for attending a course certain courses that results result in the licensee becoming a certified instructor of cardiopulmonary resuscitation (CPR) or the proper use of an automated external defibrillator ('AED), (AED), and would allow specified healing arts licensees to apply up to 2 units of continuing education credit once per renewal cycle towards any required continuing education units for conducting CPR or AED training sessions for employees of school districts and community college districts in the state. The bill would specify that these provisions would only apply if a licensing board's laws or regulations establishing continuing education requirements include the courses or activities mentioned above.	Signed into law by Governor 10/31/15. Chapter 360, Statutes of 2015	
AB 351	Jones-Sawyer)	Public contracts: small business participation	This bill would require all state agencies, departments, boards, and commissions to establish and achieve an annual goal of 25% small business participation in state procurements and contracts, to ensure that the state's procurement and contract processes are administered in order to meet or exceed the goal, and to report to the director statistics regarding small business participation in the agency's procurements and contracts. This bill contains other related provisions.	In Asm Appr. Held under submission	
SB 467	Hill	Professions and Vocations	This bill would also require the Attorney General to implement performance measures regarding case referrals. In addition, this bill would direct the Division of Investigation (Division) to work cooperatively with healing arts boards regarding standard case referral to the Division. Finally, this bill would extend the sunset for the Board of Accountancy and the Contractors State License Board to January 1, 2020	Signed into law by Governor 10/8/15. Chapter 656, Statutes of 2015.	

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

AB 483	Patterson	Healing arts - initial license fees proration	<i>As amended 8/19:</i> This bill prorates the initial license fee on a monthly basis for a dentist, registered dental hygienist, registered dental hygienist in alternative practice, registered dental hygienist in extended functions, osteopathic physician and surgeon, occupational therapist, registered veterinary technician, veterinarian, acupuncturist, and architect.	Vetoed by Governor 10/10/15.	
AB 507	Olsen	DCA - Breeze - Annual report	This bill would have required the Department of Consumer Affairs to submit a report to the Legislature and the Department of Finance, on or before March 1, 2016, and annually thereafter when available, detailing the implementation status of the Department's enterprise-wide licensing system known as BreEZe. This report would have contained the Department's plan for implementing BreEZe for the remaining 19 programs on legacy licensing systems, the total remaining cost for BreEZe implementation, and a description of any increased efficiency achieved by implementing BreEZe.	In Sen BP&ED cmte. Hearing cancelled at request of author	
AB 611	Dahle	Controlled substances: prescriptions: reporting	<i>As amended 4/15:</i> This bill would also authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of a licensee. The bill would, upon approval of an application, require the department to provide to the approved individual the history of controlled substances dispensed to the licensee. The bill would clarify that only a subscriber who is a health care practitioner or a pharmacist may have an application denied or be suspended for accessing subscriber information for any reason other than caring for his or her patients. The bill would also specify that an application may be denied, or a subscriber may be suspended, if a subscriber who has been designated to investigate the holder of a professional license accesses information for any reason other than investigating the holder of a professional license	In Asm B&P, set for hearing 4/28. hearing cancelled at request of author.	
AB 637	Campos	Physician orders for life sustaining treatment forms	This bill allows nurse practitioners and physician assistants to sign the Physician Orders for Life Sustaining Treatment form (Treatment form). This Treatment form allows terminally-ill patients to inform their loved ones and health care professionals of their end-of-life wishes. By expanding the number of people who are allowed to sign the Treatment Form, the intent of this bill is to assist terminally-ill patients in making their end-of-life wishes known to their families and health care providers. This bill impacts licensees of the Physician Assistant Board, and the Board of Registered Nursing.	Signed into law by Governor 8/17/15. Chapter 217, Statutes of 2015.	

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

AB 728	Hadley	State Government: financial reporting	This bill would require all state agencies to post biennial reviews of internal accounting, administrative control, and monitoring practices on the Department website within five days of finalization. This report is already subject to Public Records Act requests as the report is currently submitted to the Governor, Legislature, State Controller, Treasurer, and others, for inspection by the public.	Signed into law by Governor 10/3/15. Chapter 371, Statutes of 2015.	
AB 750	Low	Business and Professions: license	<i>As Amended 4/6:</i> This bill would allow the Department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.	In Asm Appr. Held under submission	
AB 758	Chau	Acupuncture and Training programs	This bill would allow accreditation agencies, recognized by the United States Department of Education, other than the Accreditation Commission for Acupuncture and Oriental Medicine to approve schools of acupuncture. The bill would also require the board to conduct site visits to each site of a school or college of acupuncture to inspect or reinspect the school or college for purposes of approval or continued approval of its training program, and to impose a fee for the site visits in an amount to recover direct reasonable regulatory costs incurred by the board in conducting the inspection and evaluation of the school or college.	In Asm B&P, set for hearing 4/28. hearing cancelled at request of author.	
AB 797	Steinorth	Regulations: effective dates and Leg review	<i>As Amended 8/31/15:</i> This bill would prohibit any civil liability or cause of action against a person for damage to a motor vehicle, if the damage was caused while the person was rescuing or providing care to a minor or animal that was located inside the motor vehicle.	In Senate Rules cmte.	
AB 964	Chau	Civil: Privacy	This bill would define "encrypted" to mean rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information technology when used in provisions of law governing notification of a data breach by state agencies or businesses.	Signed into law by Governor 10/6/15. Chapter 522, Statutes of 2015.	
AB 1060	Bonilla	Professions and Vocations: Licensure	This bill would establish the Cancer Clinical Trials foundation in the Health and Human Services Agency.	Vetoed by Governor 10/5/15.	

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

AB 1351	Eggman	Deferred entry of judgement: pretrial diversion	<p><u>As amended 6/1/15:</u> This bill changes the existing deferred entry of judgment (DEJ) program, for specified offenses involving personal use or possession of controlled substances, into a pretrial drug diversion program. To be eligible for diversion: a) the defendant must not have a prior conviction for any offense involving a controlled substance other than the offenses that may be diverted as specified; b) the offense charged must not have involved a crime of violence or threatened violence; c) there must be no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of an offense that may be diverted; and d) the defendant must not have any prior convictions for a serious or violent felony, as defined, within five years prior to the alleged commission of the charged offense.</p>	Vetoed by Governor 10/8/15.	companion bill to ab 1352
AB 1352	Eggman	deferred entry of judgement: withdraw of plea	<p><u>As Amended 5/19/15:</u> This bill would require a court to allow a defendant who was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, to withdraw his or her plea and enter a plea of not guilty, and would require the court to dismiss the complaint or information against the defendant, if the defendant performed satisfactorily during the deferred entry of judgment period and the defendant attest that the plea may result in the denial or loss to the defendant of any employment, benefit, license, or certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissible, deportable, or subject to any other kind of adverse immigration consequence s. The bill would require the Judicial Council to develop a form to allow the defendant to make this attestation. Pursuant to the bill, the completion, signing, and submission of the form with specified documentation would be presumed to satisfy the requirement for the withdrawal of the plea and dismissal of the complaint.</p>	Signed into law by Governor 10/8/15. Chapter 646, Statutes of 2015.	companion bill to AB 1351
SB 137	Hernandez	Health Care coverage: provider directory	<p><u>As amended 3/26/15:</u> This bill would require health care service plans and insurers subject to regulation by the commissioner for services at alternative rates to make a provider directory available on its Internet Web site and to update the directory weekly. The bill would require the Department of Managed Health Care and the Department of Insurance to develop provider directory standards. By placing additional requirements on health care service plans, the violation of which is a crime, the bill would impose a state-mandated local program.</p>	Signed into law by Governor 10/8/15. Chapter 649, Statutes of 2015.	

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

SB 149	Stone	Investigational drugs: biological products or devices: right to try	This bill would allow a patient to be administered drugs that are still undergoing clinical trials and have not been approved for general use by the federal Food and Drug Administration. This bill would also allow manufacturers of such drugs to provide them to the patient, authorize health benefit plans to cover the cost of the drugs, and would prohibit state agencies from taking action against a health facility's license for participating in their use. Finally, it would prohibit the Medical board and the OMD board from disciplining physician for providing these drugs to qualified patients. Substantially similar to AB 159 (Calderon, 2015) and SB 715 (Anderson, 2015).	On Assembly Floor. Read first time. Held at desk.	
SB 467	Hill	Professions and Vocations	Requires the Department of Consumer Affairs to receive approval of the Legislature to levy any pro rata charges against any of the boards, bureaus, or commission for administrative expenses of the Department; requires the Attorney General's Office to submit specified reports and information to the Legislature annually; provides that the Director or the Department, through its Division of Investigation, shall work with the health care boards to standardize referral of complaints; extends until January 1, 2020 the provisions establishing the California Accountancy Board and the term of the executive officer; and allows the Board to provide for certain practice restrictions on the license of an accountant for disciplinary reasons.	Signed into law by Governor 10/8/15. Chapter 656, Statutes of 2015.	
SB 560	Monning	Licensing boards: unemployment insurance	This bill would prohibit all programs in the Department from processing an application for licensure that does not include a federal employer identification number, social security number, or individual taxpayer identification number.	Signed into law by Governor 9/30/15. Chapter 389, Statutes of 2015.	
SB 570	Jackson	Personal Info: privacy: breach	This bill would modify current notification requirements for state agencies and businesses that own or license computerized data including personal information when disclosing a data breach of its system.	Signed into law by Governor 10/6/15. Chapter 542, Statutes of 2015.	
SB 799	Sen B&P	School Finance	<i>As amended 8/20/15:</i> This bill would require the Governing board of a school district to adopt various measures for budget balances and reserves.	In Asm. Appropriations committee.	

ACUPUNCTURE BOARD - LEGISLATION

updated 11/10/2015

SB 800	Sen B&P	Healing Arts: Omnibus bill	Specific to Acupuncture Board: Amends BPC 4938 to remove Canada as domestic equivalent to the United States for purposes of establishing standards for the approval of educational training and clinical experience, eligibility for the CALE and licensure.	Signed into law by Governor on 10/1/15. Chapter 426, Statutes of 2015	BOARD SUPPORT
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REGULATORY UPDATE

ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
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CAB list of past and future regulations

Updated: November 17, 2015

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.

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

Pending regulations				
	Subject	CCR code sections referred	Date authorizing vote taken (vote)	Status
1	SB 1246 Foreign Equivalency Standards	Amends section 1399.434, 1399.436, 1399.437 Adopts 1399.433	pending	Pending Board vote on proposed regulatory language.
2	Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation (SB 1441)	Adopt sections 1399.469	10/25/2013 (5-0) 9/18/15 (6-0)	Staff revising regulatory package to reflect SB 1441 changes. Updating of Disciplinary Guidelines removed to put into a separate regulatory package.
3	Update of Disciplinary Guidelines.	Amend sections 1399.469	pending	Staff revising regulatory package to reflect updates for Disciplinary Guidelines only. This package was a combined package with SB 1441 package.
4	Sponsored Free Health-Care Events (AB 2699)	Add Article 7 and Sections 1399.480, 1400.1, 1400.2 and 1400.3	11/17/2011 (5-0) 9/18/15 (6-0)	Board approved final package without revisions. Staff preparing rulemaking submission to Agency for final OAL approval. Waiting for Board approval of September Board meeting minutes.
5	Display of licensure by Acupuncture Board (BPC 138)	Add section 1399.463.3	11/14/14 (6-0)	Board approved final regulatory language. Staff preparing rulemaking submission to Agency for final OAL approval. Waiting for Board approval of September Board meeting minutes.

6	Prostitution enforcement and condition of office	Amends section 1399.450(b)	2/14/2014 (6-0)	Package being drafted by staff. Expected submittal to OAL by December 2015.
7	Advertising guidelines – display of license numbers in advertising	Adopt section 1399.455	2/19/2013 (5-0)	Package being drafted by staff. Expected submittal to OAL by Spring 2016.
8	Continuing education: Course in Professional Ethics	Adopt section 1399.482.2	11/15/2012 (5-0)	Package being drafted by staff. Expected submittal to OAL by Spring 2016.
9	Hand Hygiene requirements	Amends 1399.451 (a)	2/14/2014 (5-0)	Package being drafted by staff. Expected submittal to OAL by Spring 2016.

Adopted Regulations

	Subject	CCR code sections referred	Date approved by Office of Administrative Law (effective one month later) with link to text of regulation
1	Educational Curriculum Requirements	Amends Section 1399.415	<i>Approved by OAL 10/5/04</i> http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art2.shtml#1399415
2	Cite and Fine enforcement	Amends Section 1399.465	<i>Approved by OAL 4/17/06</i> http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art6.shtml#1399465
3	Continuing education	Amends Sections 1399.480 – 1399.489.1	<i>Approved by OAL on 8/25/08</i> 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	<i>Approved by OAL 9/23/10</i> http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art25.shtml#13994191
5	Consumer Protection Enforcement Initiative (CPEI). Amends regulations to strengthen Board enforcement program pursuant to DCA's CPEI initiative (SB 1111)	Amends section 1399.405, 1399.419, 1399.469.1, 1399.468.2	<i>Approved by OAL 6/2/15. Regulations effective October 1, 2015.</i> http://www.acupuncture.ca.gov/pubs_forms/laws_regs/cpei_orderofadoption.pdf

REVISED CURRICULUM

CCR 1399.434

ACUPUNCTURE BOARD

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DATE	November 17, 2015
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	Proposed Amendments to Title 16, CCR Section 1399.434

Issue: SB 1246 makes changes to the Board's authority to establish training program standards as set forth in Business and Professions Code (BPC) section 4939 and Title 16, California Code of Regulations (CCR) Section 1399.434. The specific changes essentially narrow the Board's oversight authority to setting and approving curriculum including clinical standards; and eliminate the Board's authority to approve schools and inspect them after January 1, 2017.

Problem: The current regulations setting specific curriculum and clinical training are set forth in Title 16, CCR 1399.434. This section must be revised to reflect the Board's new role, which will no longer include school approval or inspections. The Committee requested that the curriculum and clinical standards remain the same; and thus are not revised in the proposed language below.

Background: BPC section 4939 is the authority for the Board's current curriculum and clinical standards that are included in Title 16, CCR Section 1399.434. This section is repealed effective January 1, 2017. However, BPC section 4927.5 provides the new authority for the current standards after January 1, 2017. Thus, the Board can, if it so chooses, to retain the curriculum and clinical standards contained in Title 16 CCR Section 1399.434. The only needed revision in this section is with respect to referring to the Board approved curriculum and clinical training and not Board approved school or training program.

Discussion: Since the Board retains its authority to set curriculum including clinical training or instruction, the focus of this proposed regulatory language is to have it reflect that the Board no longer approves schools or training programs. To accomplish this revision, the opening paragraph has been proposed for deletion and the proper new language added as underlined language. The new language makes two changes: 1) revises the language to reflect the fact that the curriculum is Board approved, not that the school is Board approved; 2) Moves the curriculum hour's requirements from the end of this section to the opening paragraph. This revision is easier to understand the requirements because it begins with the total number for didactic and clinical hours and then goes into the breakdown of these hours. This is a more logical order than having the total hours at the end of the section as they are now. No other changes are proposed to this section.

At the September 25, 2015 Education Committee meeting, the committee voted to approve the proposed regulatory language as proposed.

Recommendation: The Education Committee recommends to the Board to approve the proposed regulatory language for this section.

Proposed Regulatory Language

1399.434 Criteria for Approval of Acupuncture and Oriental Medicine Training Program Curriculum (effective 1/1/17)

~~A school approved by the board shall use a training program, which related to the study and practice of acupuncture and oriental medicine, for all students entering its acupuncture and oriental medicine training program on or after January 1, 2005 that meets the following criteria: To be approved by the Board an acupuncture and Oriental medicine educational and training curriculum shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction. The curriculum shall include the following criteria:~~

(a) Basic Sciences 350 hours

The curriculum in basic sciences shall prepare students to enter postsecondary upper division biomedical and clinical science courses and shall consist of at least 350 hours of didactic and laboratory instruction in the following basic science courses:

- (1) General biology;
- (2) Chemistry, including organic and biochemistry;
- (3) General physics, including a general survey of biophysics;
- (4) General psychology, including counseling skills;
- (5) Anatomy-- a survey of microscopic, gross anatomy and neuroanatomy;
- (6) Physiology-- a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry;
- (7) Pathology and Pathophysiology-- a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology;
- (8) Nutrition and vitamins;

(b) Acupuncture and Oriental Medicine Principles, Theories and Treatment 1,255 hours

The curriculum in acupuncture and Oriental medicine principles, theories and treatment shall consist of at least 1,255 hours of didactic instruction in the following principles, theories, prescription, and treatment procedures of acupuncture and Oriental medicine:

(1) Acupuncture and Oriental Medicine Principles and Theories

- (A) Oriental Medicine Principles and Theory;
- (B) Acupuncture Principles and Theory;
- (C) Oriental Massage (e.g., Tui Na or Shiatsu) Principles and Theory;
- (D) Chinese Herbal Medicine Principles and Theory, including relevant botany concepts (This subject area shall consist of at least 450 hours of instruction);
- (E) Acupuncture and Oriental Medicine Diagnosis;
- (F) Acupuncture and Oriental Medicine Specialties, including dermatology, gynecology, pediatrics, ophthalmology, orthopedics, internal medicine, geriatrics, family medicine, traumatology, and emergency care;

(G) Classical acupuncture and Oriental medicine literature, including Jin Gui, Wen Bing/Shang Han, Nei Jing;

(H) Modern acupuncture and Oriental medicine literature.

(2) Acupuncture and Oriental Medicine Treatment

(A) Integrated acupuncture and Oriental medicine diagnostic and treatment procedures;

(B) Acupuncture techniques and treatment procedures, including electroacupuncture;

(C) Oriental massage (e.g., Tui Na or Shiatsu), acupressure, and other techniques utilizing manual therapy and mechanical devices;

(D) Exercise therapy, including breathing, qi gong and taiji quan;

(E) Herbal prescription, counseling and preparation;

(F) Oriental and Western clinical and medical nutrition, dietary and supplement prescription and counseling;

(G) Cold and heat therapy, including moxibustion and ultrasound;

(H) Lifestyle counseling, and self-care recommendations;

(I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;

(J) Acupuncture micro therapies, including auricular and scalp therapy;

(K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, or an equivalent standard which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;

(L) Equipment maintenance and safety;

(M) Adjunctive acupoint stimulation devices, including magnets and beads.

(c) Clinical Medicine, Patient Assessment and Diagnosis 240 hours

The curriculum in clinical medicine, patient assessment and diagnosis shall consist of at least 240 hours of didactic instruction and shall prepare the student to possess the knowledge, skills and abilities necessary to utilize standard physical examinations, laboratory and imaging studies, and international classification of diseases (ICD) diagnostic principles to improve treatment efficacy, patient safety, referral, and continuity of care; to improve communication and collaboration of care with all other medical providers; to assist in the evaluation and documentation of patient progress; and to improve the acupuncturists understanding of biochemical etiology and pathology. Clinical medicine, patient assessment, and diagnostic skills curriculum shall include the following:

(1) Comprehensive history taking;

(2) Standard physical examination and assessment, including neuromusculoskeletal, orthopedic, neurological, abdominal, and ear, nose and throat examinations, and functional assessment;

(3) Pharmacological assessment, emphasizing side-effects and herb-drug interactions;

(4) Patient/practitioner rapport, communication skills, including multicultural sensitivity;

- (5) Procedures for ordering diagnostic imaging, radiological, and laboratory tests and incorporating the resulting data and reports;
- (6) Clinical reasoning and problem solving;
- (7) Clinical impressions and the formation of a working diagnosis, including acupuncture and Oriental medicine diagnoses, and the World Health Organization's international classification of diseases (ICD-9);
- (8) Awareness of at-risk populations, including gender, age, indigent, and disease specific patients;
- (9) Standard medical terminology;
- (10) Clinical sciences--a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health;
- (11) Clinical medicine--a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, naturopathy, and homeopathy to familiarize practitioners with the practices of other health care practitioners.

(d) Case Management 90 hours

The curriculum in case management shall consist of at least 90 hours of didactic instruction and shall prepare the student to manage patient care as a primary health care professional, and shall include instruction in the following subjects:

- (1) Primary care responsibilities;
- (2) Secondary and specialty care responsibilities;
- (3) Psychosocial assessment;
- (4) Treatment contraindications and complications, including drug and herb interactions;
- (5) Treatment planning, continuity of care, referral, and collaboration;
- (6) Follow-up care, final review, and functional outcome measurements;
- (7) Prognosis and future medical care;
- (8) Case management for injured workers and socialized medicine patients, including a knowledge of workers compensation/labor codes and procedures and qualified medical evaluations;
- (9) Coding procedures for current procedural codes, including (CPT) and ICD-9 diagnoses;
- (10) Medical-legal report writing, expert medical testimony, and independent medical review;
- (11) Special care/seriously ill patients;
- (12) Emergency procedures.

(e) Practice Management 45 hours

The curriculum in practice management shall consist of at least 45 hours of didactic instruction and shall include the following subjects:

- (1) Record keeping, insurance billing and collection;
- (2) Business written communication;
- (3) Knowledge of regulatory compliance and jurisprudence (municipal, California, and federal laws, including OSHA, Labor Code, Health Insurance Portability and Accountability Act of 1996 (HIPAA));
- (4) Front office procedures;
- (5) Planning and establishing a professional office;
- (6) Practice growth and development;

- (7) Ability to practice in interdisciplinary medical settings including hospitals;
- (8) Risk management and insurance issues;
- (9) Ethics and peer review.

(f) Public Health 40 hours

The curriculum in public health shall consist of at least 40 hours of didactic instruction and shall include training in the principles of public health, including the following subjects:

- (1) Public and community health and disease prevention;
- (2) Public health education;
- (3) A minimum of eight (8) hours in first-aid and adult/child cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association or other organization with an equivalent course approved by the board;
- (4) Treatment of chemical dependency;
- (5) Communicable disease, public health alerts, and epidemiology.

(g) Professional Development 30 hours

The curriculum in professional development shall consist of at least 30 hours of didactic instruction and shall prepare the student with the skills to continue to expand their knowledge, including instruction in the following subjects:

- (1) Research and evidence based medicine;
- (2) Knowledge of academic peer review process;
- (3) Knowledge and critique of research methods;
- (4) History of medicine.

(h) Clinical Practice 950 hours

The curriculum in clinical practice shall consist of at least 950 hours in clinical instruction, 75% of which shall be in a clinic owned and operated by the school, which includes direct patient contact where appropriate in the following:

- (1) Practice Observation (minimum 150 hours)--supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;
- (2) Diagnosis and evaluation (minimum 275 hours)--the application of Eastern and Western diagnostic procedures in evaluating patients;
- (3) Supervised practice (minimum 275 hours)--the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code section 4927(d) and 4937(b).
- (4) During the initial 275 hours of diagnosis, evaluation and clinical practice, the clinic supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 275 hours the clinic supervisor shall be physically present at the needling of the patient. The clinic supervisor shall otherwise be in close proximity to the location at which the patient is being treated during the clinical instruction. The student shall also consult with the clinic supervisor before and after each treatment.

~~(i) A board approved training program shall consist of at least 2,050 hours of didactic and laboratory training and at least 950 hours of supervised clinical instruction. The course work shall extend over a minimum period of four (4) academic years, eight (8) semesters, twelve (12) quarters, nine (9) trimesters, or thirty six (36) months.~~

FOREIGN STANDARDS

CCR 1399.433

ACUPUNCTURE BOARD

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DATE	November 17, 2015
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	Proposed Curriculum Standards for International Education and Clinical Experience –create Title 16, CCR Section 1399.433

Issue: SB 1246 makes changes to the Board's school oversight authority and, after January 1, 2017, provides new authority for the Board to set standards for approval of education training and clinical experience received outside the United States (U.S.).

Problem: With this new authority, the Board must create standards to evaluate training and clinical experience completed outside the U.S. The new wording of the statute does not allow the Board to simply rely on the existing regulation that details the curriculum—it requires the Board to promulgate a new regulatory section. To address this statutory requirement, the proposed language creates a new regulatory section that set forth curriculum and clinical standards for training completed outside the U.S. The new section Title 16, California Code of Regulations (CCR) Section 1399.433 is proposed to be created as the section that contains the curriculum and clinical standards that will be used to evaluate the international education training and clinical experience.

Background: SB 1246 changed Business and Professions Code (BPC) Section 4939, effective January 1, 2017.

Current Language Business and Professions Code (BPC) Section 4939 (a):

The Board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges, completion of which will satisfy the requirements of BPC Section 4938 otherwise known as the licensure standards section.

New Language (Effective January 1, 2017) BPC Section 4939 (a) states:

- (a) *The Board shall establish standards for the approval of educational training and clinical experience received outside the United States.*
- (b) *This section shall become operative on January 1, 2017.*

This new section is the authority for the proposed regulatory language that creates a new section Title 16, CCR Section 1399.433 listed below.

Discussion: During the July 21, 2015 Education Committee meeting, the Committee made a recommendation to essentially adopt the current curriculum and clinical standards unchanged as the standards that apply to applicants who complete their education and training outside the U.S.. The discussion focused on the strong preference that the standards applied to foreign education be the same as those applied to domestic education and training. Thus, the same standards as set forth in Title 16, CCR Section 1399.434 are being proposed for the new section Title 16, CCR Section 1399.433. The curriculum and clinical standards are identical. Since it is a new section, all of the proposed language is underlined to indicate that it is newly proposed language that does not yet exist in regulation. At the September 25th Education Committee meeting, the committee voted to approve the proposed language establishing standards for education and clinical experience outside the United States pursuant to BPC Section 4939.

Recommendation: The Education Committee recommends to the Board to approve the proposed statutory language for Title 16, Section 1399.433 as proposed.

Proposed Regulatory Language

1399.433 Criteria for International Education Training and Clinical Experience (effective 1/1/17)

An applicant that has received educational training and clinical experience outside of the United States shall meet all of the following criteria contained herein. The total number of hours of all didactic and laboratory training shall consist of a minimum of 2,050 hours and a total of number of hours of supervised clinical instruction shall consist of a minimum of 950 hours, with the curriculum including the following components:

(a) Basic Sciences 350 hours

The curriculum in basic sciences shall prepare students to enter postsecondary upper division biomedical and clinical science courses and shall consist of at least 350 hours of didactic and laboratory instruction in the following basic science courses:

- (1) General biology;
- (2) Chemistry, including organic and biochemistry;
- (3) General physics, including a general survey of biophysics;
- (4) General psychology, including counseling skills;
- (5) Anatomy-- a survey of microscopic, gross anatomy and neuroanatomy;
- (6) Physiology-- a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry;
- (7) Pathology and Pathophysiology-- a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology;
- (8) Nutrition and vitamins;

(b) Acupuncture and Oriental Medicine Principles, Theories and Treatment 1,255 hours

The curriculum in acupuncture and Oriental medicine principles, theories and treatment shall consist of at least 1,255 hours of didactic instruction in the following principles, theories, prescription, and treatment procedures of acupuncture and Oriental medicine:

(1) Acupuncture and Oriental Medicine Principles and Theories

- (A) Oriental Medicine Principles and Theory;
- (B) Acupuncture Principles and Theory;
- (C) Oriental Massage (e.g., Tui Na or Shiatsu) Principles and Theory;
- (D) Chinese Herbal Medicine Principles and Theory, including relevant botany concepts (This subject area shall consist of at least 450 hours of instruction);
- (E) Acupuncture and Oriental Medicine Diagnosis;

- (F) Acupuncture and Oriental Medicine Specialties, including dermatology, gynecology, pediatrics, ophthalmology, orthopedics, internal medicine, geriatrics, family medicine, traumatology, and emergency care;
- (G) Classical acupuncture and Oriental medicine literature, including Jin Gui, Wen Bing/Shang Han, Nei Jing;
- (H) Modern acupuncture and Oriental medicine literature.

(2) Acupuncture and Oriental Medicine Treatment

- (A) Integrated acupuncture and Oriental medicine diagnostic and treatment procedures;
- (B) Acupuncture techniques and treatment procedures, including electroacupuncture;
- (C) Oriental massage (e.g., Tui Na or Shiatsu), acupressure, and other techniques utilizing manual therapy and mechanical devices;
- (D) Exercise therapy, including breathing, qi gong and taiji quan;
- (E) Herbal prescription, counseling and preparation;
- (F) Oriental and Western clinical and medical nutrition, dietary and supplement prescription and counseling;
- (G) Cold and heat therapy, including moxibustion and ultrasound;
- (H) Lifestyle counseling, and self-care recommendations;
- (I) Adjunctive acupuncture procedures, including bleeding, cupping, gua sha, and dermal tacks;
- (J) Acupuncture micro therapies, including auricular and scalp therapy;
- (K) Hygienic standards, including clean needle techniques. The clean needle technique portion of this subject shall use as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, or an equivalent standard which has been approved by the Board. Students shall successfully complete the clean needle technique portion of the hygienic standards subject prior to performing any needling techniques on human beings;
- (L) Equipment maintenance and safety;
- (M) Adjunctive acupoint stimulation devices, including magnets and beads.

(c) Clinical Medicine, Patient Assessment and Diagnosis 240 hours

The curriculum in clinical medicine, patient assessment and diagnosis shall consist of at least 240 hours of didactic instruction and shall prepare the student to possess the knowledge, skills and abilities necessary to utilize standard physical examinations, laboratory and imaging studies, and international classification of diseases (ICD) diagnostic principles to improve treatment efficacy, patient safety, referral, and continuity of care; to improve communication and collaboration of care with all other medical providers; to assist in the evaluation and documentation of patient progress; and to improve the acupuncturists understanding of biochemical etiology and pathology. Clinical medicine, patient assessment, and diagnostic skills curriculum shall include the following:

- (1) Comprehensive history taking;

- (2) Standard physical examination and assessment, including neuromusculoskeletal, orthopedic, neurological, abdominal, and ear, nose and throat examinations, and functional assessment;
- (3) Pharmacological assessment, emphasizing side-effects and herb-drug interactions;
- (4) Patient/practitioner rapport, communication skills, including multicultural sensitivity;
- (5) Procedures for ordering diagnostic imaging, radiological, and laboratory tests and incorporating the resulting data and reports;
- (6) Clinical reasoning and problem solving;
- (7) Clinical impressions and the formation of a working diagnosis, including acupuncture and Oriental medicine diagnoses, and the World Health Organization's international classification of diseases (ICD-9);
- (8) Awareness of at-risk populations, including gender, age, indigent, and disease specific patients;
- (9) Standard medical terminology;
- (10) Clinical sciences--a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health;
- (11) Clinical medicine--a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, naturopathy, and homeopathy to familiarize practitioners with the practices of other health care practitioners.

(d) Case Management 90 hours

The curriculum in case management shall consist of at least 90 hours of didactic instruction and shall prepare the student to manage patient care as a primary health care professional, and shall include instruction in the following subject:

- (1) Primary care responsibilities;
- (2) Secondary and specialty care responsibilities;
- (3) Psychosocial assessment;
- (4) Treatment contraindications and complications, including drug and herb interactions;
- (5) Treatment planning, continuity of care, referral, and collaboration;
- (6) Follow-up care, final review, and functional outcome measurements;
- (7) Prognosis and future medical care;
- (8) Case management for injured workers and socialized medicine patients, including a knowledge of workers compensation/labor codes and procedures and qualified medical evaluations;
- (9) Coding procedures for current procedural codes, including (CPT) and ICD-9 diagnoses;
- (10) Medical-legal report writing, expert medical testimony, and independent medical review;
- (11) Special care/seriously ill patients;
- (12) Emergency procedures.

(e) Practice Management 45 hours

The curriculum in practice management shall consist of at least 45 hours of didactic instruction and shall include the following subjects:

- (1) Record keeping, insurance billing and collection;
- (2) Business written communication;
- (3) Knowledge of regulatory compliance and jurisprudence (municipal, California, and federal laws, including OSHA, Labor Code, Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- (4) Front office procedures;
- (5) Planning and establishing a professional office;
- (6) Practice growth and development;
- (7) Ability to practice in interdisciplinary medical settings including hospitals;
- (8) Risk management and insurance issues;
- (9) Ethics and peer review.

(f) Public Health 40 hours

The curriculum in public health shall consist of at least 40 hours of didactic instruction and shall include training in the principles of public health, including the following subjects:

- (1) Public and community health and disease prevention;
- (2) Public health education;
- (3) Certification in first-aid and adult/child cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association or other organization with an equivalent course approved by the board;
- (4) Treatment of chemical dependency;
- (5) Communicable disease, public health alerts, and epidemiology.

(g) Professional Development 30 hours

The curriculum in professional development shall consist of at least 30 hours of didactic instruction and shall prepare the student with the skills to continue to expand their knowledge, including instruction in the following subjects:

- (1) Research and evidence based medicine;
- (2) Knowledge of academic peer review process;
- (3) Knowledge and critique of research methods;
- (4) History of medicine.

(h) Clinical Practice 950 hours

The curriculum in clinical practice shall consist of at least 950 hours in clinical instruction, 75% of which shall be in a clinic owned and operated by the school, which includes direct patient contact where appropriate in the following:

- (1) Practice Observation (minimum 150 hours)--supervised observation of the clinical practice of acupuncture and Oriental medicine with case presentations and discussion;
- (2) Diagnosis and evaluation (minimum 275 hours)--the application of Eastern and Western diagnostic procedures in evaluating patients;
- (3) Supervised practice (minimum 275 hours)--the clinical treatment of patients with acupuncture and oriental medicine treatment modalities listed in the Business and Professions Code section 4927(d) and 4937(b).
- (4) During the initial 275 hours of diagnosis, evaluation and clinical practice, the clinic supervisor shall be physically present at all times during the diagnosis and

treatment of the patient. Thereafter, for a second period of 275 hours the clinic supervisor shall be physically present at the needling of the patient. The clinic supervisor shall otherwise be in close proximity to the location at which the patient is being treated during the clinical instruction. The student shall also consult with the clinic supervisor before and after each treatment.

**REPEAL OLD CURRICULUM
CCR 1399.436**

ACUPUNCTURE BOARD

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DATE	November 17, 2015
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	Proposed Amendments to Title 16, CCR Section 1399.436

Issue: SB 1246 makes changes to Business and Professions Code (BPC) section 4939 that provides the Board's authority to establish training program standards. Effective January 1, 2017, that authority changes who approves schools and curriculum. This current authority is repealed from this section and replaced with new authority related to establishing foreign equivalency training standards. Additionally, BPC Section 4927.5, effective January 1, 2017, requires a curriculum include at least 3,000 hours.

Problem: This current regulation relates to school approval and contains a curriculum standard that is in conflict with the statute as of January 1, 2017.

Background:

The pre-2005 curriculum standard only required 2,348 hours of which 800 hours are clinical training. The standard created in SB 1246 requires 3,000 hours, of which, 950 are clinical training; this is essentially the same standard as is currently set forth in CCR Section 1399.434.

Discussion: Title 16, California Code of Regulations (CCR) 1399.436 contains the curriculum standards prior to 2005 and applies to those who enrolled in their training prior to 2005. These standards are significantly different than the post-2005 curriculum standards. When the new standards set forth in Title 16, CCR Section 1399.434 were promulgated in 2005, it made sense to have pre-2005 standards and post-2005 standards in order to allow for a gradual phase-in of these new standards, and not preclude those who had studied and graduated under the older standards from being eligible to take the exam precisely because they did not meet the new standards. If there was not a gradual phase period for the new standards, graduates from programs designed under the pre-2005 standards would have to repeat a significant amount of their course work and complete new course work in order to meet current standards. However, the new standards set forth in CCR Section 1399.434 have been in effect for more than 10 years, which is well beyond the time needed for phasing in the new standards. Thus, the pre-2005 standards have become obsolete and should be repealed, leaving room for a single curriculum standard moving forward. Moreover, this regulation will be in conflict with the statute; therefore, staff recommends it be repealed. A regulation that conflicts with statutory law cannot be enforced.

One of the policy consequences of repealing CCR Section 1399.436 is that those who did course work prior to 2005 would not be eligible to take the California Acupuncture Licensing Examination (CALE) because their education no longer meets the Board's current and future curriculum standards. From the perspective of public safety, there is no good argument to preserve the pre-2005 curriculums standards because they are significantly lower standards than the current standard contained in CCR Section 1399.434. Additionally, there is a public safety concern about the age of the educational training. In continuing to preserve this old, less rigorous standard as a pathway for licensure, it essentially creates a loophole exemption in the Board's current standards that may pose a risk to public safety.

An additional concern is that in establishing a future standard for foreign equivalency, it becomes problematic to establish two different standards. One of the Education Committee's articulated policies is to make sure the domestic and foreign standards are the same.

At the September 25, 2015 Education Committee meeting, the committee voted to approve the proposed regulatory language as proposed.

Recommendation: The Education Committee recommends to the Board to approve the proposed repeal of Title 16, CCR Section 1399.436.

Proposed Regulatory Language

1399.436. Criteria for Approval of Acupuncture Training Program.

A school approved by the board shall use a training program for all students enrolled in its acupuncture and Oriental medicine training program before January 1, 2005 that meets the following criteria:

- (a) The curriculum shall include adequate theoretical training in the following:

Subject

Minimum Class Hours

- (1) General biology.
- (2) Chemistry including organic and biochemistry.
- (3) General physics including a general survey of biophysics.
- (4) General psychology including counseling skills.
- (5) Anatomy a survey of microscopic, gross anatomy and neuroanatomy.
- (6) Physiology a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry.
- (7) Pathology a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology.
- (8) Nutrition and vitamins.

400

- (9) History of medicine a survey of medical history, including transcultural healing practices.
- (10) Medical terminology fundamentals of English language medical terminology.

30

- (11) Clinical sciences a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health.
- (12) Clinical medicine a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry, and homeopathy to familiarize practitioners with the practices of other health care practitioners.
- (13) Western pharmacology.
- (14) A minimum of eight (8) hours in a certified course offering first aid and adult/child cardiopulmonary resuscitation (CPR). Such course shall be taken from the American Red Cross, American Heart Association or other organization with an equivalent course work approved by the board.....128 class hours
- (15) Traditional Oriental medicine a survey of the theory and practice of traditional diagnostic and therapeutic procedures.
- (16) Acupuncture anatomy and physiology fundamentals of acupuncture, including the meridian system, special and extra loci, and auriculotherapy.
- (17) Acupuncture techniques instruction in the use of needling techniques, moxibustion, and electroacupuncture, including contraindication and complications. Students shall either (1) successfully complete a course which requires a student to pass an examination in clean needle

~~technique, taught at a board approved school that uses as its primary reference the most current edition of the "Clean Needle Technique Manual" published by the National Acupuncture Foundation, or (2) successfully complete a Clean Needle Technique course administered by the Council of Colleges of Acupuncture and Oriental Medicine.~~

(18) ~~Acupressure.~~

(19) ~~Breathing techniques—introductory course in QiGong.~~

(20) ~~Traditional Oriental exercise—introductory course in Tai Chi Chuan....660 minimum class hours~~

~~660~~

(21) ~~Traditional Oriental herbology including botany—a portion of the hours shall be given in a clinical setting.....300 minimum class hours~~

(22) ~~Practice management—instruction in the legal and ethical aspects of maintaining a professional practice, including record keeping, professional liability, patient accounts, and referral procedures.~~

(23) ~~Ethics relating to the practice of acupuncture.....30 minimum class hours~~

(b) ~~The curriculum shall include adequate clinical instruction, 75% of which shall be in a clinic which is owned and operated by the training program, which includes direct patient contact where appropriate in the following:~~

(1) ~~Practice observation—supervised observation of the clinical practice of acupuncture with case presentations and discussions.~~

(2) ~~Diagnosis and evaluation—the application of Eastern and Western diagnostic procedures in evaluating patients.~~

(3) ~~Supervised practice—the clinical treatment of a patient with acupuncture~~

~~.....800 minimum class hours~~

~~During the initial 235 hours of diagnosis, evaluation and clinical practice the supervisor shall be physically present at all times during the diagnosis and treatment of the patient. Thereafter, for a second period of 235 hours the supervisor shall be physically present at the needling of the patient. The supervisor shall otherwise be in close proximity to the location at which the patient is being treated during the clinical instruction. The student shall also consult with the supervisor before and after each treatment.~~

(c) ~~The total number of hours of all theoretical training shall consist of a minimum of 1,548 hours and the total number of hours of clinical instruction shall consist of a minimum of 800 hours., and the course work shall extend over minimum period of four (4) academic years, eight (8) semesters, twelve (12) quarters, nine (9) trimesters, or thirty six (36) months.~~

(d) ~~Candidates for admission shall have successfully completed an approved high school course of study or have passed a standard equivalency test.~~

- (e) The training program should be located in a state university or college, an institution approved under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code, or in the case of training programs located outside California, in an institution which is approved by the appropriate governmental accrediting authority or an accrediting agency recognized by the U.S. Department of Education.
- (f) The training program shall develop an evaluation mechanism to determine the effectiveness of its theoretical and clinical program.
- (g) Coursework shall carry academic credit.
- (h) The director and/or supervisor(s) of the clinical portion of the training program shall be a licensed acupuncturist or other licensed practitioner authorized to practice acupuncture.
- (i) All instructors shall be competent to teach their designated courses by virtue of their education, training and experience.
- (j) Each approved program shall receive accreditation or approval under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code, or the approval of the program by the board shall automatically lapse.
- (k) Each training program shall develop a mechanism to evaluate and award transfer credit to students for prior coursework and experience which is equivalent to that coursework and clinical instruction required in subsections (b) and (d). The training program's policies and procedures for evaluating and awarding transfer credit shall be set forth in writing and submitted to the board. Such policies and procedures shall include all of the following:
- (1) Credit shall only be awarded for actual coursework or directly relevant experience received by the student. As used in this regulation, "experience" means academically relevant learning which involved the student directly in the area of the curriculum required in this section and includes integrated field and clinical internships, apprenticeships, tutorial programs and cooperative educational programs.
- (2) Where the coursework and clinical instruction were completed at an acupuncture school not approved by the board, the evaluation shall include an examination administered by the school in the subject area(s) in which transfer credit may be awarded.
- (3) The outcome of the prior education and experience shall be equivalent to that of an average student who has completed the same subject(s) in the training program and shall meet the curriculum standards and graduation requirements of the training program.

- (4) Up to 100% transfer credit may be awarded for coursework and clinical instruction completed successfully at another acupuncture school or college which is approved by the board.
- (5) Up to 100% transfer credit may be awarded for courses completed successfully in biology, chemistry, physics, psychology, anatomy, physiology, pathology, nutrition and vitamins, history of medicine, medical terminology, clinical science, clinical medicine, Western pharmacology, cardiopulmonary resuscitation, practice management, and ethics at a school which is approved under Article 4 (commencing with Section 94770) of Chapter 7 of Part 59 of the Education Code or by an accrediting agency recognized by the U.S. Department of Education.
- (6) Credit for clinical coursework and instruction in traditional Oriental medicine, acupuncture anatomy and physiology, acupuncture techniques, acupressure, breathing techniques, traditional Oriental exercise, or traditional Oriental herbology completed successfully at a school which is not approved by the board may be awarded by a school approved by the board, provided that at least 50% of the course hours in these subject areas are completed successfully at a school approved by the board.
- (7) The entire record of the training program's evaluation and award of the student's transfer credit shall be included in the student's academic file and shall be made an official part of the student's transcript which shall be filed with the board upon request of the student.
- (8) All students shall receive upon matriculation a copy of the training program's policies and procedures for evaluating and awarding transfer credit.

**NEW BOARD CURRICULUM
APPROVED PROCESS
CCR 1399.437**

ACUPUNCTURE BOARD

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DATE	November 17, 2015
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	Proposed Amendments to Title 16, CCR Section 1399.437 Requirements for Board Approval of Curriculum

Issue: SB 1246 makes changes to the way in which curriculum is approved. Business and Professions Code (BPC) Section 4927.5 requires that the Board approve all curriculum within 30 days.

Problem: SB 1246 changes the Board's school oversight authority. The new authority set forth in BPC section 4927.5 expands the definition of "approved training program" to include Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM) and Bureau of Private and Post-Secondary Education (BPPE) and requires the curriculum be approved by the Board. The Board's current authority for approving schools becomes inoperative January 1, 2017. Thus, the Board needs to create a new process for curriculum approval, which this proposed regulation provides.

Background: SB 1246 changed the definition of what constitutes an approved training program. This change was accomplished in two ways: 1) Making the current Board authority for school approval inoperative as of January 1, 2017; 2) Creating a new definition of what constitutes an approved curriculum set forth in BPC Section 4927.5.

BPC section 4927.5 states:

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

- (1) Offers curriculum that includes at least 3,000 hours of which at least 2,050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction. Has submitted that curriculum to the board, and has received board approval of the curriculum.*
- (2) Has received full institutional approval under Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code.*

(3) Meets any of the following:

- (A) Is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.*
- (B) Has been granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine.*
- (C) Has submitted a letter of intent to pursue accreditation to the Accreditation Commission for Acupuncture and Oriental Medicine within 30 days of receiving full institutional approval pursuant to paragraph (2), and is granted candidacy status within three years of the date that letter was submitted.*
- (b) Within 30 days after receiving curriculum pursuant to paragraph (1), the board shall review the curriculum, determine whether the curriculum satisfies the requirements established by the board, and notify the school or college, the Accreditation Commission for Acupuncture and Oriental Medicine, and Bureau of Private and Postsecondary Education of whether the board has approved the curriculum.*
- (c) This section shall become operative on January 1, 2017.*

Discussion: SB 1246 made changes to the Board's school oversight and definition of approved training program. Under this new authority to approve curriculum, the Board must create a new regulatory process for approving curriculum. The proposed regulatory language sets forth the curriculum approval process and required documentation. The proposed language addresses the consequences for incomplete applications. Applications that are incomplete shall not be deemed received pursuant to BPC Section 4927.5 (b). Those incomplete applications shall be deemed abandoned if not completed within 30 days of receiving notification that the application is incomplete. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

This regulation deems that any changes to the curriculum after the Board has approved it shall constitute a new curriculum, which requires Board approval pursuant to BPC Section 4927.5. This regulation also requires prior Board approval of any curriculum changes. This will prevent any unapproved, non-compliant course work from being taught to students while attending schools with Board approved curriculum. It also prevents students be denied admission to take the California Acupuncture Licensing Examination (CALE) because they do not meet the Board's curriculum standards. A new curriculum approval form is incorporated by reference.

At the July 21, 2015 Education Committee meeting, the committee discussed what other changes to the regulations were needed to implement SB 1246. Staff recommended that changes that clearly defined the curriculum approval process were needed. The committee agreed and requested that the staff research and draft proposed regulatory language for consideration at the September 25, 2015 Education Committee meeting.

At the September 25, 2015 Education Committee meeting, the committee discussed the proposed language and voted to approve the proposed regulatory language including the form to be incorporated into the regulation by reference as proposed.

Recommendation: The Education Committee recommends to the Board to approve the proposed regulatory language including the form to be incorporated by reference into the regulation.

Proposed Regulatory Language

1399.437 Requirements for Board Approval of Curriculum

~~Educational institutions or programs seeking approval of an acupuncture training program shall provide the board with such documents and other evidence as may be necessary for the board to determine the actual nature and extent of the training offered, including but not limited to, catalogues, course description, curricula plans, and study bulletins.~~

(a) Educational and training programs seeking board approval of its curriculum shall submit an "Application for Board Approval of Curriculum" (rev 1/1/17), incorporated herein by reference. The application shall be accompanied by the following information and documentation:

1. Educational and training program legal name, current address, phone number, website, contact person, and program(s) requested for board curriculum approval.
2. A completed course-by-course list for each course that meets the board required coursework with course number, clock hour, and course unit to document that the curriculum meets the requirements for Section 1399.434.
3. A list of all courses in the program requested for board approval of curriculum with course hours, course units, course number and course title.
4. A copy of all course syllabi for program(s) requested for board curriculum approval; and
5. A copy of the current course catalog.

All documentation submitted shall be in English.

(b) Application for Board Approval of Curriculum shall be deemed received pursuant to Business and Professions Code section 4927.5(b) when the board has received a complete application as defined in subdivision (a) of this regulation.

(c) An educational and training program whose application for board approval of curriculum is incomplete shall be notified in writing that the application is incomplete and what documentation is still needed. An educational and training program's incomplete application shall be deemed abandoned if the educational and training program does not submit all required documents to the board within 30 days of the mailing of the written notification that the application is incomplete.

(d) An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

(e) Any changes to curriculum after Board approval constitutes a new curriculum and requires Board approval pursuant to BPC 4927.5. The approval shall be attained prior to implementing the new curriculum.