

Acupuncture Board Meeting



San Jose

August 15-16, 2019



California Acupuncture Board Meeting

August 15 & 16, 2019

Sun Room

Five Branches University

1885 Lundy Avenue, Suite 108

San Jose, CA 95131



Board Members

Dr. Amy Matecki, MD, L.Ac. – President
Kitman Chan – Vice President, Public Member
John Harabedian – Public Member
Ruben Osorio – Public Member
Bradley Cimino, L.Ac. – Licensed Member
Hyun “Francisco” Kim, L.Ac. – Licensed Member
Shu Dong Li, Ph.D – Public Member

Legal Counsel

Salwa Bojack, JD

Staff

Benjamin Bodea – Executive Officer
Jay Herdt – Licensing Manager
Matt Nishimine – Central Services Manager
Erica Bautista – Administration Coordinator
Cricket Borges – Enforcement Coordinator
Kristine Brothers – Policy Coordinator
Andrea Pina – Enforcement Analyst
Sarah Rankin – Education Coordinator
Tammy Stadley – Exam Coordinator
Beck Untalasco – Licensing Analyst
Sandra Wilson – Licensing Technician
Jenna Dennis – Seasonal Clerk



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Members of the Board

Dr. Amy Matecki,
M.D., L.Ac., President
Kitman Chan,
C.P.A., Vice President
John Harabedian, Esq.
Ruben Osorio
Bradley Cimino,
M.A., L.Ac.
Hyun “Francisco” Kim,
M.S., L.Ac.
Shu Dong Li, Ph.D.

ACUPUNCTURE BOARD MEETING
August 15 & 16, 2019

LOCATION:

Sun Room
Five Branches University
1885 Lundy Ave, Suite 108
San Jose, CA 95131

DAY ONE AGENDA

FULL BOARD MEETING
Thursday, August 15, 2019
9:30 a.m. to 5:00 p.m.
(or until the close of business)

Action may be taken on any item listed on the full board meeting agenda.

1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, President)

2. President’s Remarks (Dr. Matecki)

- Welcoming message and meeting information

3. Public Comment on Items Not on the Agenda (Dr. Matecki)

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)

4. Petition for Early Termination of Probation – 10:00 a.m.
Gregory Willis (AC 17472) PETP-1A-2015-93

CLOSED SESSION

5. Pursuant to Government Code section 11126, subdivision (c)(3), the Board will convene in closed session to deliberate on a decision to be reached in the above petition.

6. Pursuant to Government Code section 11126, subdivision (c)(1), the Board will convene in closed session to discuss and take possible action on the preparation, approval, and administration of examinations.

RECONVENE OPEN SESSION

- 7. Review and Possible Approval of the June 13-14, 2019 Board Meeting Minutes (Dr. Matecki)**
- 8. Executive Officer's Report (Ben Bodea, Executive Officer)**
 - (A) Staff Update Regarding Vacancies
 - (B) Budget Update - Fund Condition
 - (C) Board Member Services Update
- 9. Enforcement Report (Cricket Borges, Enforcement Coordinator)**
 - (A) Q3, FY 18-19 Enforcement Report (Amended)
 - (B) Q4, FY 18-19 Enforcement Report
- 10. Review of the Capital Accounting Partners Fee Audit Report (Dan Edds, Consultant)**
- 11. Discussion and Possible Action to Seek Statutory Amendments to Business and Professions Code §§ 4970 and 4971 for Increases to Certification and Tutorial Program Fees (Matt Nishimine, Central Services Manager)**
- 12. Discussion and Possible Action to Initiate a Rulemaking to Increase Board Fees, including Acupuncture Tutorial Fees and Continuing Education Fees (Matt Nishimine, Central Services Manager)**
 - (A) To Amend Title 16, CCR § 1399.460. Fees
 - (B) To Amend Title 16, CCR § 1399.461. Acupuncture Tutorials
 - (C) To Amend Title 16, CCR § 1399.462. Continuing Education Fee
- 13. Education Report (Jay Herdt, Licensing Manager)**
 - (A) Status of Curriculum Reviews
 - (B) Tutorial Programs
 - (C) Continuing Education
 - (D) Continuing Education Audit
 - (E) Examination Statistics
- 14. Recess Until Friday, August 16, 2019**

DAY TWO AGENDA

FULL BOARD MEETING

Friday, August 16, 2019

9:00 a.m. to 5:00 p.m.

(or until the close of business)

15. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, President)

16. President's Remarks (Dr. Matecki)

- Welcoming message and meeting information

17. Public Comment on Items Not on the Agenda (Dr. Matecki)

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)

18. Legislative Update (Ben Bodea, Executive Officer)

Items introduced in the 2019 Legislative Session Pertinent to Acupuncture:

- (i) [AB 544](#), as amended, Brough. Professions and vocations: inactive license fees and accrued and unpaid renewal fees.
- (ii) [AB 613](#), as introduced, Low. Professions and vocations: regulatory fees.
- (iii) [AB 778](#), as introduced, Low. Acupuncture: continuing education.
- (iv) [AB 779](#), as amended, Low. Acupuncture: place of practice: wall license.
- (v) [AB 888](#), as amended, Low. Opioid prescriptions: information: nonpharmacological treatments for pain.
- (vi) [AB 1076](#), as amended, Ting. Criminal records: automatic relief.
- (vii) [SB 53](#), as amended, Wilk. Open meetings.
- (viii) [SB 425](#), as amended, Hill. Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.
- (ix) [SB 601](#), as amended, Morrell. State agencies: licenses: fee waiver.

19. Regulations Update (Ben Bodea, Executive Officer)

(A) AB 2138 (2018 Chiu and Low)

Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction

(B) SB 1441 (2008 Ridley-Thomas) and Update of Acupuncture Board Disciplinary Guidelines

Healing arts practitioners: substance abuse

(C) **SB 1448 (2018 Hill)**

Healing arts licensees: probation status: disclosure

(D) **SB 1246 (2014 Lieu)**

Acupuncture

(E) **AB 2190 (2016 Salas)**

Acupuncture Board: Executive Officer: Education

20. Discussion and Possible Action to Initiate the Following Rulemaking Package on Curriculum Oversight Authority (Jay Herdt, Licensing Manager)

(A) To Amend Title 16, CCR § 1399.415. Documentation and Training.

(B) To Amend Title 16, CCR § 1399.416. Equivalent Training and Clinical Experience Qualifying for Licensure.

(C) To Amend Title 16, CCR § 1399.434. Criteria for Approval of Acupuncture and Oriental Medicine Curriculum.

(D) To Repeal Title 16, CCR § 1399.435. Criteria for Acupuncture and Oriental Medicine Training Programs.

(E) To Amend the title “Acupuncture Training Programs” of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations.

(F) To Amend Title 16, CCR § 1399.437. Requirements for Board Approval of Curriculum.

(G) To Amend Title 16, CCR § 1399.438. Suspension and Revocation of Approval.

(H) To Amend Title 16, CCR § 1399.439. School Monitoring; Records; Reporting.

21. Discussion and Possible Action to Initiate a Rulemaking to Adopt Title 16, CCR § 1399.419.3 Application for Retired Status; Retired Status; Restoration (Jay Herdt, Licensing Manager)

- Review Sample Form Consistent with Proposed Regulation

22. Updates from Acupuncture Professional Associations

23. Future Agenda Items and Meeting Dates (Dr. Matecki, President)

24. Adjournment (Dr. Matecki, President)

Informational Notes:

Discussion and action may be taken on any item on the full board meeting agenda. The agenda, as well as any available Board meeting minutes and materials, can be found on the California Acupuncture Board website: www.acupuncture.ca.gov. The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction

of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting at: <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, regarding the full Board meeting agenda, the Board cannot discuss or take official action on these items during the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact Beck Untalasco, Licensing Analyst – Exam Desk at (916) 515-5205; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.



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M.S., L.Ac.
Shu Dong Li, Ph.D.

BOARD MEETING DRAFT Meeting Minutes June 13 & 14, 2019

LOCATION:
Board ‘A’ Room
‘A’ Building
Southern California University
of Health Sciences
16200 Amber Valley Drive
Whittier, California 90604

Board Members Present

Dr. Amy Matecki, M.D., L.Ac, President, Licensed Member
Kitman Chan, C.P.A., Vice President, Public Member
Bradley Cimino, M.A., L.Ac., Licensed Member
John Harabedian, Esq., Public Member
Hyun “Francisco” Kim, M.S., L.Ac., Licensed Member
Shu Dong Li, Ph.D., Public Member
Ruben Osorio, Public Member

Staff Present

Benjamin Bodea, Executive Officer
Salwa Bojack, Legal Counsel
Jay Herdt, Licensing Manager
Matt Nishimine, Central Services Manager (Call-in)
Kristine Brothers, Policy Coordinator
Cricket Borges, Enforcement Coordinator (Call-In)

Guest List on File

Full Board Meeting – Thursday, June 13, 2019

1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki)

Board President, Dr. Amy Matecki (Matecki) called the meeting to order at 1:05 p.m. after the conclusion of the Education and Research Committee and Licensing and Examination Committee meetings.



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Policy Coordinator, Kristine Brothers (Brothers) called the roll.

Members Present:

7 Present – Matecki, Chan, Cimino, Harabedian, Kim, Li, and Osorio.
7-0 Quorum established.

2. President’s Remarks (Dr. Amy Matecki)

- Welcoming message and meeting information

President Matecki thanked all Board members, Committees, and staff for their hard work and announced that there was a full agenda of items to get through.

3. Public Comment on Items Not on the Agenda (Dr. Amy Matecki)

The following comments were made:

- The first commenter requested that the issue of bleeding or bloodletting be clearly addressed in scope as it is allowed to be taught under education programs. It was requested that the topic be placed on a future agenda.
- The second commenter pointed out that Title 16, California Code of Regulations section 1399.483, subdivision (d)(1) states that continuing education courses that require practical or hands-on techniques may not be approved for independent or home study. It was requested that the terms “practical” or “hands-on techniques” be defined as it is subjective and could vary from person-to-person.

4. Review and Possible Approval of the March 28-29, 2019 Board Meeting Minutes (Dr. Matecki)

President Matecki presented the March 28-29, 2019 Board meeting minutes. President Matecki noted on the second page, item five, line four, there was a typo with the Assistant Deputy Director’s last name, which needed to be changed from Lee to Le.

MOTION:

Member Harabedian motioned to approve the March 28-29, 2019 Board Meeting Minutes. President Matecki seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes.



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7 - 0 motion passes.

5. Executive Officer's Report (Ben Bodea, Executive Officer)

(A) Staff Update Regarding Vacancies

EO Bodea announced the hiring process for two analyst positions are nearing completion. It was also announced that a new seasonal clerk was recently hired.

(B) Budget Update

- (i) Fund Condition*
- (ii) Fee Study*
- (iii) Architecture Revolving Fund*
- (iv) Budget Change Proposals (BCP)*
 - a) Business Modernization Plan*
 - b) Facilities (rent)*
 - c) DCA-Wide Administration*

Central Services Manager, Matt Nishimine, presented updates on the Board's fund condition, fee study, Architecture Revolving Fund, and three BCPs: Business Modernization Plan, Facilities, and DCA-Wide Administration. For the complete presentation, please refer to the presentation materials under agenda item 5, pages 32 – 54, in the Board's June 13 - 14, 2019 meeting materials:

https://acupuncture.ca.gov/about_us/materials/20190613_14_fbm.pdf.

Member, Chan expressed concern over bringing on the two new Associate Governmental Program Analyst positions awarded by the BCP when the Board is also expending money for a new IT system that is supposed to improve efficiency. Nishimine explained that the positions are permanent, but the funding is limited. It was also explained that the purpose of the two new positions is to cover current staff's duties while staff is diverted to work on the project over the next year.

(C) Outreach Update Regarding Acupuncture Day

EO Bodea announced the Board was invited to attend Acupuncture Day in Vacaville, which was held on April 19, 2019. He attended on behalf of the Board and believed that it was a great event where many cultures came together and a lot of leaders of the acupuncture world were present.

6. Enforcement Report (Cricket Borges, Enforcement Coordinator)

Originally agendized as item 8 of Day 1.



Enforcement Coordinator Cricket Borges (Borges) provided the Enforcement Report.

- *Q3, FY 18-19 Enforcement Report*

Borges presented the enforcement data and statistics from quarter three (Q3) of fiscal year 2018-2019.

For the complete presentation please refer to the presentation materials under agenda item 8, pages 170 – 173, in the Board’s June 13 - 14, 2019 meeting materials:
https://acupuncture.ca.gov/about_us/materials/20190613_14_fbm.pdf.

Board members expressed concern over the investigations table and how the number of cases by category do not match up between the cases initiated, cases closed, and cases pending within the quarter. EO Bodea indicated he and Borges could research other ways to present the data and distinguish investigations initiated within the quarter from investigations initiated in prior quarters.

Public Comment:

The following comments were made:

- A commenter brought up the Board’s discussion of establishing a continuing education requirement for laws and ethics from the March 2019 Board meeting. The commenter indicated that when the Board makes a final decision on the matter, CalATMA is interested in working with the Board and schools to develop classes on these subject areas to address enforcement getting proactive and preventative.

7. Legislative Update (Kristine Brothers, Policy Coordinator)

Originally agendized as item 6 of Day 1.

- *Items Introduced in 2019 Legislative Session Pertinent to Acupuncture*

Policy Coordinator, Kristine Brothers, reported on legislative bills as amended as of the May 24, 2019 legislative calendar for the Board to discuss and take positions.

(j) AB 193, as amended, Patterson. Professions and vocations.

The Board previously took an oppose position on this bill, but Brothers explained the bill has not moved forward in Committee past April 23, 2019 and did not make it out of the first house. The Board chose to keep its current oppose position and not take any further action.



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(ii) AB 544, as amended, Brough. Professions and vocations: inactive license fees and accrued and unpaid renewal fees.

The Board took an oppose position on this bill due to a projected revenue loss of \$74,000 if the Board loses its ability to collect the full renewal fees from inactive licensees, as well as a \$7,000 loss if collection of accrued and unpaid renewal fees is prohibited by the bill.

MOTION:

Member Harabedian motioned for the Board to take an oppose position on AB 544 (Brough), as amended on March 21, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of the position.

Member Osorio seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.

(iii) AB 613, as introduced, Low. Professions and vocations: regulatory fees.

The Board previously took a watch position on this bill due to the uncertain nature of how it may affect the Board. It was explained to the Board the bill provides an additional mechanism to raising fees and would not replace the other legislative and regulatory means to change fees. Counsel Bojack also explained that based upon her understanding of the bill analysis, despite other statutes that identify fee limits and fee caps, the Board can make incremental changes that coincide with the Consumer Price Index. Due to these concerns being addressed, the Board took a new position to support the bill.

MOTION:

Member Osorio motioned for the Board to take a support position on AB 613 (Low), as amended on February 14, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of the position.

Member Harabedian seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.



(iv) AB 778, as introduced, Low. Acupuncture: continuing education.

Brothers explained to the Board there have not been any amendments to the bill since the last time the Board took a support position. Staff recommended that the Board's position not be updated due to the lack of changes. The Board agreed.

(v) AB 779, as amended, Low. Acupuncture: place of practice: wall license.

Brothers explained the Board previously took a support position on this bill as it was discussed that it would provide improved tracking of practice locations. However, Brothers pointed out that the bill has been substantially amended since the March 2019 Board meeting. The amendments were reviewed, and the Board chose to take another support position on the June 5, 2019 version of the bill because it provides greater accountability to and of licensees, better tracking, and an increase to public protection.

Public Comment:

A commenter expressed concern over the bill's language, including that the term, Asian massage, is not consistent with current medical language. The commenter urged the Board to inform the author of the bill of the problematic language that he has wanted removed from law since 2012.

MOTION:

Member Chan motioned for the Board to take a support position on AB 779 (Low), as amended on June 5, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of the position, and work with the author to state the Board's preference to replace "Asian massage."

Member Kim seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.

(vi) AB 888, as amended, Low. Opioid prescriptions: information: nonpharmacological treatments for pain.

The Board took a support position on this bill because it would increase consumer awareness of the availability and benefits of acupuncture. President Matecki also indicated that patients are searching for alternatives to opioids, so it is the Board's duty to the public to support the bill. The Board also wanted the EO to communicate to the bill's Author other adjunct therapies permitted by an acupuncture license listing Chinese herbal medicine, manual therapy, qi gong, and tai chi as effective for opioid treatment.



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Public Comment:

The following comments were made:

- The first commenter indicated that the California Acupuncture and Traditional Medicine Association (CalATMA) already took a support position for the bill and encouraged the Board to do the same.
- The second commenter thanked the Board for taking a support position and pointed out that the Joint Commission, which is the organization that accredits hospitals and clinics in the U.S., is mandating nonpharmacological approaches to pain management including acupuncture. The commenter stated the bill is a very positive move for the country, acupuncture, and patients.
- The third commenter explained her treatment of veterans and their appreciation of acupuncture to help them with pain management. The commenter noted she spoke to legislative staff of Senator Harris' office and brought this bill to her attention when there was a tragedy that occurred in Thousand Oaks City, Ventura County involving a veteran.
- The fourth commenter commended President Matecki and the Board for their support of the bill, since it is the Board's duty to protect the public, not only from acupuncturists and unsafe practices, but also opiates and other potential harm.

MOTION:

President Matecki motioned for the Board to take a support position on AB 888 (Low), as amended on April 11, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of the position, and direct the EO to communicate to the author the effectiveness of the additional adjunct therapies, including Chinese herbal medicine, manual therapy, qi gong, tai chi as effective for opioid treatment.

Member Kim seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.

(vii) AB 1076, as amended, Ting. Criminal records: automatic relief.

The Board chose not to take a position on this bill as its potential adverse effect on public protection was discussed.



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(viii) AB 1245, as amended, Low. Political Reform Act of 1974: contribution prohibitions.

Brothers explained that since the Board last took a support position on AB 1245 at the March 2019 Board meeting, the bill has been completely gutted and amended to focus on the Political Reform Act of 1974. The Board took no position on the bill, as amended on April 9, 2019, because the bill no longer relates to acupuncture or the Board.

MOTION:

Member Osorio motioned for the Board to change its previous support position to no position on AB 1245 (Low), as amended on April 9, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of this change in position.

Member Harabedian seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.

(ix) SB 53, as amended, Wilk. Open meetings

The Board took an oppose position on this bill because the provisions of this bill would be unduly burdensome by creating unnecessary processes when trying to further Board business without improving transparency. It was discussed that advisory committees streamline the research and discussion of policy issues. If this bill becomes law, it is anticipated to slow down Board business.

MOTION:

Member Harabedian motioned for the Board to take an oppose position on SB 53 (Wilk), as amended on March 5, 2019, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of this position.

President Matecki seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.



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(x) SB 425, as amended, Hill. Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.

Brothers pointed out that the Board took a watch position on this bill previously at the March 2019 Board meeting because it was unclear how some of the provisions of the bill would affect the Board. Since that time, there were amendments to the bill that addressed those concerns. Brothers indicated that staff was recommending a new position be taken on the bill since it was amended. The Board took a support position on this bill because previous concerns were addressed, and it is a noteworthy bill that would provide greater public protection.

MOTION:

President Matecki motioned for the Board to take a support position on SB 425 (Hill), as amended on May 21, 2019, for the reasons discussed by the members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of this position.

Member Harabedian seconded the motion.

Vote: Matecki – Yes; Chan – Yes; Cimino – Yes; Harabedian – Yes; Kim – Yes; Li – Yes; Osorio – Yes

7 – 0 motion passes.

(xi) SB 601, as amended, Morrell. State agencies: licenses: fee waiver.

The Board took no position on this bill because it only provides authority, but not the requirement to reduce license fees or grant license fee waivers during a declared state or federal emergency.

Public Comment

A commenter brought the Board's attention to AB 5 by Assembly Member, Lorena Gonzalez. It was explained that the bill deals with how independent contractors are defined, which might affect current and future employment opportunities for acupuncturists.

8. Regulations Update (Kristine Brothers, Policy Coordinator)

Originally agendized as item 7 of Day 1.

Brothers provided an update on the regulations regarding the implementation of the following bills the Board is currently working on during the 2019 calendar year.



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(A) AB 2138 (2018 Chiu and Low) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction

(B) SB 1441 (2008 Ridley-Thomas) and Update of Acupuncture Board Disciplinary Guidelines, Healing arts practitioners: substance abuse

(C) SB 1448 (2018 Hill) Healing arts licensees: probation status: disclosure

(D) SB 1246 (2014 Lieu) Acupuncture

(E) AB 2190 (2016 Salas) Acupuncture Board: Executive officer: Education

For the complete presentation please refer to the presentation materials under agenda item 7, pages 166 – 169, in the Board’s June 13 - 14, 2019 meeting materials:
https://acupuncture.ca.gov/about_us/materials/20190613_14_fbm.pdf.

9. Licensing Report (Jay Herdt, Licensing Manager)

Licensing Manager, Jay Herdt, provided an update on the status of curriculum reviews as well as reports on the tutorial program, continuing education, continuing education audit, and the examination statistics.

For the complete presentation please refer to the presentation materials under agenda item 9, pages 174 – 180, in the Board’s June 13 - 14, 2019 meeting materials:
https://acupuncture.ca.gov/about_us/materials/20190613_14_fbm.pdf.

Herdt went over Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) degree structure naming convention as well as their requirements for didactic and clinical hours for each degree type.

President Matecki noted she gets many questions from patients regarding the different titles being used and feels there is much confusion amongst patients.

Bodea reiterated that there is confusion for the public. Bodea indicated that he and Herdt met with ACAOM to go over the Degree Structure, not understanding why the PDOM is only 70 hours under the California requirement. He does not understand why ACAOM set the hours so close to the requirement and could not just make it the same. Bodea stated staff and the public will have to track more degrees because of this.

Member Kim stated that there needs to be a standard set for the profession by schools and other experts. Member Kim expressed a standard model where licensees can be specialists by a doctorate degree obtained in a specialty similar to how there are specialties with physicians.



Public Comment:

The following comments were made:

- The first commenter also echoed the confusion over the new degree designations. She indicated there would be some communication to ACAOM about the complications that have arisen due to ACAOM's decision. The commenter encouraged the Board to put this issue on a future agenda.
- The second commenter explained that ACAOM announced publicly a few months back that they reviewed the changes to the degree structures with the Board, and the Board was okay with such changes. The commenter stated that ACAOM has set a requirement for schools to be complied within three years, but there are still a whole host of implementation questions that have not been addressed. The commenter also pointed out how acupuncture does not need to be so convoluted and there are simple models of healthcare doctorates, like chiropractic, naturopaths, and osteopaths.
- The third commenter encouraged the Board to retain its current education standards. The commenter explained that ACAOM removed content related to standard TCM terms, yin-yang, five phase, and acupuncture meridians, all of which are gone.
- The fourth commenter indicated that there is no transparency into ACAOM's process of setting these new standards and new competencies. The commenter voiced a need for this kind of documentation, so schools can create the appropriate curriculum.
- The fifth commenter stated the need for national standards regarding doctorate programs for acupuncture. The commenter indicated that the Board's standards would likely be the standards to go nationally.

10. Closed Session

Originally agendized as item 13 of Day 2.

Pursuant to Government Code section 11126, subdivision (c)(1), the Board convened to discuss and take possible action on preparation, approval, and administration of examinations.

Closed session began at 4:56 pm.

Open session reconvened at 5:04 pm.



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11. Recess until Friday, June 14, 2019 at 9:00 a.m.

Originally agendized as item 10 of Day 1.

President called the meeting into recess at 5:04 p.m. until Friday, June 14, 2019 at 9:00 a.m.

DAY 2 AGENDA – 9:00 a.m., Friday, June 14, 2019

12. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki)

Originally agendized as item 11 of Day 2.

President Matecki called the meeting to order at 9:10 a.m. Brothers conducted roll call.

Members Present: 7 – Matecki, Chan, Cimino, Harabedian, Kim, Li, Osorio.
7-0 Quorum established.

13. President's Report (Dr. Amy Matecki)

- *Opening message and meeting information*

Originally agendized as item 12 of Day 2.

President Matecki acknowledged the hard work of Board members, Committees, and staff in preparing for the Board meeting. She commented on everyone's energy and stated the Board continues to make California the leader for the country, serving the public to the best level the Board can.

14. Public Comment on Items Not on the Agenda (Dr. Amy Matecki)

- A commenter stated CalATMA's vision is to have all licensed acupuncturists practice with doctorate degrees in ten years' time. The commenter requested the Board require all schools to implement entry level doctorate programs for acupuncture and transitional doctorate programs for those who already have a master's degree.



15. Report from Education and Research Committee Chair on June 13, 2019 Committee Meeting and Possible Action on any Recommendations (John Harabedian, Committee Chair)

Member Harabedian summarized the committee meeting and what was discussed. He indicated the committee recommended some changes to the regulations regarding curriculum oversight for the full Board to consider. Most of the proposed changes are more clerical with only one substantive change to the time line in which education programs are required to submit their curriculum for approval.

The other issue discussed pertained to clinical supervision requirements, specifically physical presence and the number of hours for an intern to practice with supervision. Harabedian indicated that this issue needs to be discussed more at the committee level in partnership with educators.

16. Report from Licensing and Examination Committee Chair on June 13, 2019 Committee Meeting and Possible Action on any Recommendations (Kitman Chan, Committee Chair)

Vice President Chan summarized the committee meeting and what was discussed. The committee discussed two issues: The possible addition of a requirement for tutorial and foreign applicants to pass the Test of English as a Foreign Language (TOEFL) if the exam is taken in a language other than English, and, a retired status license designation. With regards to the TOEFL discussion, the committee made a motion to ask staff to provide more detail and information to go back to the committee, so it can be discussed there and then be referred to the full Board.

Vice President Chan indicated that the committee was in favor of implementing a retired status designation for licensees. The committee decided to let staff make some changes to the regulation and take it to the full Board for discussion.

Public Comment:

The following comments were made:

- The first commenter commended the committee on the good work done on the two issues discussed at the Licensing and Examination Committee. The commenter emphasized the importance of setting a standard of safety and a reasonable level for TOEFL competency. The commenter asked the committee to also consider looking into the process for changing someone's status to deceased instead of the license going delinquent and then cancelling.
- The second commenter noted that ACAOM setting a TOEFL requirement not only affects students, but those who can sit for the exam, and, the faculty of



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schools. The commenter explained that if the TOEFL requirement is set too high, then the schools will not benefit from the teachers and faculty that come from Asia, as they would not be able to sit for the exam and obtain a license.

17. Strategic Plan Update (Ben Bodea, Executive Officer)

EO Bodea presented the Board's 2018 to 2022 Strategic Plan items. EO Bodea went over each of the different goal areas for licensing, enforcement, education, legislative/regulatory, outreach, and administration.

For the complete presentation please refer to the presentation materials under agenda item 17, pages 181 – 183, in the Board's June 13 - 14, 2019 meeting materials: https://acupuncture.ca.gov/about_us/materials/20190613_14_fbm.pdf.

18. Updates from Acupuncture Professional Associations

David Quackenbush, the Executive Director of CalATMA, presented a brief history of the formation of the association and CalATMA's plans for the future. Quackenbush explained that CalATMA is trying to bring unification and consistency to the acupuncture profession. Quackenbush highlighted some issues within the profession like dry needling, insurance coverage, and reimbursement rates. He also indicated the healthcare system is becoming more integrated and includes acupuncture. Due to this tipping point, the association was formed to unify acupuncturists.

Quackenbush went over the association's mission and its steering committee which evolved into the association's Board of Directors. CalATMA's current Board of Directors are Michael Fox, Yong Ping, and Neil Miller. Quackenbush explained that he was brought on as the Executive Director because of his history of association management, advocacy, and lobbying in Sacramento and DC.

CalATMA's priorities are scope of practice, insurance coverage, and reimbursement rates, integration in the healthcare delivery system, enhancing professionalism, and small business regulation. Quackenbush also explained that CalATMA is very serious about providing continuing education opportunities and creating employment opportunities for job creation.

Quackenbush also went over CalATMA's collaboration efforts with the Board, legislators, the American Society of Acupuncturists, and NCCAOM.



19. Presentation on Dry Needling/Trigger Point Therapy (California Acupuncture and Traditional Medicine Association (CaATMA))

Neill Miller provided a presentation on dry needling or trigger point therapy. Miller explained that it was brought to the attention of the Board many years ago. At that time, Miller states the Board said dry needling is acupuncture and it fell within the scope of practice for acupuncturists. Miller indicated dry needling has been going from state-to-state, being utilized by physical therapists and athletic trainers.

Miller explained that it is a myth that dry needling is not acupuncture. Rather, dry needling techniques are a subset of techniques used in acupuncture orthopedics and myofascial acupuncture systems. Dry needling uses acupuncture needles and the originators of dry needling identify it as acupuncture.

The concern with dry needling is there are no defined standards of education, curriculum, standardized national examination, or requisite knowledge, skills, and abilities in place. He also indicated that Current Procedural Terminology (CPT) codes are being developed for dry needling and trigger point therapy. Miller stated it is incumbent upon the Board to make a specific statement regarding this issue and to let practitioners know that they are not violating their scope or advertising scope in using the term “dry needling.” Miller expects there will be legislation on dry needling in the coming years and wants the Board to be aware of the myths and the truth about dry needling, so the Board can weigh in on various legislation and educational requirements to better protect the public.

President Matecki wanted clarification from Miller on what he was seeking from the Board, since the statutory definition of acupuncture already identifies needling that penetrates the skin as acupuncture. Miller responded that he did not believe the definition needed to change, but that he believed it would be advantageous for everyone if the term dry needling was added into the definition. It would be clear that it is considered acupuncture.

Member Kim agreed with Miller and seeing the danger of non-standardized dry needling, both as a practitioner and a member. Kim stated that it is on the profession and the association to bring about change to the law and scope of practice, so the Board can support the mission of protecting the public.

Cimino commented on the matter, noting that the Board can be more supportive by explaining to the public that dry needling is within the scope of practice for acupuncturists and that particular style of needling is already being performed. Cimino also mentioned re-developing the public Consumer Guide to help provide more information on this issue.



Public Comment

The following comments were made:

- The first commenter further expanded on dry needling and stated that dry needling used to be insertion and removal on the trigger point. However, now physical therapists and some chiropractors call it homeostatic dry needling, which means needle retention. Some of these practitioners are doing this with as low as 12 hours of coursework. The commenter expressed concern about the serious infringement on the acupuncture profession.
- The second commenter provided some historical information about how dry needling got started and derived from acupuncture. The commenter stated it was essentially physical therapy stealing acupuncture and turning it into dry needling.
- The third commenter showed support of the other statements and noted the profession could create great strength in California by saying dry needling is acupuncture and conveying what you have to do to become an acupuncturist. By doing this, the California acupuncture profession can influence the rest of America.

20. Presentation on Manual Therapy (CalATMA)

Miller provided a history and description of the medical modality, “manual therapy.” Miller indicated that at some point the modality in the Acupuncture profession was called “Oriental massage,” then “Asian massage.” In 2004, patients were not being reimbursed when acupuncturists used the CPT code for manual therapy because the terminology is not consistent with the law, but is within the scope for acupuncturists. Miller explained that when he brought this issue up in 2004, the Board started sending letters to insurance companies.

Previously, acupuncture associations have introduced legislation to change the wording to manual therapy. It successfully made it through both houses and was vetoed by Governor Schwarzenegger, upon receiving over 500 letters from physical therapists opposing acupuncturists using that term.

Miller explained that manual therapy is the application of hands-on techniques to the body tissues, with the intent to therapeutically assess and treat. Miller pointed out there is no CPT code for Asian massage. The applicable CPT code is for manual therapy, and this is the terminology recognized by medical doctors or other healthcare providers.

Miller stated that CalATMA will be introducing legislation next year and is hoping for the Board’s support. The legislation will be using modern, current medical terminology



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because it will cover cupping, gua sha, and tui na, bringing acupuncture into the modern world. Miller concluded his presentation by stating he and CalATMA look forward to working with the Board on this issue.

Counsel Bojack identified where cupping, gua sha, and the other modalities are called out in the Acupuncture Licensure Act. She explained the different ways the Board could address the issue, but recommended further research at the committee level to determine if clarifications are needed at the statutory or regulatory levels.

There was some brief discussion of whether the clarification of the terminology could be addressed in statute or in regulation. Ultimately, Miller expressed an interest for “manual therapy” to be included in statute.

Member Harabedian summarized the conversation on manual therapy, pointing out that there are two main issues. The first issue is Asian massage and Oriental massage have been hijacked and made into a more grotesque thing and so CalATMA wants the profession to break away from that terminology. The second issue is that insurance companies are not reimbursing acupuncturists for manual therapy. He does not believe changing the term of Asian massage will necessarily change that.

Member Harabedian stated that it makes sense for CalATMA and licensees to work with insurance companies first to be sure changing the term, “Asian massage” to “manual therapy” will actually allow insurance companies to cover the treatment.

Miller responded and explained that insurance companies stated that treatment would not be reimbursed for “manual therapy” because it is beyond the scope of practice for acupuncturists. Miller also stated the issue is more about clarifying scope and using professional language, then about reimbursement.

Quackenbush added to the discussion by indicating that CalATMA has already spoken with a couple of insurance companies about this issue, and the association continues to work with acupuncturists and the insurance companies.

Public Comment

A commenter supported the idea that manual therapy be called out because it is a detailed treatment and a different massage therapy. The commenter indicated that Chinese medicine has been using manual therapy to treat people for over 3,000 years.

21. Presentation on Open and Closed Session Protocols, the Adjudication Process, and Conflicts of Interest (Salwa Bojack, Legal Counsel)

Counsel Bojack provided a presentation on the Bagley-Keene Open Meeting Act, the adjudication process involving Board members, and the different kinds of conflicts of



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interest for the Board members to be aware of and avoid.

For the complete presentation please refer to the presentation materials under agenda item 21 in the Board's June 13 - 14, 2019 meeting materials:

https://acupuncture.ca.gov/about_us/materials/20190613_14_item_21.pdf.

22. Future Agenda Items and Meeting Dates (Dr. Amy Matecki)

EO Bodea confirmed the Board will be holding a Board meeting on November 8 and 9, 2019 in San Diego. President Matecki also pointed out that the next Board meeting will be August 15 and 16, 2019 in San Jose.

Member Kim explained an issue that was brought to his attention concerning acupuncturists applying for licensure in Washington with NCCAOM certification. These people were led to believe that applying for national certification is like a Visa allowing you to go to any state and be accepted for licensure, but that is not the case. These people are not reading the fine print and are victims. Member Kim wants the Board to find a way to address the issue.

EO Bodea explained that there was an announcement about the issue, and it was brought to the Board's attention at the March 2019 meeting that Washington does not accept national certification. A disclaimer was provided at the meeting for all to check with the state, in which they seek to practice, first. EO Bodea noted the Board has no jurisdiction over the problem. However, the topic of Route 8 can be agendized again.

Member Cimino requested that the topic of bloodletting as a part of an acupuncturist's scope of practice be added as a future agenda item.

Public Comment

The following comments were made:

- The first commenter requested the Board address consumer confusion by requiring an accurate disclosure of a licensee's education.
- The second commenter requested that the subject of lasers and injection therapy be added as a future agenda item.

23. Adjournment (Dr. Amy Matecki)

Meeting adjourned at 12:47 pm.

	A	B	C	D	E	F	AM	AO	AF	AQ	AS	AT	AU	AW		
1	0108 - Acupuncture															
2	Analysis of Fund Condition															
3	(Dollars in Thousands)															
4																
5	2019-20 Budget Act - No Fees															
6																
7																
8																
9																
10																
11	BEGINNING BALANCE						Pre-Actual									
12	Prior Year Adjustment						PY	CY	BY	BY+1	BY+2	BY+3				
13	Adjusted Beginning Balance						2018-19	2019-20	2020-21	2021-22	2022-23	2023-24				
14																
15	REVENUES AND TRANSFERS															
16	Revenues:															
17			4129200	Other regulatory fees		\$	55	\$	55	\$	55	\$	55	\$	55	
18			4129400	Other regulatory licenses and permits		\$	610	\$	645	\$	645	\$	645	\$	645	
19			4127400	Renewal fees		\$	1,946	\$	1,909	\$	1,909	\$	1,909	\$	1,909	
20			4121200	Delinquent fees		\$	15	\$	15	\$	15	\$	15	\$	15	
23			4163000	Income from surplus money investments		\$	1	\$	1	\$	1	\$	1	\$	1	
24			4163000	Interest Income From Interfund Loans		\$	-	\$	21	\$	-	\$	-	\$	-	
26			4171400	Escheat of unclaimed checks and warrants		\$	1	\$	1	\$	2	\$	2	\$	2	
28	Totals, Revenues						\$	2,628	\$	2,647	\$	2,627	\$	2,627	\$	2,627
29																
30	Transfers from Other Funds															
33	Proposed GF 11-12 Loan Repayment, 1110-011-0108 Budget Act						\$	-	\$	1,000	\$	-	\$	-	\$	-
38	Totals, Revenues and Transfers						\$	2,628	\$	3,647	\$	2,627	\$	2,627	\$	2,627
39																
40	Totals, Resources						\$	6,829	\$	7,282	\$	5,137	\$	3,818	\$	2,306
41																
42	EXPENDITURES															
43	Disbursements:															
48	1111 - Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)						\$	2,915	\$	3,397	\$	3,579	\$	3,686	\$	3,797
49	1111 - Business Modernization Project Spring Finance Letter - Denied for lack of funding						\$	-	\$	1,147	\$	-	\$	-	\$	-
51	8880 - Financial Information System for California						\$	-	\$	(1)	\$	-	\$	-	\$	-
52	9892 - Supplemental Pension Payment						\$	20	\$	43	\$	43	\$	43	\$	43
54	9900 - Statewide General Administrative Expenditures (ProRata)						\$	259	\$	186	\$	324	\$	410	\$	410
55	Total Disbursements						\$	3,194	\$	4,772	\$	3,946	\$	4,140	\$	4,250
56																
57	FUND BALANCE															
58	Reserve for economic uncertainties						\$	3,635	\$	2,510	\$	1,191	\$	-321	\$	-1,945
59																
60	Months in Reserve							9.1		7.6		3.6		-0.9		-5.5
61																
68	Structural Imbalance:															
69																
70	Notes: 1) Business Modernization Project (Second Year - \$877,000) Funding Denied															
71																

Prepared 7/17/2019

**CALIFORNIA ACUPUNCTURE BOARD - 0108
BUDGET REPORT
FY 2018-19 EXPENDITURE PROJECTION
Preliminary FISCAL MONTH 12**

Updated 7/29/2019

OBJECT DESCRIPTION	FY 2015-16	FY 2016-17	FY 2017-18	BUDGET STONE 2018-19	FY 2018-19			
	ACTUAL EXPENDITURES FM 13	ACTUAL EXPENDITURES FM 13	ACTUAL EXPENDITURES (Pre-FM12)		CURRENT YEAR EXPENDITURES (Pre-FM 10)	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
	PERSONNEL SERVICES							
Salary & Wages (Staff)	508,346	487,887	518,774	660,000	541,128	82%	541,128	118,872
Statutory Exempt (EO)	72,205	65,868	87,168	80,000	90,660	113%	90,660	(10,660)
Temp Help Reg (Seasonals)	59,993	59,236	66,880	19,000	42,065	221%	42,065	(23,065)
Board Member Per Diem	14,100	9,800	3,600	7,000	100	1%	100	6,900
Overtime	1,615	161	0	5,000	0	0%	0	5,000
Staff Benefits	290,739	286,026	323,932	444,000	333,196	75%	333,196	110,804
TOTALS, PERSONNEL SVC	946,998	908,978	1,000,354	1,215,000	1,007,149	83%	1,007,149	207,851
OPERATING EXPENSE AND EQUIPMENT								
General Expense	44,611	54,854	12,450	59,000	9,578	16%	9,578	49,422
Fingerprint Reports	613	1,029	882	20,000	2,200	11%	2,200	17,800
Minor Equipment	85	2,016	0	15,000	5,674	38%	5,674	9,326
Printing	15,391	17,998	12,345	18,000	2,714	15%	2,714	15,286
Communication	11,208	9,060	2,723	18,000	2,292	13%	2,750	15,250
Postage	25,802	24,925	23,397	28,000	11,920	43%	11,920	16,080
Insurance	0	15	3,243	4,180	26	1%	26	4,154
Travel In State	38,866	34,315	17,188	34,000	7,740	23%	7,740	26,260
Travel, Out-of-State	2,861	2,073	0	0	0	0%	0	0
Training	0	469	420	4,000	2,790	70%	2,790	1,210
Facilities Operations	109,458	112,769	119,832	65,000	121,412	187%	121,412	(56,412)
Architecture Revolving Account	0	0	0	0	0	N/A	250,000	(250,000)
C & P Services - Interdept.	0	0	43	9,000	0	0%	0	9,000
C & P Services - External	3	18	675	4,000	3,551	89%	45,000	(41,000)
DEPARTMENTAL SERVICES (PRO RATA):								
Office of Information Services	107,890	144,573	169,000	151,000	151,000	100%	151,000	0
Administration	133,859	187,272	159,000	188,000	188,000	100%	188,000	0
DOI - ISU	3,933	4,600	4,000	5,000	5,000	100%	5,000	0
Communications Division	161,000	80,897	13,000	12,000	12,000	100%	12,000	0
Program Policy and Regulatory Division	0	1,308	83,000	82,000	82,000	100%	82,000	0
INTERAGENCY SERVICES:								
IA w/ OPES	305,652	272,208	298,828	334,000	225,867	68%	225,867	108,133
Consolidated Data Center	934	890	4,635	4,000	7,042	176%	7,042	(3,042)
DP Maintenance & Supply	449	3,973	2,076	5,000	62	1%	1,000	4,000
Exam Site Rental								
C/P Svcs-External Expert Administrative	279,186	305,491	315,767	287,000	23,319	8%	287,000	0
C/P Svcs-External Expert Examiners	51,286	39,530	19,694	84,000	15,492	18%	21,566	62,434
C/P Svcs-External Subject Matter	0	1,459	1,872	0	0	N/A	0	0
ENFORCEMENT:								
Attorney General	307,042	214,240	117,691	386,000	191,542	50%	191,542	194,458
Office Admin. Hearings	77,938	26,504	14,745	107,000	32,060	30%	32,060	74,940
Court Reporters	3,210	1,054	1,949	11,000	1,888	17%	1,888	0
Evidence/Witness Fees	69,285	13,614	69,580	0	17,259	N/A	17,259	(17,259)
DOI - Investigations	500,566	772,549	414,000	278,000	278,000	100%	278,000	0
MISC:								
Major Equipment	0	0	20,408	6,000	0	0%	6,000	0
Other (Vehicle Operations)	0	0	0	3,000	0	0%	0	3,000
TOTALS, OE&E	2,389,858	2,329,703	1,902,443	2,221,180	1,400,428	63%	1,969,028	243,040
TOTAL EXPENSE	3,336,856	3,238,681	2,902,797	3,436,180	2,407,577	146%	2,976,177	450,891
Sched. Reimb. - External/Private	(1,410)	(1,410)	(294)	(1,000)	0		(1,000)	0
Sched. Reimb. - Fingerprints	(441)	(441)	(470)	(22,000)	(1,763)		(22,000)	0
Unsched. Reimb. - Other	(130,413)	(130,413)	(88,022)	0	(59,727)		(38,000)	38,000
NET APPROPRIATION	3,204,592	3,106,417	2,814,011	3,413,180	2,346,087	69%	2,915,177	488,891
SURPLUS/(DEFICIT):								14.3%



**CALIFORNIA
ACUPUNCTURE
BOARD**

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DATE	June 13, 2019
TO	Board Members
FROM	Cricket Borges, Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter (Q3) FY 2018/2019: January 1, 2019 to March 31, 2019

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Received
Unprofessional Conduct	36
Unlicensed/Unregistered	5
Criminal Charges/Convictions*	11
Sexual Misconduct	0
Fraud	3
Non-jurisdictional	2
Incompetence/Negligence	6
Unsafe/Unsanitary Conditions	0
Other	1
Substance Abuse/Drug & Mental/Physical Impairment	0
Discipline by Another State Agency	1
Total	65

*Of the 11 Criminal Charges/Convictions, 7 were received on Applicants and 4 were received on Licensees.

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

INVESTIGATIONS – CORRECTED (AS OF 7/1/19)

DCA Category	Initiated	Pending	Closed
Unprofessional Conduct	36 35	31	35
Unlicensed/Unregistered	6 5	26	7
Criminal Charges/Convictions (includes pre-licensure)	4 10	10	19
Sexual Misconduct	0	15	0
Fraud	4 3	25	0
Non-jurisdictional	2 1	3	0
Incompetence/Negligence	7 6	28	13
Unsafe/Unsanitary Conditions	0	8	0
Other	2 1	1	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	2 1	1	0
Total	62	148	73

* Includes formal investigations by DCA category conducted by DOI and desk investigations conducted by staff.



Q4 Enforcement Report

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DATE	August 15, 2019
TO	Board Members
FROM	Cricket Borges, Enforcement Coordinator
SUBJECT	Enforcement Update for Quarter (Q4) FY 2018/2019: April 1, 2019 to June 30, 2019

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category		Received
Unprofessional Conduct	Sub-Total	10
• <i>Record Keeping</i>	3	-
• <i>Misleading Advertising</i>	1	-
• <i>Misrepresentation</i>	1	-
• <i>Office Responsibilities</i>	1	-
• <i>Office Conduct</i>	3	-
• <i>HIPPA</i>	1	-
Unlicensed/Unregistered		12
Criminal Charges/Convictions**		17
• <i>Applicants</i>	7	-
• <i>Licensees</i>	10	-
Sexual Misconduct		2
Fraud		9
Non-jurisdictional		2
Incompetence/Negligence		5
Unsafe/Unsanitary Conditions		1
Other		0
Substance Abuse/Drug & Mental/Physical Impairment		0
Discipline by Another State Agency		0
Total		58

The graph above shows the number of complaints received by complaint type for this quarter. 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	11	33	27
Unlicensed/Unregistered	12	33	5
Criminal Charges/Convictions (includes pre-licensure)	18	18	12
Sexual Misconduct	2	14	3
Fraud	9	33	2
Non-jurisdictional	3	1	5
Incompetence/Negligence	6	30	5
Unsafe/Unsanitary Conditions	1	8	0
Other	0	1	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	0	1	0
Total	62	172	59

* Includes both formal investigations by DCA category conducted by DOI and desk investigations conducted by staff.

**These numbers include current and previous quarters and the DCA Category may change after the investigation is initiated to better categorize the complaint.

FY 2018/19 Q4 Statistics Report

Performance Measures (PM) 1 Volume Convictions/Arrests received

Complaint Intake										
	FY 2017/18	Fiscal Year 2018/19						Year → Year Change		
	YTD	Q1		Q2		Q3		Q4		YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	Jul	Sep	
PM1: Total Complaints Received	159	32	65	54	41	192	↑	21%		
PM1: Total Convictions/Arrests Received	58	4	23	11	17	55	↓	-5%		
PM1: Total Received	217	36	88	65	58	247	↑	14%		

*Of the Convictions/Arrests, 7 were received on Applicants and 4 were received on Licensees.

PM2 Cycle Time Intake - Average number of complaints intake during the specified time period.

Intake										
Target: 10 Days	FY 2017/18	Fiscal Year 2018/19						Year → Year Change		
	YTD	Q1		Q2		Q3		Q4		YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	Jul	Sep	
PM2: Intake/Avg. Days	5	7	3	6	6	5.5	↑	10%		

PM3 Cycle Time - Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline. (Includes intake, investigation, and case outcome or non-AG formal discipline.)

Investigations										
Target: 180 Days	FY 2017/18	Fiscal Year 2018/19						Year → Year Change		
	YTD	Q1		Q2		Q3		Q4		YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	Jul	Sep	
PM3: All Investigations Received	227	46	52	74	57	229	↑	1%		
PM3: Average Cycle Time Investigation	174	177	137	94	137	136	↓	-22%		

The percent reflects how many investigation cases were closed in the respective time frames.

	FY 2017/18	Fiscal Year 2018/19						Year → Year Change		
	YTD	Q1		Q2		Q3		Q4		YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	Jul	Sep	
Up to 90 Days	110%	27	35	53	37	62%	↓	-48%		
91 - 180 Days	52%	11	9	5	4	12%	↓	-40%		
181 Days - 1 Year (364)	44%	3	7	15	10	14%	↓	-30%		
1 to 2 Years (365-730)	26%	6	5	3	4	7%	↓	-19%		
2 to 3 Years (731- 1092)	10%	6	0	0	4	4%	↓	-6%		
Over 3 Years (1093 +)	2%	1	1	0	0	1%	↓	-1%		

The average time frame reflects the length of time it took to process the citations that were closed within the respective quarter.

Citations										
	FY 2017/18	Fiscal Year 2018/19						Year → Year Change		
	YTD	Q1		Q2		Q3		Q4		YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	Jul	Sep	
Final Citations	47	6	19	15	3	43	↓	-9%		
Average Days to Close	151	469	216	31	98	203.5	↑	35%		

PM4 Cycle Time-Discipline Average number of days to close cases transmitted to the AG for formal disciplinary action. This includes formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

Transmittals to Attorney General (AG)									
Target: 540 Days	FY 2017/18	Fiscal Year 2018/19					Year → Year Change		
	YTD	Q1		Q2		Q3		Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar		Apr - Jun	
PM4:Volume AG Cases	14	6		2		6	4	18	↑ 29%
PM4: Total Cycle Time	462	412		0		607	687	427	↓ -8%

	FY 2017/18	Fiscal Year 2018/19					Year → Year Change		
	YTD	Q1		Q2		Q3		Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar		Apr - Jun	
AG Cases Initiated	13	9		2		2	3	16	↑ 23%
AG Cases Pending	16	18		18		13	11	11	↓ -31%
SOIs Filed	0	1		1		0	0	2	↑ 100%
Accusations Filed	9	3		3		2	1	9	⇒ 0%
Total Closed after Transmission	14	6		0		6	4	16	↑ 14%
Revoked	0	0		0		0	0	0	⇒ 0%
Voluntary Surrender	2	2		0		1	2	5	↑ 150%
Probation	1	1		0		3	1	5	↑ 400%
License Denied	0	0		0		0	0	0	⇒ 0%
Public Reprimand	0	0		0		0	0	0	⇒ 0%
Closed w/out Disciplinary Action	2	3		0		2	1	6	↑ 200%

The percent represents how many cases already assigned for discipline were closed in the specified range.

Total Orders Aging/Final Decision									
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change		
	YTD	Q1		Q2		Q3		Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar		Apr - Jun	
Up to 90 Days	0%	0		0		0	0	0%	⇒ 0%
91 - 180 Days	1%	0		0		0	0	0%	↓ -1%
181 Days - 1 Year (364)	4%	0		0		0	0	0%	↓ -4%
1 to 2 Years (365-730)	6%	3		0		2	2	70%	↑ 64%
2 to 3 Years (731- 1092)	0%	0		0		1	0	10%	↑ 10%
Over 3 Years (1093 +)	1%	0		0		1	1	20%	↑ 19%

Other Legal Actions									
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change		
	YTD	Q1		Q2		Q3		Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar		Apr - Jun	
PC 23 Ordered	0	0		1		1	0	2	↑ 100%
Interim Suspension	0	0		0		0	0	0	⇒ 0%



California Acupuncture Board, Report Fee Analysis

August 2019



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Introduction and Scope

The mission of the California Acupuncture Board is to protect the people of California by upholding acupuncture practice standards through the oversight and enforcement of the Acupuncture Licensure Act. The Board exists to protect the health and safety of consumers and promote quality care provided by Acupuncture practitioners. As such, it provides an important public safety function. This project aligns with the mission of the Board by developing the resources so that this mission can be fully executed. Without adequate financial resources, the Board cannot meet this important role of consumer protection.

This report summarizes the processes, procedures, and findings of the Board's fee audit. It details the analysis that resulted in calculations of cost for individual and institutional licenses issued by the Board for licensees operating in the State of California.

In accordance with the Acupuncture Licensure Act, the Board engaged Capital Accounting Partners to prepare a detailed cost analysis of its fees. The Board's objectives for the study were to ensure that the Board is fully accounting for all of its costs and recovering adequate revenues to be reimbursed for its expenses. The Board's only sources of revenues are fees charged for each of the various licenses. Thus, the Board is fully self-supporting so it is vital that the fees charged to licensees fully recover the costs of the program.

The scope of this study included the following objectives:

- Calculate full cost of licenses;
- Determine a fair and equitable method of allocating non-fee expenses, such as enforcement, to each license type;
- Develop revenue projections for 5-10 years to set the cap; and
- Review performance of core business processes.

The process used for collecting and analyzing the data required active participation by the Board's management and staff. We want to take this opportunity to recognize their participation, time, and effort to collect the data and discuss the analysis, results, and recommendations.

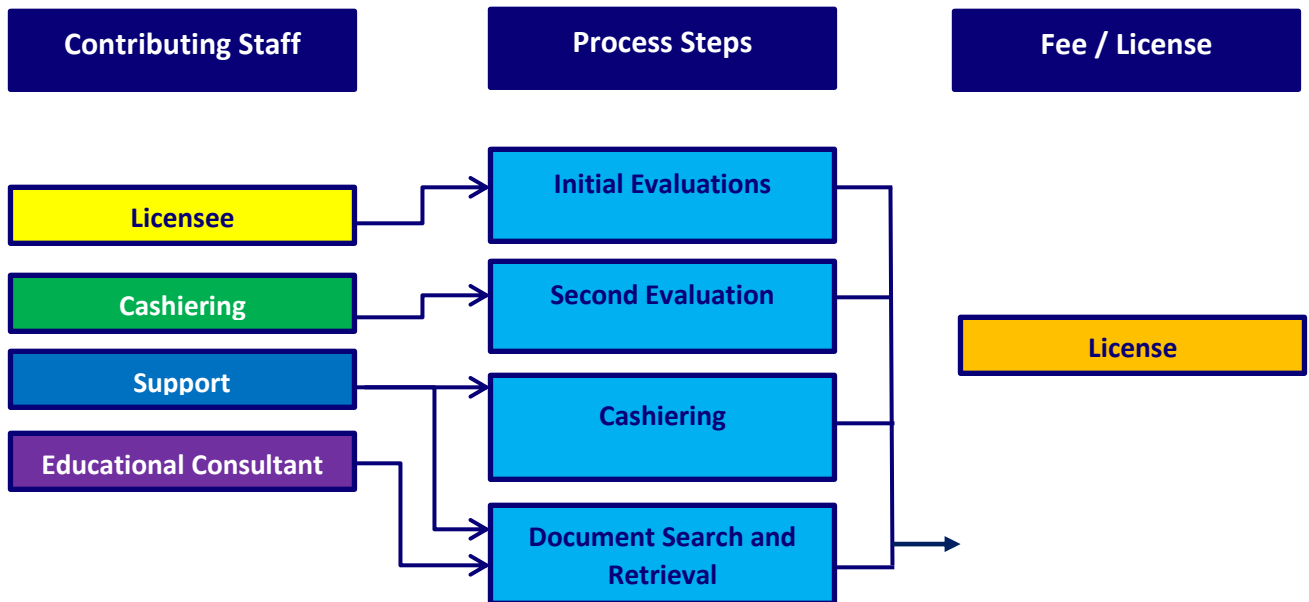
Summary of Costing Methodologies

Driver Based Costing Models

Developing a driver-based costing model is a detailed and robust method of calculating the cost of a specific service. It is based on the principles of activity-based costing so it seeks to understand cost at an operational level. This means it relies on understanding the time staff

invests in core business processes to process certificates and licenses as well as enforcement and administrative services. Graphically, the following figure illustrates this methodology.

Hypothetical Illustration of a Driver Based Costing Model



Step 1: Collect Data – This first step involves discussions with staff to identify those positions within each program that provide and support direct services. It also involves collecting program budget and expenditure data, identifying the salary and benefits for each position, and identifying non-personnel expenditures, as well as any program and Board overhead. Specifically, the steps involve the following:

- **Identifying staff positions** – This includes identifying both position titles and names.
- **Calculating the number of productive hours** – Frequently we will calculate the actual number of productive hours available on an annual basis. However, in this project we used the DCA pre-calculated number of 1,732 hours.
- **Identifying and allocating non-personnel costs** – Costs for materials and supplies are allocated to the salary and benefits for each position.

- **Assigning any other expenses that are budgeted in other areas** – There are often expenses that should be included with the total cost of services. Examples of such costs might include amortized capital expenses for vehicles and technology.
- **Identifying core business processes or activities** – This step also involves discussions with staff to understand, at an operational level, the work of the operating unit. Core business processes used to provide services are identified and then defined by the tasks that are involved. Processes are also organized by direct and indirect categories.
- **Direct processes and activities** – Those processes that directly contribute to the processing of an application or certificate are first identified. Evaluation of the license application is the most notable example.
- **Indirect processes and activities** – Those processes that support, but do not directly apply to the processing of a specific license. An example of an indirect activity is customer service and cashiering.

Step 2: Building cost structures – This second step involves significant interaction with staff and the development of time estimates for both direct and indirect processes in each program area. Specifically, this step is at the core of the analysis. There are three processes that comprise this step:

- **Gathering time estimates for direct processes** – By interviewing staff in individual and group meetings, an estimate of time was assigned to each service by the process that is indicated. The sum of all the process steps is the total time that is required to provide that specific service.
- **Assigning indirect time** – An annual time estimate is gathered from staff for those indirect or support processes in which they are involved. These include Board as well as program administration, customer service, and educational consultants.
- **Calculating fully loaded hourly rates and the cost of service** – Once the total time for each direct and indirect service is estimated, the cost of service is calculated by using the fully loaded hourly rates for each staff member or position that is involved with the service. The fully loaded hourly rate for each employee is based on the employee's salary and benefit costs plus a share of non-personnel and Board overhead costs divided by the employee's available work hours, i.e. 1,732. Thus, the direct and indirect cost by activity also includes program and Board overhead as well as non-labor costs.
- **Gathering activity or volume data** – A critical element in the analysis is the number of times a given license or certificate is provided on an annual basis. This is critical data for three reasons:
 - It allows a calculated projection of current revenue based on current prices. This is compared with actual revenue to see if there is a close match as the data should match.

- It allows for a calculated projection of revenue at full cost. This is compared to actual expenditures to see if there is a close match as the data should match.
- It allows for a calculation of total hours consumed. Hours consumed must closely match actual hours available.

If any of the three calculations do not approximate actual numbers, then time estimates and/or volume data need to be re-evaluated. These are critical quality checks for costing accuracy.

Step 3: Allocating enforcement and other support activities – This third step allocates enforcement activities to arrive at the full cost of service for each direct license or certificate. For the Boards and Bureaus of the Department of Consumer Affairs, enforcement is a significant portion of cost and one that is growing.

Step 4: Set cost recovery policy – Depending on Board policies and other considerations, the level of cost recovery is a decision that should be made for each type or group of licenses. For example, the Board may want to subsidize one type of licenses with revenues from others.

Step 5: Set fees

Fees should be based on any cost recovery policy and at a price that will fully recover the Board's cost and provide a sustainable future.

Quality Assurance

Assuring the accuracy and quality of results is an important function of the analysis. Our approach builds on the concept that a quality process assures a quality outcome. Besides focusing on a quality process, we also incorporate quantitative checks of our results. These quantitative checks include:

1. Are the total costs that we have coming into the model (the budget) equal the total costs coming out of the model (projected revenues)?
2. Are the total number of staff hours available fully accounted for in the model?
3. Does the projection of annual revenues (current) built into the cost model reasonably match actual or projected revenues by the DCA budget office?

When our results fall within our parameters reasonable ranges, then we assume the results are accurate. The following graphic reflects the results of our quality assurance checks.

Resource - Cost and Revenue Summary	
Resources Available (Budget)	\$ 4,451,262
Resources Assigned (Projected Revenues at Full Cost)	\$ 4,105,582
Examination Development	
Total Cost	\$ 4,105,582
Difference	\$ (345,680)
Total Hours Available	31,418
Total Hours Assigned	31,419
Difference	0.09
Revenue Projected From Fees at Current Prices	\$ 2,627,615
Budgeted Revenue Fy 19-20	\$ 2,627,292
Difference	\$ 323
Percentage Difference (acceptable = plus or minus 5%-10%)	0%
Target: Pricing Model	\$ 4,721,400
Difference from Target *	\$ 270,138

The difference between full cost of the Board and projected revenues based on full cost recovery (\$345,680) is because the Board is currently providing services for which a fee has not been authorized. This difference will be made up as the Legislature approves the new fee schedule and pricing model recommended by staff.

Summary of Findings – Fiscal 2018-2019

Primary Data Sources

For this project, there are four primary sources of data that has driven the analysis:

1. Budgeted expense data (2018-2019), which includes:
 - a. Salaries and benefit expenditures;
 - b. Services and supplies;
 - c. Overhead, including both Department and State pro rata allocations; and
 - d. External enforcement costs from the Attorney General's Office, the Office of Admin. Hearings, and Evidence / Witness fees.
2. Time estimates for staff to process each license type, broken down by core processes or activities. These included such activities as:
 - a. Initial review of application
 - b. Review application for completion

- c. Final license issuance
 - d. Prepare petition packet
 - e. Process post court decision on probation request
 - f. Audits of licensees (5%)
 - g. Process educational requirements
 - h. Process renewals
3. Staff participation in support and administrative services. These include:
 - a. Regulatory policy and review
 - b. Enforcement Support and Admin
 - c. Education Support and Admin
 4. Activity data such as the annual number each license type is processed. Examples of this would be the number of initial applications and the number of renewals.

Assumptions Used in the Costing Model

Any project to calculate costs comes with certain assumptions.

Expense Data – Current Budget

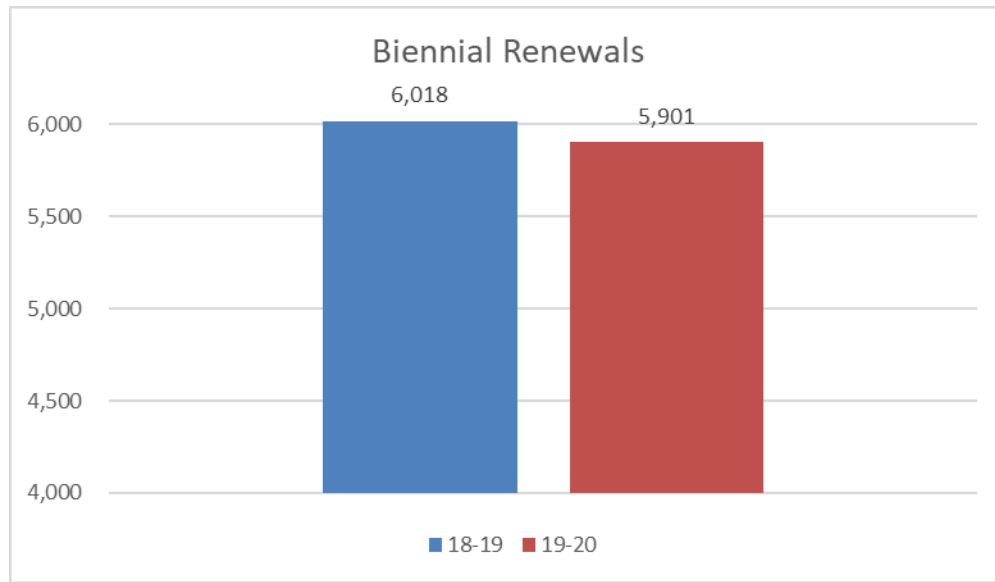
In all cases fiscal year 2018 - 2019 budget data has been used. We recognized that there are often differences between budgeted expenses and actual expenses. Actual expenses can vary based on a variety of factors. Frequently these include lower spending on services and supplies than anticipated, pushing back the hiring of new staff, or just the timing of staff turning over. However, our assumption is that the budget will be fully spent. We made no adjustment for multiyear averages in labor, services, or any of the pro rata costs that are allocated to the Board.

Revenues – Consistent Activity Data

A significant component of the analysis is dependent upon annual activity data. Specifically, the number of times each license is processed on an annual basis. For example, the number of times annual renewals are processed. This is important to the analyses for two reasons:

1. In our costing models, activity data drives the total consumption of staff hours. If the activity data is not correct it will either over assign staff time or underestimate staff time relative to the total time that is available.

2. Projecting revenue. If the number of applications for licenses vary wildly on an annual basis, projecting revenue will be challenging. However, if the number of applications for licenses is stable, then revenues will be stable. For example, the following graph shows two years of projected annual renewals. This gives us confidence that there is no need to do any smoothing of activity data over time.



Direct Vs. Indirect Allocated Costs

For this analysis, direct costs are being defined as the direct time required to process a specific application type. This is driven by a calculation of a productive hourly rate for each staff position. This rate includes salaries, benefits, and a prorated amount for services and supplies. Then indirect costs are layered on top of the direct costs to establish the full cost of issuing the license. Indirect costs include:

- DCA and State pro rata;
- Board management & administration;
- Board customer service;
- Regulatory policy and review;
- Enforcement Support and Admin;
- Education Support and Admin (where appropriate); and
- Licensing Support and Admin.

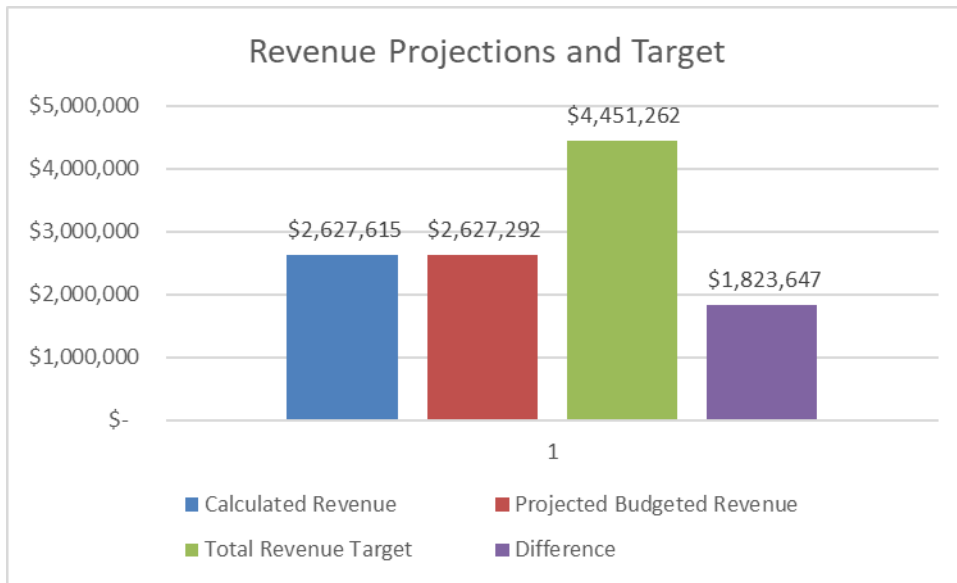
The following is the summary of the analysis for the Biennial Renewals.

Example - Cost Calculation Biennial Renewals			
License Type	Processing Requirement (in hours)	Average Productive Hourly Rate	Direct Cost Assignment
Biennial Renewal Fee - Acupuncturist	0.33	\$58.36	\$ 19.49
Sources of Indirect Costs			Total Indirect Cost Assignment
Dept/State Pro Rata			\$ 13.65
Board Management & Administration			\$ 23.61
Customer Service/Program Mgt			\$ 6.20
Regulatory policy and review			\$ 12.26
Enforcement Support and Admin			\$ 251.32
Education Support and Admin			\$ -
Licensing Support and Admin			\$ 3.19
Total Cost			\$ 329.73

Projections of Revenue

As part of our quality assurance analysis we develop a projection of current revenues based on current fees and activity data. We then compare this with projected revenue. Our margin of error is 10%. As the reader will notice, our calculation of current revenue is \$2,627,615 and the budgeted projection of revenue is \$2,627,292. This is well within our margin of error.

The reader will also note that this revenue is short of meeting operating requirements by a \$1,823,647 - wide margin.



Allocating the Cost of Enforcement

In each of our engagements with the Department of Consumer Affairs (DCA), we have consistently seen enforcement costs increasing at a rate that is exponentially faster than general operating costs. In recent years we have completed nine other studies for DCA. In each of these other studies, enforcement costs were consistently 55%-65% of total costs. For the Acupuncture Board, this rate is about half that amount.

There are two sources of enforcement costs:

- External costs assigned to the Board, which include the State Attorney General, the Office of Administrative Hearings, Evidence & Witness Fees, and Investigations Pro Rata; and
- Direct Board expense from staff who process complaints and initiate investigations.

Our approach to assigning these costs to Board fees is to split these two costs. 1) External cost is allocated to all fees and services provided by the Board, and 2) direct costs of Board staff is allocated 100% to renewal fees. This seems to strike a balance between assigning costs to those fees or licensees that trigger cost while not making renewal fees so high that licensees would object.

The following graphic details the full allocated costs for the Biennial renewal fee. The reader will note that the direct cost of processing the application for renewal is a relatively minor part of the whole cost. This cost is based on multiplying the productive hourly rate that was calculated by the time that was required for each person in the process. Each of the additional costs was allocated based on the direct costs.

Breakdown of Biennial Renewal Fee		
Direct Unit Cost	\$	19.49
Dept/State Pro Rata	\$	13.65
Board Management & Administration	\$	23.61
Customer Service/Program Mgt	\$	6.20
Regulatory policy and review	\$	12.26
Enforcement Support and Admin	\$	251.32
Licensing Support and Admin	\$	3.19
Total Cost Assigned	\$	329.73

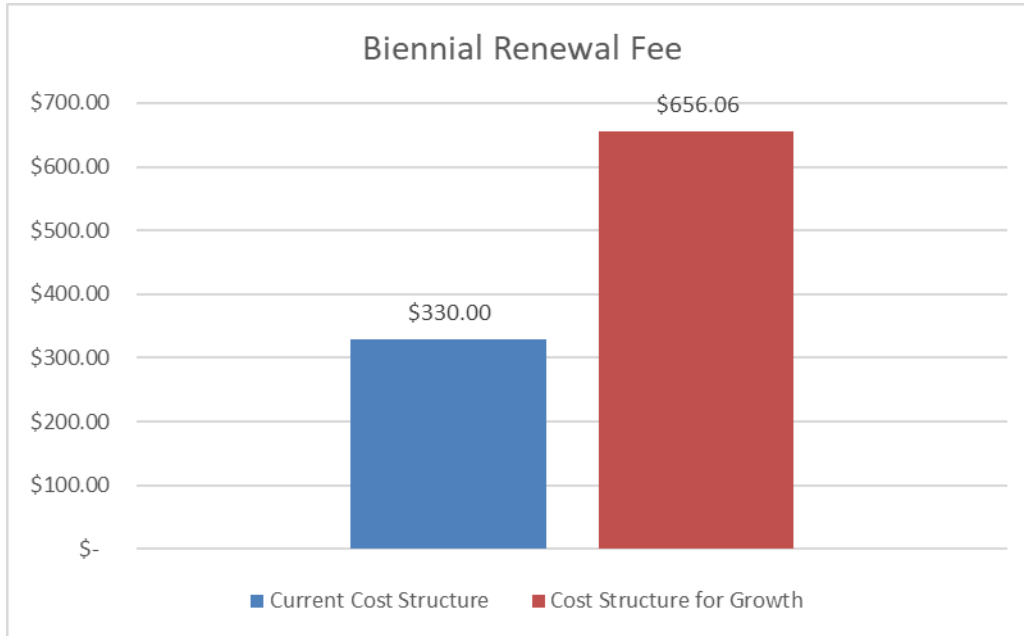
Setting Prices for Fees

Establishing the cost for a fee or services is the objective of this project. However, the Board is under no requirement that we know of, that requires it to charge this amount. Most of the Boards and Bureaus that we have worked with have taken the cost analysis and made adjustments to the final price, while maintaining enough revenues for meet cost recovery targets.

The full fee table, including the proposed prices established by staff can be found in Appendix 1.

Planning for Growth

In working with staff, we created a growth scenario for the Board. This scenario added 4 FTE to the internal enforcement function and doubled the external cost associated with enforcement. The logic is that there are currently 3 FTE working in enforcement and if this number grows to 7, there will be an equivalent increase in enforcement cost that are external to the Board, (see page 10 for the breakdown of these costs). The primary function of these additional staff will be completing site inspections, which the Board is currently not doing. All of these additional costs have been added to the Biennial renewal fee. The difference in the cost to the Biennial renewal is illustrated in the following manner:



The breakdown of new costs being allocated to the Biennial Renewal fee follows:

Breakdown of Biennial Renewal Fee	
Direct Unit Cost	\$ 17.58
Dept/State Pro Rata	\$ 12.34
Board Management & Administration	\$ 21.41
Customer Service/Program Mgt	\$ 6.08
Regulatory policy and review	\$ 12.09
Enforcement Support and Admin	\$ 443.39
Licensing Support and Admin	\$ 3.15
Other Enforcement Cost	\$ 140.03
Total Cost Assigned	\$ 656.

The careful reader will notice that in the remaining fees, the costs go down under the growth scenario. This is because in the model, the additional staff are pulling more services and supplies and overhead costs into enforcement activities.

Observations and Recommendations

The primary observation that we have in evaluating fees and appropriate fee levels is that there has not been a pattern, practice, or history of regular fee adjustments. This is not unlike many of the boards and bureaus that make up the Department of Consumer Affairs.

If there were one recommendation we can make to any Board, Bureau, or local government agency providing fee-based services, it would be this: adjust fee on a regular basis. Annual is best. Consistently, we find government agencies put off adjusting fees and then it is 10-15 years before then attempt to bring them up to full cost recovery. Then they feel a need to phase in the new fees, but the phases get lost. The result is poor customer service, staff are frustrated because they cannot acquire the resources, they need to provide a quality service.

Setting Caps

The Board does have some ability to regularly adjust fees through the Caps system. Because of this we have provided a 10-year forward projection of fees based on an annual increase of 4.5%. We would recommend working with the State Legislature to set the CAPS at either the 5- or 10-year amount. Then adjusting fees annually or at least bi-annually to maintain alignment of revenues and expenditures.

Regular Assessment of Fee Levels

We also recommend a formal audit of fees every 3-5 years. There are enough changes in regulations and the overall business environment over this time frame that a formal assessment of cost is warranted. Enforcement costs are a major driver of this. In each of the fee audits we have completed for DCA enforcement costs has been the single largest component of cost. Furthermore, it was growing at a rate that far exceeded the general inflationary pressures. While enforcement cost for the Board is currently low, in comparison to other Boards, this may change going forward. In addition, much of these costs are outside the control of the Board. When a case is referred to the State Attorney General's Office, the Board has little control over the cost.

Appendices

Appendix 1 – Fees Based on Current Cost Structure

- Pages 1-2 shows the analysis of cost for each individual fee item and the comparison of revenues at full cost and at current prices;
- Pages 3-4 shows the results of applying a 4.5% annual escalator to the current fee. These can be used to set the CAPS for individual licenses.

Appendix 2 – Fees Based on Four Additional Enforcement Staff

The second appendix shows the same as appendix number 1 but with the costs of four additional enforcement staff

- Pages 1-2 shows the analysis of cost for each individual fee item and the comparison of revenues at full cost and at current prices;
- Pages 3-4 shows the results of applying a 4.5% annual escalator to the current fee. These can be used to set the CAPS for individual licenses.

California Acupuncture Board
Licensing & Misc Fees / Current Cost
Structure



No.	Fee Name	Notes	Actual Work Volume	Recovered Revenue Volume	Unit Cost Summary			Annual Cost Calculations (At Actual Costs Calculated)			Results Pricing Model	
					Total Cost Assigned	Current Fee / Revenue	Unit Surcharge or (Subsidy)	Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)	Pricing Scenerio	Annual Revenue Pricing Model
	Retirement* status license	Potential new			\$645		(\$645)	\$ -				\$ -
								\$ -				\$ -
								\$ -				\$ -
								\$ -				\$ -
								\$ -				\$ -
		Current						\$ -				\$ -

Annual Revenue Impacts			Annual Revenue	
Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)	Annual Revenue Pricing Model	
\$ 4,105,582	\$ 2,780,355	(\$1,325,227)	\$ 4,680,540	

California Acupuncture Board
 Licensing & Misc Fees / Current Cost
 Structure



Ten Year Projection of Fee Requirements

No.	Fee Name	Notes	Actual Work Volume	Year #1	Year #2	Year #3	Year #4	Year #5	Year #6	Year #7	Year #8	Year #9	Year #10
	Retirement" status license	Potential new											
		Current											

Annual Revenues (Projected)

Year #1	Year #2	Year #3	Year #4	Year #5	Year #6	Year #7	Year #8	Year #9	Year #10
\$ 4,381,727	\$ 4,578,905	\$ 4,784,955	\$ 5,000,278	\$ 5,225,291	\$ 5,460,429	\$ 5,706,148	\$ 5,962,925	\$ 6,231,256	\$ 6,511,663

APPENDIX 2:

The second appendix shows the same as appendix number 1 but with the costs of additional resources that have been requested by the Board's Executive staff.

- Pages 1-2 shows the analysis of cost for each individual fee item and the comparison of revenues at full cost and at current prices;
- Pages 3-4 shows the results of applying a 4.5% annual escalator to the current fee. These can be used to set the CAPS for individual licenses.

California Acupuncture Board

Licensing & Misc Fees / Scenerio 2



No.	Fee Name	Notes	Actual Work Volume	Recovered Revenue Volume	Unit Cost Summary			Annual Cost Calculations (At Actual Costs Calculated)			Results Pricing Model	
					Total Cost Assigned	Current Fee / Revenue	Unit Surcharge or (Subsidy)	Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)	Pricing Scenerio	Annual Revenue Pricing Model
	Wall license registration - (Initial renewal)	Duplicate	6,000			\$ 15	\$15	\$ -			\$ 75	\$ 450,000
	Wall license duplicate - (Initial & ongoing)	Duplicate	500			\$ 15	\$15	\$ -			\$ 75	\$ 37,500
	Renewal Wall license registration - (Initial renewal)	Duplicate			\$50	\$ 15	(\$35)	\$ -				\$ -
	Retirement" status license	Potential new			\$551		(\$551)	\$ -				\$ -
								\$ -			\$ -	\$ -
								\$ -			\$ -	\$ -
								\$ -			\$ -	\$ -
								\$ -			\$ -	\$ -
		Current						\$ -			\$ -	\$ -

Annual Revenue Impacts		
Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)
\$ 5,690,651	\$ 2,682,855	(\$3,007,796)

Annual Revenue	
	Annual Revenue Pricing Model
	\$ 6,085,200

California Acupuncture Board

Licensing & Misc Fees / Scenerio 2



			Ten Year Projection of Fee Requirements									
No.	Fee Name		Year #1	Year #2	Year #3	Year #4	Year #5	Year #6	Year #7	Year #8	Year #9	Year #10
			4.5% Annual Increase									
	Duplicate Renewal Receipt											
	Endorsement	\$105	\$109	\$114	\$119	\$125	\$130	\$136	\$142	\$149	\$155	
	Duplicate Cert-Add'l Office											
	CE Provider Approval Fee	\$732	\$764	\$799	\$835	\$872	\$912	\$953	\$995	\$1,040	\$1,087	
	CE Provider Approval Renewal Fee	\$732	\$764	\$799	\$835	\$872	\$912	\$953	\$995	\$1,040	\$1,087	
	Application Fee - Acupuncturist	\$366	\$382	\$399	\$417	\$436	\$456	\$476	\$498	\$520	\$544	
	Re-Exam Fee - Acupuncturist	\$836	\$874	\$913	\$954	\$997	\$1,042	\$1,089	\$1,138	\$1,189	\$1,242	
	Application Fee - Acupuncture Supvr	\$209	\$218	\$228	\$239	\$249	\$260	\$272	\$284	\$297	\$311	
	Application Fee - Acupuncture Trainee	\$2,613	\$2,730	\$2,853	\$2,981	\$3,115	\$3,256	\$3,402	\$3,555	\$3,715	\$3,882	
	Exam Fee - Acupuncturist	\$836	\$874	\$913	\$954	\$997	\$1,042	\$1,089	\$1,138	\$1,189	\$1,242	
	Initial Cert - Acupuncturist	\$523	\$546	\$571	\$596	\$623	\$651	\$680	\$711	\$743	\$776	
	Over / Short Fees											
	Suspended Revenue											
	Biennial Renewal Fee - Acupuncturist	\$732	\$764	\$799	\$835	\$872	\$912	\$953	\$995	\$1,040	\$1,087	
	Annual Ren - Acupuncturist Supvr	\$523	\$546	\$571	\$596	\$623	\$651	\$680	\$711	\$743	\$776	
	Annual Ren - Acupuncturist Trainee	\$627	\$655	\$685	\$716	\$748	\$781	\$817	\$853	\$892	\$932	
	Delinquent Ren - Acupuncturist	\$105	\$109	\$114	\$119	\$125	\$130	\$136	\$142	\$149	\$155	
	Delinquent Fee Acupuncture Trainee	\$105	\$109	\$114	\$119	\$125	\$130	\$136	\$142	\$149	\$155	
	Delinquent Fee Acupuncture Supvr	\$105	\$109	\$114	\$119	\$125	\$130	\$136	\$142	\$149	\$155	
	Miscellaneous Fee											
	Dishonored Check Fee											
Potential New Fees												
	CE course per unit											
	Foreign applicants											
	New application fee - (school)											
	Annual renewal application fee - (school)											
	Wall license											

California Acupuncture Board

Licensing & Misc Fees / Scenerio 2



		Ten Year Projection of Fee Requirements									
No.	Fee Name	Year #1	Year #2	Year #3	Year #4	Year #5	Year #6	Year #7	Year #8	Year #9	Year #10
	Wall license registration - (Initial renewal)	\$78	\$82	\$86	\$89	\$93	\$98	\$102	\$107	\$111	\$116
	Wall license duplicate - (Initial & ongoing)	\$78	\$82	\$86	\$89	\$93	\$98	\$102	\$107	\$111	\$116
	Renewal Wall license registration - (Initial renewal)										
	Retirement" status license										

Annual Revenues (Projected)									
Year #1	Year #2	Year #3	Year #4	Year #5	Year #6	Year #7	Year #8	Year #9	Year #10
\$ 6,359,034	\$ 6,645,191	\$ 6,944,224	\$ 7,256,714	\$ 7,583,266	\$ 7,924,513	\$ 8,281,116	\$ 8,653,767	\$ 9,043,186	\$ 9,450,130

California Acupuncture Board
Licensing and Misc Fees - V1 (Floor)



						V1 - Floor					
						Annual Cost Calculations (At Actual Costs Calculated)			Results V1 Pricing Model		
No.	Fee Name	Notes	Actual Work Volume	Total Cost Assigned per Unit	Current Fee Amount	Unit Gain/Loss	Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V1 Fee Amount Level	V1 Total Annual Revenue
Renewal	Duplicate Renewal Receipt		112	\$ 54	\$ 10	(\$44)	\$ 6,089	\$1,120	(\$4,969)	\$ -	\$ -
Renewal	Endorsement		148	\$ 81	\$ 10	(\$71)	\$ 12,045	\$1,480	(\$10,565)	\$ 100	\$ 14,800
Renewal	Duplicate Cert-Add'l Office		510	\$ 110	\$ 15	(\$95)	\$ 56,329	\$7,650	(\$48,679)	\$ -	\$ -
New Education	CE Provider Approval Fee		299	\$ 484	\$ 150	(\$334)	\$ 144,684	\$44,850	(\$99,834)	\$ 500	\$ 149,500
Renewal Education	CE Provider Approval Renewal Fee		49	\$ 484	\$ 150	(\$334)	\$ 23,711	\$7,350	(\$16,361)	\$ 500	\$ 24,500
Initial	Application Fee - Acupuncturist		630	\$ 727	\$ 75	(\$652)	\$ 457,908	\$47,250	(\$410,658)	\$ 250	\$ 157,500
Education	Re-Exam Fee - Acupuncturist		315	\$ 854	\$ 550	(\$304)	\$ 269,067	\$173,250	(\$95,817)	\$ 800	\$ 252,000
New Education	Application Fee - Acupuncture Supvr		30	\$ 11,334	\$ 200	(\$11,134)	\$ 340,013	\$6,000	(\$334,013)	\$ 100	\$ 3,000
New Education	Application Fee - Acupuncture Trainee		25	\$ 11,363	\$ 25	(\$11,338)	\$ 284,085	\$625	(\$283,460)	\$ 1,000	\$ 25,000
New Exam	Exam Fee - Acupuncturist		525	\$ 773	\$ 550	(\$223)	\$ 405,759	\$288,750	(\$117,009)	\$ 800	\$ 420,000
Initial	Initial Cert - Acupuncturist		388	\$ 366	\$ 325	(\$41)	\$ 141,959	\$126,100	(\$15,859)	\$ 500	\$ 194,000
Renewal	Biennial Renewal Fee - Acupuncturist		5,870	\$ 330	\$ 325	(\$5)	\$ 1,935,518	\$1,907,750	(\$27,768)	\$ 500	\$ 2,935,000
Renewal Education	Annual Ren - Acupuncturist Supvr		15	\$ 359	\$ 50	(\$309)	\$ 5,390	\$750	(\$4,640)	\$ 200	\$ 3,000
Renewal Education	Annual Ren - Acupuncturist Trainee		16	\$ 359	\$ 10	(\$349)	\$ 5,749	\$160	(\$5,589)	\$ 500	\$ 8,000
Renewal	Delinquent Ren - Acupuncturist		580	\$ 29	\$ 25	(\$4)	\$ 16,993	\$14,500	(\$2,493)	\$ 150	\$ 87,000
Education	Delinquent Fee Acupuncture Trainee		1	\$ 142	\$ 5	(\$137)	\$ 142	\$5	(\$137)	\$ 100	\$ 100
Education	Delinquent Fee Acupuncture Supvr		1	\$ 142	\$ 25	(\$117)	\$ 142	\$25	(\$117)	\$ 50	\$ 50
	Potential New Fees										
Education	CE Course Fee	New	3,400	\$ 197	\$ -	(\$197)	\$ -	\$0	\$0	\$ 100	\$ 153,000
Initial	Foreign applicants	New	50	\$ 7,317	\$ -	(\$7,317)	\$ -	\$0	\$0	\$ 350	\$ 17,500
AB 779	Replacement Pocket License	New	100	\$ 54	\$ 10	(\$44)	\$ -	\$0	\$0	\$ 50	\$ 5,000
AB 779	Wall license duplicate - (Initial & ongoing)	New	5,870	\$ 110	\$ 15	(\$95)	\$ -	\$0	\$0	\$ 50	\$ 293,500
AB 779	Renewal Wall license registration - (Initial renewal)	New	400	\$ 110	\$ 15	(\$95)	\$ -	\$0	\$0	\$ 50	\$ 20,000

	Annual Revenue Impacts			Annual Revenue	
	Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V1 Fee Amount	V1 Total Annual Revenue
Revenue Target: \$4.7 million	\$ 4,105,582	\$ 2,627,615	(\$1,477,967)		\$ 4,762,450
				Net Revenue Increase:	\$ 2,134,835

	A	B	C	D	E	F	A	AM	AN	AO	AP	AQ	A	AS	AT	AU	A	AW	AX	
1	0108 - Acupuncture																			
2	Analysis of Fund Condition																			
3	(Dollars in Thousands)																			
4																				
5	2019-20 Budget Act																			
6	With Fee Audit Version 1 (Floor) Scenario																			
7																				
8																				
9																				
10																				
11	BEGINNING BALANCE					Pre-Actual														
12	Prior Year Adjustment					PY														
13	Adjusted Beginning Balance					2018-19														
14																				
15	REVENUES AND TRANSFERS																			
16	Revenues:																			
17	4129200 Other regulatory fees					\$	55	\$	55	\$	55	\$	55	\$	55	\$	55	\$	55	\$
18	4129400 Other regulatory licenses and permits					\$	610	\$	645	\$	645	\$	645	\$	645	\$	645	\$	645	\$
19	4127400 Renewal fees					\$	1,946	\$	1,909	\$	1,909	\$	1,909	\$	1,909	\$	1,909	\$	1,909	\$
20	4121200 Delinquent fees					\$	15	\$	15	\$	15	\$	15	\$	15	\$	15	\$	15	\$
23	4163000 Income from surplus money investments					\$	1	\$	1	\$	1	\$	1	\$	1	\$	1	\$	1	\$
24	4163000 Interest Income From Interfund Loans					\$	-	\$	21	\$	-	\$	-	\$	-	\$	-	\$	-	\$
26	4171400 Escheat of unclaimed checks and warrants					\$	1	\$	1	\$	2	\$	2	\$	2	\$	2	\$	2	\$
27	Fee Increase (effective 1/1/21)					\$	-	\$	-	\$	1,068	\$	2,135	\$	2,135	\$	2,135	\$	2,135	\$
28	Totals, Revenues					\$	2,628	\$	2,647	\$	3,695	\$	4,762	\$	4,762	\$	4,762	\$	4,762	\$
29																				
30	Transfers from Other Funds																			
33	Proposed GF 11-12 Loan Repayment, 1110-011-0108 Budget Act					\$	-	\$	1,000	\$	-	\$	-	\$	-	\$	-	\$	-	\$
38	Totals, Revenues and Transfers					\$	2,628	\$	3,647	\$	3,695	\$	4,762	\$	4,762	\$	4,762	\$	4,762	\$
39																				
40	Totals, Resources					\$	6,829	\$	7,282	\$	6,205	\$	6,144	\$	6,516	\$	6,516	\$	6,770	\$
41																				
42	EXPENDITURES																			
43	Disbursements:																			
48	1111 - Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)					\$	2,915	\$	3,397	\$	3,579	\$	3,686	\$	3,797	\$	3,797	\$	3,911	\$
49	1111 - Business Modernization Project Spring Finance Letter					\$	-	\$	1,147	\$	877	\$	250	\$	258	\$	258	\$	265	\$
51	8880 - Financial Information System for California					\$	-	\$	(1)	\$	-	\$	-	\$	-	\$	-	\$	-	\$
52	9892 - Supplemental Pension Payment					\$	20	\$	43	\$	43	\$	43	\$	43	\$	43	\$	43	\$
54	9900 - Statewide General Administrative Expenditures (ProRata)					\$	259	\$	186	\$	324	\$	410	\$	410	\$	410	\$	410	\$
55	Total Disbursements					\$	3,194	\$	4,772	\$	4,823	\$	4,390	\$	4,508	\$	4,508	\$	4,629	\$
56																				
57	FUND BALANCE																			
58	Reserve for economic uncertainties					\$	3,635	\$	2,510	\$	1,382	\$	1,754	\$	2,008	\$	2,008	\$	2,141	\$
59																				
60	Months in Reserve						9.1		6.2		3.4		4.8		5.3		5.3		5.5	

Prepared 7/17/2019

California Acupuncture Board
Licensing and Misc Fees - V2 (Cap)



V2 - Cap

Annual Cost Calculations
 (At Actual Costs Calculated) Results V2 Pricing Model

No.	Fee Name	Notes	Actual Work Volume	Total Cost Assigned per Unit	Current Fee Amount	Unit Gain/Loss	Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V2 Fee Amount Level	V2 Total Annual Revenue
Renewal	Duplicate Renewal Receipt		112	\$ 47	\$ 10	(\$37)	\$ 5,226	\$1,120	(\$4,106)	\$ -	\$ -
Renewal	Endorsement		148	\$ 70	\$ 10	(\$60)	\$ 10,337	\$1,480	(\$8,857)	\$ 100	\$ 14,800
Renewal	Duplicate Cert-Add'l Office		510	\$ 95	\$ 15	(\$80)	\$ 48,333	\$7,650	(\$40,683)	\$ -	\$ -
New Education	CE Provider Approval Fee		299	\$ 414	\$ 150	(\$264)	\$ 123,855	\$44,850	(\$79,005)	\$ 700	\$ 209,300
Renewal Education	CE Provider Approval Renewal Fee		49	\$ 414	\$ 150	(\$264)	\$ 20,297	\$7,350	(\$12,947)	\$ 700	\$ 34,300
Initial	Application Fee - Acupuncturist		630	\$ 623	\$ 75	(\$548)	\$ 392,421	\$47,250	(\$345,171)	\$ 350	\$ 220,500
Education	Re-Exam Fee - Acupuncturist		315	\$ 790	\$ 550	(\$240)	\$ 248,898	\$173,250	(\$75,648)	\$ 800	\$ 252,000
New Education	Application Fee - Acupuncture Supvr		30	\$ 9,701	\$ 200	(\$9,501)	\$ 291,032	\$6,000	(\$285,032)	\$ 200	\$ 6,000
New Education	Application Fee - Acupuncture Trainee		25	\$ 9,726	\$ 25	(\$9,701)	\$ 243,160	\$625	(\$242,535)	\$ 2,500	\$ 62,500
New Exam	Exam Fee - Acupuncturist		525	\$ 721	\$ 550	(\$171)	\$ 378,281	\$288,750	(\$89,531)	\$ 800	\$ 420,000
Initial	Initial Cert - Acupuncturist		388	\$ 314	\$ 325	\$11	\$ 121,652	\$126,100	\$4,448	\$ 500	\$ 194,000
Renewal	Biennial Renewal Fee - Acupuncturist		5,870	\$ 644	\$ 325	(\$319)	\$ 3,782,809	\$1,907,750	(\$1,875,059)	\$ 775	\$ 4,549,250
Renewal Education	Annual Ren - Acupuncturist Supvr		15	\$ 307	\$ 50	(\$257)	\$ 4,609	\$750	(\$3,859)	\$ 500	\$ 7,500
Renewal Education	Annual Ren - Acupuncturist Trainee		16	\$ 307	\$ 10	(\$297)	\$ 4,916	\$160	(\$4,756)	\$ 600	\$ 9,600
Renewal	Delinquent Ren - Acupuncturist		580	\$ 25	\$ 25	\$0	\$ 14,584	\$14,500	(\$84)	\$ 150	\$ 87,000
Education	Delinquent Fee Acupuncture Trainee		1	\$ 121	\$ 5	(\$116)	\$ 121	\$5	(\$116)	\$ 200	\$ 200
Education	Delinquent Fee Acupuncture Supvr		1	\$ 121	\$ 25	(\$96)	\$ 121	\$25	(\$96)	\$ 150	\$ 150
	Potential New Fees										
Education	CE Course Fee	New	3,400	\$ 182	\$ -	(\$182)	\$ -	\$0	\$0	\$ 400	\$ 265,200
Initial	Foreign applicants	New	50	\$ 7,124	\$ -	(\$7,124)	\$ -	\$0	\$0	\$ 500	\$ 25,000
AB 779	Replacement Pocket License	New	100	\$ 47	\$ 10	(\$37)	\$ -	\$0	\$0	\$ 50	\$ 5,000
AB 779	Wall license duplicate - (Initial & ongoing)	New	5,870	\$ 95	\$ 15	(\$80)	\$ -	\$0	\$0	\$ 50	\$ 293,500
AB 779	Renewal Wall license registration - (Initial renewal)	New	400	\$ 95	\$ 15	(\$80)	\$ -	\$0	\$0	\$ 50	\$ 20,000

Annual Revenue Impacts			Annual Revenue	
Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss		V2 Total Annual Revenue

Revenue Target: \$6.7 million \$ 5,690,651 \$ 2,627,615 (\$3,063,036) \$ 6,675,800

Net Revenue Increase: \$ 4,048,185

	A	B	C	D	E	F	AL	AM	AN	AO	AP	AQ	AA	AS	AT	AU	AV	AW	AX	
1	0108 - Acupuncture																			
2	Analysis of Fund Condition																			
3	(Dollars in Thousands)																			
4																				
5	2019-20 Budget Act																			
6	With Fee Audit Version 2 (Cap) Scenario																			
7																				
8																				
9																				
10																				
11	BEGINNING BALANCE					Pre-Actual														
12	Prior Year Adjustment					PY														
13	Adjusted Beginning Balance					2018-19														
14						2019-20														
15	REVENUES AND TRANSFERS					2020-21														
16	Revenues:					2021-22														
17			4129200	Other regulatory fees		\$	55	\$	55	\$	55	\$	55	\$	55	\$	55	\$	55	
18			4129400	Other regulatory licenses and permits		\$	610	\$	645	\$	645	\$	645	\$	645	\$	645	\$	645	
19			4127400	Renewal fees		\$	1,946	\$	1,909	\$	1,909	\$	1,909	\$	1,909	\$	1,909	\$	1,909	
20			4121200	Delinquent fees		\$	15	\$	15	\$	15	\$	15	\$	15	\$	15	\$	15	
23			4163000	Income from surplus money investments		\$	1	\$	1	\$	6	\$	1	\$	1	\$	1	\$	1	
24			4163000	Interest Income From Interfund Loans		\$	-	\$	21	\$	-	\$	-	\$	-	\$	-	\$	-	
26			4171400	Escheat of unclaimed checks and warrants		\$	1	\$	1	\$	2	\$	2	\$	2	\$	2	\$	2	
27				Fee Increase (effective 1/1/21)		\$	-	\$	-	\$	2,024	\$	4,048	\$	4,048	\$	4,048	\$	4,048	
28				Totals, Revenues		\$	2,628	\$	2,647	\$	4,656	\$	6,675	\$	6,675	\$	6,675	\$	6,675	
29																				
30				Transfers from Other Funds																
33				Proposed GF 11-12 Loan Repayment, 1110-011-0108 Budget Act		\$	-	\$	1,000	\$	-	\$	-	\$	-	\$	-	\$	-	
38				Totals, Revenues and Transfers		\$	2,628	\$	3,647	\$	4,656	\$	6,675	\$	6,675	\$	6,675	\$	6,675	
39																				
40				Totals, Resources		\$	6,829	\$	7,282	\$	7,166	\$	8,736	\$	9,219	\$	9,532	\$	9,532	
41																				
42	EXPENDITURES																			
43	Disbursements:																			
48				1111 - Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)		\$	2,915	\$	3,397	\$	3,579	\$	3,686	\$	3,797	\$	3,911	\$	3,911	
49				1111 - Business Modernization Project Spring Finance Letter		\$	-	\$	1,147	\$	877	\$	250	\$	258	\$	265	\$	265	
50				1111 - Future Potential Costs (unanticipated costs)		\$	-	\$	-	\$	250	\$	1,737	\$	1,789	\$	1,879	\$	1,879	
52				8880 - Financial Information System for California		\$	-	\$	(1)	\$	-	\$	-	\$	-	\$	-	\$	-	
53				9892 - Supplemental Pension Payment		\$	20	\$	43	\$	43	\$	43	\$	43	\$	43	\$	43	
55				9900 - Statewide General Administrative Expenditures (ProRata)		\$	259	\$	186	\$	356	\$	476	\$	476	\$	476	\$	476	
56				Total Disbursements		\$	3,194	\$	4,772	\$	5,105	\$	6,192	\$	6,362	\$	6,573	\$	6,573	
57																				
58	FUND BALANCE																			
59				Reserve for economic uncertainties		\$	3,635	\$	2,510	\$	2,061	\$	2,544	\$	2,857	\$	2,958	\$	2,958	
60																				
61	Months in Reserve																			
62							9.1		5.9		4.8		4.9		5.4		5.4		5.4	

Prepared 7/17/2019



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DATE	August 15, 2019
TO	Board Members, Acupuncture Board
FROM	Matt Nishimine, Central Services Manager
SUBJECT	Discussion and Possible Action to Seek Statutory Amendments to Business and Professions Code §§ 4970 and 4971 for Increases to Certification and Tutorial Program Fees

Background

The Acupuncture Board (Board) has not increased its biennial renewal fee and the majority of its licensing fees since 1985. To perform the Board's regulatory, licensing, and disciplinary functions, the Board must generate sufficient revenues from fees associated with licensing and education.

Since fiscal year 2014/2015, the Board's revenue has not kept pace with its authorized expenditures, thereby creating a structural imbalance and causing a declining savings. The Board's revenues are less than expenditures by approximately \$2.1 million per year.

The Board's fund condition presented at the June 2019 Board meeting projected that by fiscal year 2020/2021, the Board's months in reserve would be down to 3.4 months. Further, by fiscal year 2021/2022, the fund condition projects the Board's months in reserve to be in the negative. Thus, it is imperative the Board align its revenues with its expenditures to eliminate the structural imbalance and create a prudent reserve of approximately three to six months. To achieve this alignment, staff is proposing the Board's fees be increased through legislation, effective January 1, 2021.

Discussion

The first step to address the Board's structural imbalance is to conduct a fee study that accounts for personnel services costs, and operating expenses and equipment costs to determine the cost per unit to issue the license, registration, etc. The Board's third-party fee study was completed in August 2019. The fee study reported revenue losses amongst all of the fees set in statute under Business and Professions Code (BPC) sections 4970 and 4971.

The fee study also identified increased fee amounts at a base level that would allow the Board to align its revenues with projected expenditures, thereby, balancing the Board's budget. The fee study also identified fees at a higher tiered level, or maximum amount, which would allow the Board to address future unanticipated costs. This is why the

Board's proposed fee model is setting fees at a range from a base level to a maximum level in statute.

In addition, the fee study identified new proposed fees based upon processes and workload performed by the Board, but which the Board does not currently charge a fee. While the Board has statutory authority to charge a fee for these services, the Board has not done so in the past. This means the Board is incurring a revenue loss on these services. This proposal will ensure the Board is fully assessing any fees authorized by current law.

The second step in the process of balancing the Board's budget is to propose amendments to the statutes that authorize the Board's fees. Staff has brought proposed language that identifies the new fee structure to the Board for discussion today. The Board will seek to propose the fee language during the 2020/2021 legislative session.

The proposed amendments to BPC section 4970 are based upon the bill language from AB 779 (Low) Acupuncture: place of practice: wall license, which is likely to be signed into law at the end of this legislative calendar. AB 779 would become law on January 1, 2020 but has a delayed implementation date of January 1, 2021. This delayed operative date would coincide with the implementation date of the proposed fees being presented today.

Staff is recommending the Board approve the enclosed proposed language and authorize staff to seek an author for a bill to implement these fee increases through the legislative process.

Motion

Possible Motions for Statutory Amendments to BPC §§ 4970 and 4971

Option 1:

Motion to approve the proposed amendments to BPC sections 4970 and 4971 and direct staff to seek an author to sponsor a bill to implement the proposed fees through legislation in the 2020/2021 legislative calendar year.

Option 2:

Motion to approve the proposed statutory text as amended:



Fees – Suggested Statutory Language

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ACUPUNCTURE BOARD

Proposed Language

Proposed legislative amendments to the statutory language by AB 779, as amended on June 5, 2019, Low, Acupuncture: place of practice: wall license, are shown in single red underline for new text, and, ~~single red strikethrough~~ for deleted text. If signed into law, these changes will become effective on January 1, 2020, and the law will not become operative until January 1, 2021.

Additional proposed amendments by Board staff to the current statutory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text. Proposed amendments by Board staff to the proposed amendments by AB 779 are shown in ~~double red strikethrough~~.

Business and Professions Code § 4970. Certification Fees

The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The application fee shall be ~~seventy-five dollars (\$75)~~ two hundred fifty dollars (\$250) and may be increased to not more than three hundred fifty dollars (\$350).

(b) The application fee for foreign applicants shall be three hundred fifty dollars (\$350) and may be increased to not more than five hundred dollars (\$500).

(b)(c) ~~The examination and reexamination fees shall be the actual cost to the Acupuncture Board for the development and writing of, grading, and administering of each examination~~ eight hundred dollars (\$800).

(c)(d) ~~The initial license fee shall be three hundred twenty-five dollars (\$325)~~ five hundred dollars (\$500), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee. The initial license fee shall include one wall license registration if a place of practice is specified in the application.

(d)(e) ~~The renewal fee shall be three hundred twenty-five dollars (\$325)~~ five hundred dollars (\$500) and may be increased to not more than seven hundred seventy five dollars (\$775) and ~~in the event, if~~ a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. ~~The renewal fee shall be assessed on an annual basis until January 1, 1996, and on and after that date the~~ The board shall assess the renewal fee biennially.

(e)(f) The delinquency fee shall be set in accordance with Section 163.5.

(f)(g) ~~The application fee for the approval of a school or college under Section 4939 wall license fee shall be three thousand fifteen~~ fifty dollars (\$3,000). ~~This subdivision shall become inoperative on January 1, 2017.~~ 450).

~~(g)~~(h) ~~The duplicate wall license fee is an amount equal to the cost to the board for the issuance of the duplicate wall license renewal fee shall be fifteen~~ fifty dollars (\$50).

(i) The delinquency fee for the wall license shall be set in accordance with Section 163.5.

~~(h)~~(j) ~~The duplicate renewal receipt~~ If a pocket license is lost or destroyed, the pocket license replacement fee is ten dollars (\$10) shall be fifty dollars (\$50).

~~(i)~~(k) ~~The endorsement fee is ten dollars (\$10) shall be one hundred dollars (\$100).~~

~~(j)~~(l) ~~The fee for~~ If a duplicate wall license for an additional office location as required under Section 4961 shall be ~~is lost or destroyed, the wall license replacement fee is fifteen dollars (\$15)~~ fifty dollars (\$50).

(m) The approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(n) The biennial renewal approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(o) The continuing education course application fee shall be one hundred dollars (\$100) and may be increased to not more than four hundred dollars (\$400).

~~(k)~~(p) This section shall become operative on January 1, 2021.

(Added by Stats.1980, c. 1313, p. 4532, § 11.5, operative July 1, 1982. Amended by Stats.1985, c. 137, § 4, eff. July 1, 1985; Stats.1987, c. 1173, § 7; Stats.1990, c. 1393 (A.B.3427), § 1; Stats.1998, c. 991 (S.B.1980), § 20; Stats.2000, c. 568 (A.B.2888), § 14; Stats. 2014, Ch. 397, Sec. 12. (SB 1246) Effective January 1, 2015.)

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments by Board staff to the current statutory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Business and Professions Code § 4971. Tutorial programs; fees

The amount of fees prescribed for acupuncture tutorial programs shall be as follows:

(a) The application and registration fee to supervise an acupuncture trainee ~~is two hundred dollars (\$200)~~ shall be one hundred dollars (\$100) and may be increased to not more than two hundred dollars (\$200).

(b) The annual renewal fee for approval to supervise an acupuncture trainee ~~is fifty dollars (\$50)~~ shall be two hundred dollars (\$200) and may be increased to not more than five hundred dollars (\$500).

(c) The application fee for an acupuncture trainee ~~is twenty-five dollars (\$25)~~ shall be one thousand dollars (\$1,000) and may be increased to not more than two thousand five hundred dollars (\$2,500).

(d) The annual renewal fee for an acupuncture trainee ~~is ten dollars (\$10)~~ shall be five hundred dollars (\$500) and may be increased to not more than six hundred (\$600) dollars.

(e) The delinquency fee ~~is 50 percent of the renewal fee~~ for a supervisor shall be set in accordance with Section 163.5.

(f) The delinquency fee for an acupuncture trainee shall be one hundred dollars (\$100) and may be increased to not more than two hundred dollars (\$200).

(Added by Stats. 1980, c. 1313, p. 4532, § 11.5, operative July 1, 1982. Amended by Stats. 1985, Ch. 137, § 5. Effective July 1, 1985.)

California Acupuncture Board
Licensing and Misc Fes - V1



							V1 - Floor				
							Annual Cost Calculations (At Actual Costs Calculated)			Results V1 Pricing Model	
No.	Fee Name	Notes	Actual Work Volume	Total Cost Assigned per Unit	Current Fee Amount	Unit Gain/Loss	Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V1 Fee Amount Level	V1 Total Annual Revenue
Renewal	Duplicate Renewal Receipt		112	\$ 54	\$ 10	(\$44)	\$ 6,089	\$1,120	(\$4,969)	\$ -	\$ -
Renewal	Endorsement		148	\$ 81	\$ 10	(\$71)	\$ 12,045	\$1,480	(\$10,565)	\$ 100	\$ 14,800
Renewal	Duplicate Cert-Add'l Office		510	\$ 110	\$ 15	(\$95)	\$ 56,329	\$7,650	(\$48,679)	\$ -	\$ -
New Education	CE Provider Approval Fee		299	\$ 484	\$ 150	(\$334)	\$ 144,684	\$44,850	(\$99,834)	\$ 500	\$ 149,500
Renewal Education	CE Provider Approval Renewal Fee		49	\$ 484	\$ 150	(\$334)	\$ 23,711	\$7,350	(\$16,361)	\$ 500	\$ 24,500
Initial	Application Fee - Acupuncturist		630	\$ 727	\$ 75	(\$652)	\$ 457,908	\$47,250	(\$410,658)	\$ 250	\$ 157,500
Education	Re-Exam Fee - Acupuncturist		315	\$ 854	\$ 550	(\$304)	\$ 269,067	\$173,250	(\$95,817)	\$ 800	\$ 252,000
New Education	Application Fee - Acupuncture Supvr		30	\$ 11,334	\$ 200	(\$11,134)	\$ 340,013	\$6,000	(\$334,013)	\$ 100	\$ 3,000
New Education	Application Fee - Acupuncture Trainee		25	\$ 11,363	\$ 25	(\$11,338)	\$ 284,085	\$625	(\$283,460)	\$ 1,000	\$ 25,000
New Exam	Exam Fee - Acupuncturist		525	\$ 773	\$ 550	(\$223)	\$ 405,759	\$288,750	(\$117,009)	\$ 800	\$ 420,000
Initial	Initial Cert - Acupuncturist		388	\$ 366	\$ 325	(\$41)	\$ 141,959	\$126,100	(\$15,859)	\$ 500	\$ 194,000
Renewal	Biennial Renewal Fee - Acupuncturist		5,870	\$ 330	\$ 325	(\$5)	\$ 1,935,518	\$1,907,750	(\$27,768)	\$ 500	\$ 2,935,000
Renewal Education	Annual Ren - Acupuncturist Supvr		15	\$ 359	\$ 50	(\$309)	\$ 5,390	\$750	(\$4,640)	\$ 200	\$ 3,000
Renewal Education	Annual Ren - Acupuncturist Trainee		16	\$ 359	\$ 10	(\$349)	\$ 5,749	\$160	(\$5,589)	\$ 500	\$ 8,000
Renewal	Delinquent Ren - Acupuncturist		580	\$ 29	\$ 25	(\$4)	\$ 16,993	\$14,500	(\$2,493)	\$ 50	\$ 29,000
Education	Delinquent Fee Acupuncture Trainee		1	\$ 142	\$ 5	(\$137)	\$ 142	\$5	(\$137)	\$ 50	\$ 50
Education	Delinquent Fee Acupuncture Supvr		1	\$ 142	\$ 25	(\$117)	\$ 142	\$25	(\$117)	\$ 50	\$ 50
	Potential New Fees										
Education	CE Course Fee	New	3,400	\$ 197	\$ -	(\$197)	\$ -	\$0	\$0	\$ 50	\$ 170,000
Initial	Foreign applicants	New	50	\$ 7,317	\$ -	(\$7,317)	\$ -	\$0	\$0	\$ 350	\$ 17,500
AB 779	Replacement Pocket License	New	100	\$ 54	\$ 10	(\$44)	\$ -	\$0	\$0	\$ 50	\$ 5,000
AB 779	Wall license duplicate - (Initial & ongoing)	New	5,870	\$ 110	\$ 15	(\$95)	\$ -	\$0	\$0	\$ 50	\$ 293,500
AB 779	Renewal Wall license registration - (Initial renewal)	New	400	\$ 110	\$ 15	(\$95)	\$ -	\$0	\$0	\$ 50	\$ 20,000

	Annual Revenue Impacts			Annual Revenue	
	Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V1 Total Annual Revenue	
Revenue Target: \$4.7 million	\$ 4,105,582	\$ 2,627,615	(\$1,477,967)	\$ 4,721,400	
					Net Revenue Increase \$ 2,093,785

California Acupuncture Board
 Licensing and Misc Fees - V2



No.	Fee Name	Notes	Actual Work Volume	Total Cost Assigned per Unit	Current Fee Amount	Unit Gain/Loss
Renewal	Duplicate Renewal Receipt		112	\$ 47	\$ 10	(\$37)
Renewal	Endorsement		148	\$ 70	\$ 10	(\$60)
Renewal	Duplicate Cert-Add'l Office		510	\$ 95	\$ 15	(\$80)
New Education	CE Provider Approval Fee		299	\$ 414	\$ 150	(\$264)
Renewal Education	CE Provider Approval Renewal Fee		49	\$ 414	\$ 150	(\$264)
Initial	Application Fee - Acupuncturist		630	\$ 623	\$ 75	(\$548)
Education	Re-Exam Fee - Acupuncturist		315	\$ 790	\$ 550	(\$240)
New Education	Application Fee - Acupuncture Supvr		30	\$ 9,701	\$ 200	(\$9,501)
New Education	Application Fee - Acupuncture Trainee		25	\$ 9,726	\$ 25	(\$9,701)
New Exam	Exam Fee - Acupuncturist		525	\$ 721	\$ 550	(\$171)
Initial	Initial Cert - Acupuncturist		388	\$ 314	\$ 325	\$11
Renewal	Biennial Renewal Fee - Acupuncturist		5,870	\$ 644	\$ 325	(\$319)
Renewal Education	Annual Ren - Acupuncturist Supvr		15	\$ 307	\$ 50	(\$257)
Renewal Education	Annual Ren - Acupuncturist Trainee		16	\$ 307	\$ 10	(\$297)
Renewal	Delinquent Ren - Acupuncturist		580	\$ 25	\$ 25	\$0
Education	Delinquent Fee Acupuncture Trainee		1	\$ 121	\$ 5	(\$116)
Education	Delinquent Fee Acupuncture Supvr		1	\$ 121	\$ 25	(\$96)
	Potential New Fees					
Education	CE Course Fee	New	3,400	\$ 182	\$ -	(\$182)
Initial	Foreign applicants	New	50	\$ 7,124	\$ -	(\$7,124)
AB 779	Replacement Pocket License	New	100	\$ 47	\$ 10	(\$37)
AB 779	Wall license duplicate - (Initial & ongoing)	New	5,870	\$ 95	\$ 15	(\$80)
AB 779	Renewal Wall license registration - (Initial renewal)	New	400	\$ 95	\$ 15	(\$80)

V2 - Cap				
Annual Cost Calculations (At Actual Costs Calculated)			Results -V2 Pricing Model	
Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss	V2 Fee Amount Level	V2 Total Annual Revenue
\$ 5,226	\$1,120	(\$4,106)	\$ -	\$ -
\$ 10,337	\$1,480	(\$8,857)	\$ 100	\$ 14,800
\$ 48,333	\$7,650	(\$40,683)	\$ -	\$ -
\$ 123,855	\$44,850	(\$79,005)	\$ 700	\$ 209,300
\$ 20,297	\$7,350	(\$12,947)	\$ 700	\$ 34,300
\$ 392,421	\$47,250	(\$345,171)	\$ 350	\$ 220,500
\$ 248,898	\$173,250	(\$75,648)	\$ 800	\$ 252,000
\$ 291,032	\$6,000	(\$285,032)	\$ 200	\$ 6,000
\$ 243,160	\$625	(\$242,535)	\$ 2,500	\$ 62,500
\$ 378,281	\$288,750	(\$89,531)	\$ 800	\$ 420,000
\$ 121,652	\$126,100	\$4,448	\$ 500	\$ 194,000
\$ 3,782,809	\$1,907,750	(\$1,875,059)	\$ 700	\$ 4,109,000
\$ 4,609	\$750	(\$3,859)	\$ 500	\$ 7,500
\$ 4,916	\$160	(\$4,756)	\$ 600	\$ 9,600
\$ 14,584	\$14,500	(\$84)	\$ 100	\$ 58,000
\$ 121	\$5	(\$116)	\$ 100	\$ 100
\$ 121	\$25	(\$96)	\$ 100	\$ 100
\$ -	\$0	\$0	\$ 250	\$ 272,000
\$ -	\$0	\$0	\$ 500	\$ 25,000
\$ -	\$0	\$0	\$ 50	\$ 5,000
\$ -	\$0	\$0	\$ 50	\$ 293,500
\$ -	\$0	\$0	\$ 50	\$ 20,000

Revenue Target: \$6.2 million

Annual Revenue Impacts			Annual Revenue	
Total Annual Revenue at Cost per Unit	Total Annual Revenue at Current Fees	Total Annual Revenue Gain/Loss		V2 Total Annual Revenue
\$ 5,690,651	\$ 2,627,615	(\$3,063,036)		\$ 6,213,200
			Net Revenue Increase	\$ 3,585,585

Fee Name	Current Fees in Statute & Regulation	Proposed Baseline Fees	Proposed Maximum Fees
BPC § 4970			
Duplicate Renewal Receipt	\$ 10	\$ -	\$ -
Endorsement	\$ 10	\$ 100	\$ 100
Duplicate Cert-Add'l Office	\$ 15	\$ -	\$ -
CE Provider Approval Fee	\$ 150	\$ 500	\$ 700
CE Provider Approval Renewal Fee	\$ 150	\$ 500	\$ 700
Application Fee - Acupuncturist	\$ 75	\$ 250	\$ 350
Re-Exam Fee - Acupuncturist	\$ 550	\$ 800	\$ 800
Application Fee - Acupuncture Supvr	\$ 200	\$ 100	\$ 200
Application Fee - Acupuncture Trainee	\$ 25	\$ 1,000	\$ 2,500
Exam Fee - Acupuncturist	\$ 550	\$ 800	\$ 800
Initial Cert - Acupuncturist	\$ 325	\$ 500	\$ 500
Biennial Renewal Fee - Acupuncturist	\$ 325	\$ 500	\$ 775
BPC § 4971			
Annual Ren - Acupuncturist Supvr	\$ 50	\$ 200	\$ 500
Annual Ren - Acupuncturist Trainee	\$ 10	\$ 500	\$ 600
Delinquent Ren - Acupuncturist	\$ 25	\$ 150	\$ 150
Delinquent Fee Acupuncture Trainee	\$ 5	\$ 100	\$ 200
Delinquent Fee Acupuncture Supvr	\$ 25	\$ 50	\$ 150
Potential New Fees			
CE Course Fee	\$ -	\$ 100	\$ 400
Foreign Applicants	\$ -	\$ 350	\$ 500
Replacement Pocket License	\$ 10	\$ 50	\$ 50
Wall License Registration - (Initial renewal)	\$ 15	\$ 50	\$ 50
Wall License Replacement	\$ 15	\$ 50	\$ 50



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DATE	August 15, 2019
TO	Board Members, Acupuncture Board
FROM	Matt Nishimine, Central Services Manager
SUBJECT	Discussion and Possible Action to Initiate a Rulemaking to Increase Board Fees: To Amend Title 16, CCR §§ 1399.460, 1399.461, and 1399.462

Background

The Acupuncture Board (Board) has not increased its biennial renewal fee and the majority of its licensing fees since 1985. To perform the Board's regulatory, licensing, and disciplinary functions, the Board must generate sufficient revenues from fees associated with licensing and education.

Since fiscal year 2014/2015, the Board's revenue has not kept pace with its authorized expenditures, thereby creating a structural imbalance and causing a declining savings. The Board's revenues are less than expenditures by approximately \$2.1 million per year.

The Board's fund condition presented at the June 2019 Board meeting projected that by fiscal year 2020/2021, the Board's months in reserve would be down to 3.4 months. Further, by fiscal year 2021/2022, the fund condition projects the Board's months in reserve to be in the negative. Thus, it is imperative the Board align its revenues with its expenditures to eliminate the structural imbalance and create a prudent reserve of approximately three to six months. To achieve this alignment, staff is proposing the Board's fees be increased through legislation and regulatorily, effective January 1, 2021.

Discussion

The first step to address the Board's structural imbalance is to conduct a fee study that accounts for personnel services costs, and operating expenses and equipment costs to determine the cost per unit to issue the license, registration, etc. The second step is to propose amendments to the statutes that authorize the Board's fees. The third and final step is to implement the fees from the amended statutes in regulation to align with those changed laws and the mandates from Business and Professions Code (BPC) section 4972, which requires the Board set forth the fees fixed by the Board in regulations.

The proposed regulatory language being presented today is setting the base level fees identified from the fee study and the proposed bill language in regulation, with the exception of the continuing education (CE) course fees. CE fees have a tiered model based upon the number of course hours stated in the course application. Therefore, staff

is recommending the full fee range from base level to maximum level be implemented through regulation. Staff also identified tutorial fees were only set in statute and is proposing such fees also be set in regulation for consistency and to comply with BPC section 4972.

It is the complete process to initiate rulemaking and clearly set fees not only in statute, but also in the Board's regulations. Since the Board's budget is imbalanced, staff is proposing an emergency rulemaking package to increase its fees to avoid the Board going insolvent.

The enclosed amendments to California Code of Regulations (CCR) sections 1399.460, 1399.461, and 1399.462 are being presented today for Board discussion. Staff is recommending the Board approve the enclosed proposed language and authorize staff to initiate the rulemaking process.

Motion

Possible Motions for Amendments to CCR § 1399.460

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.460, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

Possible Motions for Amendments to CCR § 1399.461

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.461, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

Possible Motions for Amendments to CCR § 1399.462

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.462, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:



Fees – Suggested Regulatory Language

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ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Amend Section 1399.460 of Article 6 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.460. Fees.

(a) The application fee shall be ~~seventy five dollars (\$75)~~ two hundred fifty dollars (\$250).

(b) The application fee for foreign applicants shall be three hundred fifty dollars (\$350).

~~(b)(c)~~ (c) The examination and reexamination fee shall be five hundred, fifty dollars (\$550) eight hundred dollars (\$800), plus the applicable fingerprint processing fee in effect at the time the application is submitted.

~~(e)~~ (d) In order to establish and administer a birthdate renewal program, the initial license fee for an acupuncture license will be based on the date the license is issued and the birth month of the applicant. No license will be issued for less than twelve (12) months. The fee for an initial license shall be in accordance with the following schedule:

Month Fee Received

↓Birth Month↓	January	February	March	April	May	June	July	August	September	October	November	December
January	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190
February	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203
March	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217
April	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230
May	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244
June	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257
July	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271
August	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285
September	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298
October	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312
November	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325
December	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176

Month Fee Received

<<arrow>>Birth	January	February	March	April	May	June	July	August	September	October	November	December
Month<<arrow>>												
January	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190
February	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203
March	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217
April	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230
May	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257	\$244
June	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271	\$257
July	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285	\$271
August	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298	\$285
September	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312	\$298
October	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325	\$312
November	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176	\$325
December	\$325	\$312	\$298	\$285	\$271	\$257	\$244	\$230	\$217	\$203	\$190	\$176

Birth Month	<u>Month Fee Received</u>											
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Jan	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292
Feb	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313
Mar	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333
Apr	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354
May	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375
June	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396
July	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417
Aug	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458	\$ 438
Sept	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479	\$ 458
Oct	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500	\$ 479
Nov	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271	\$ 500
Dec	\$ 500	\$ 479	\$ 458	\$ 438	\$ 417	\$ 396	\$ 375	\$ 354	\$ 333	\$ 313	\$ 292	\$ 271

~~(d)~~(e) Effective January 1, ~~1996~~ 2021, the biennial renewal fee for a licensed acupuncturist shall be ~~three hundred twenty-five dollars (\$325)~~ five hundred dollars (\$500).

~~(e)~~(f) An expired license may be renewed at any time within three years after its expiration. The licensee will be required to pay all accrued and unpaid renewal fees, plus any delinquency fee.

~~(f)~~(g) The delinquency fee is ~~twenty-five dollars (\$25)~~ one hundred fifty dollars (\$150).

~~(g)~~ The application fee for the approval of a school or college shall be ~~one thousand and five hundred dollars (\$1,500)~~.

~~(h)~~ The wall license fee shall be fifty dollars (\$50).

~~(i)~~ The biennial renewal fee for the wall license shall be fifty dollars (\$50).

~~(j)~~ The delinquency fee for the wall license shall be twenty-five dollars (\$25).

~~(h)~~(k) The fee for a ~~duplicate or replacement engraved wall license shall be fifteen dollars (\$15)~~ fifty dollars (\$50).

~~(i)~~(l) The fee for a ~~duplicate or replacement renewal receipt/pocket license shall be ten dollars (\$10)~~ fifty dollars (\$50).

~~(j)~~(m) The fee for a letter of endorsement shall be ~~ten dollars (\$10)~~ one hundred dollars (\$100).

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Section 4938, ~~4939~~, 4940, 4941, 4944, 4961, 4965, 4966, 4970, 4971 and 4972, Business and Professions Code.

(2) Amend Section 1399.461 of Article 6 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.461. Acupuncture Tutorials.

The annual renewal fees shall be due within 30 days of completion of one (1) year of an approved acupuncture tutorial.

(a) The application and registration fee to supervise an acupuncture trainee shall be one hundred dollars (\$100).

(b) The annual renewal fee for approval to supervise an acupuncture trainee shall be two hundred dollars (\$200).

(c) The application fee for an acupuncture trainee shall be one thousand dollars (\$1,000).

(d) The annual renewal fee for an acupuncture trainee shall be five hundred dollars (\$500).

(e) The delinquency fee to supervise an acupuncture trainee shall be fifty dollars (\$50) and may be increased to not more than one hundred fifty dollars (\$150).

(f) The delinquency fee for an acupuncture trainee shall be one hundred dollars (\$100).

Note: Authority cited: Section 4933, Business and Professions Code. Reference cited: Section 4971, Business and Professions Code.

(3) Amend Section 1399.462 of Article 6 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.462. Continuing Education Fees; Continuing Education Providers; Continuing Education Courses.

(a) The approval fee for each provider of continuing education shall be ~~\$150.00~~ five hundred dollars (\$500).

(b) The biennial renewal approval fee for each provider of continuing education shall be five hundred dollars (\$500).

(c) The continuing education course application fee shall be assessed based on the following hours included in the application submitted for board approval:

(1) Courses equal to or less than eight (8) hours shall be one hundred dollars (\$100).

(2) Courses more than eight (8) hours and less than or equal to sixteen (16) hours shall be two hundred dollars (\$200).

(3) Courses more than sixteen (16) hours and less than or equal to twenty-four (24) hours shall be three hundred dollars (\$300).

(4) Courses more than twenty-four (24) hours or conferences shall be four hundred dollars (\$400).

(d) "Conference" means a live, face-to-face event spanning more than one day. Characteristics include break-out sessions or tracks where several presentations occur at the same time, multiple speakers, and varying topics.

(e) Each provider of continuing education must list each course taken at the conference on the licensee's certificate of completion.

(f) Licensees can only receive credit for continuing education courses approved by the Board.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Section 4945 and 4970, Business and Professions Code.



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DATE	August 3, 2019
TO	Board Members
FROM	Jay Herdt – Licensing Manager
SUBJECT	Licensing Report: Q4 and Year End 18/19 FY (July 1, 2018 – June 30, 2019)

Acupuncture Training Programs:

There are currently 35 approved acupuncture and educational training programs as defined by Business and Professions Code section (BPC§) 4927.5(a).

Status of Curriculum Reviews - Curriculum Compliance Status as of FY 18-19:

Twenty-eight (28) programs are in full compliance.

One out-of-state program is currently actively working with staff in the curriculum compliance review process.

The remaining six training programs are in compliance review and have submitted their curriculum and clinical corrective actions to the Acupuncture Board (Board) and are pending staff review of their curriculum.

All approved educational and training programs requesting curriculum-changes after January 1, 2017, are required to complete and submit the Application for Board Approval of Curriculum (ABAC).

New Applications for Board Approval of Curriculum:

The Board did not receive any ABAC's in Q4 FY 18-19.

10 ABAC's were received in FY 18-19.

Programs have averaged three application submissions to reach full compliance.

Initial Curriculum Applications are under review for the American College of Traditional Chinese Medicine at the California Institute of Integral Studies (ACTCM), Doctorate of Acupuncture and Chinese Medicine (DACM) program.

New Approved Educational and Training Programs

Whitewater Institute of CA (Whitewater) located in Cupertino, CA, has received curriculum approval for FY 18/19 after demonstrating full compliance with the Board's requirements. The program has also received the Approval to Operate from the Bureau of Private Post-Secondary Education. In addition, in Q1 FY19-20 Whitewater submitted a name change request and a letter of intent to pursue accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). In accordance with ACAOM's Accreditation Procedures Policy, Whitewater has completed

Step 3 of 8 of the ACAOM Eligibility Phase; preparing for pre-accreditation. Thus, Whitewater now meets the three requirements of an approved education and training program as defined by BPC § 4927.5. and can begin qualifying their students as applicants for the California Acupuncture Licensing Exam.

Continuing Education (CE) Audit Update:

The CE Desk is auditing the current month licensing renewals. Board staff are randomly selecting 5% of the renewing population of licensees every month. To date, audits for the months of February, May, June 2019 have been initiated. Staff will report current audit statistics to the Board as they become available.

CE Update

- 706 CE Course applications processed in Q4 FY 18-19.
- 3238 CE course applications FY 18-19 year end.
- 574 CE Providers with a current and valid approval status.

Tutorial Program Update:

There are currently 45 active tutorials in progress.

Tutorial Training Statistics:

Q4 FY 18-19

- 1 program completed
- 1 new tutorial program approval
- 3 new applications pending review
- 5 incomplete applications pending further documentation
- 3 applications withdrawn at the request of the applicants
- No program terminations

FY 18-19 Year End

- 12 programs completed
- 12 new tutorial program approvals
- 1 program was terminated



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DATE	July 12, 2019
TO	Board Members, Acupuncture Board
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	Legislative Update

Set out below is a list of legislative bills Acupuncture Board (Board) staff are tracking in the current 2019-20 legislative session.

- May 31 is the last day for each house to pass bills introduced in their house of origin.
- July 10, bills with a fiscal impact must be passed out of a policy committee.
- July 12, bills without a fiscal impact must be passed out of a policy committee.
- August 30, fiscal bills must be passed out of fiscal committees.
- September 13 at midnight is the last day for the Legislature to pass bills.
- October 13 is the last day for the Governor to sign or veto bills passed by the Legislature.

Each bill listed has the full text and latest legislative analysis as attachments. Below is a short introduction and analysis of the bill, staff comments, and staff recommendations. Please be advised the Board always has the option of not taking a position on a bill.

The 2019-20 legislative session is well under way, so there may be some minor or substantial amendments to bills that were previously discussed at the last Board meeting. In the case of a bill being drastically changed, the Board may want to update its position, so it can be communicated to the Legislature accordingly.

Generally, the following positions are taken:

- **Support** – Board supports the bill as of the last amended date as indicated and feels it should become law. Reasons for support of the bill should be stated in the motion, as well as a motion to delegate to the Executive Officer (EO) to work with the author if the amendments are in line with the Board's justification of support.
- **Support if amended** – Board supports the bill on the condition that amendments are made that the Board feels are necessary to become law. The necessary amendments should be stated in the motion.
- **Oppose** – Board opposes the bill and feels it should not become law. Reasons for opposition to the bill should be stated in the motion.

- **Oppose unless amended** – Board conditionally opposes the bill if and until amendments the Board feels are necessary are made by the author. The necessary amendments should be stated in the motion.
- **Neutral** – No position is taken, and the Legislature is not informed as to the Board’s position on the bill (unless directed by the Board to do so).
- **No position** – Board wishes to not declare a position.

If a position is adopted by the Board, a motion may be made as follows:

“Motion to take a [POSITION] position on [BILL NUMBER (AUTHOR)], as amended on [DATE], for the reasons discussed by members and staff and as reflected in the staff memo, and delegate authority to the EO to work with the author if the amendments are in line with the Board’s justification and direct the EO to inform the Legislature and the Author’s office of this position.”

Once the position is taken, staff will communicate the Board’s adopted position (except for a ‘watch’ or ‘no position’, as noted above) to the Legislature for each bill. The Board’s communication of its position will be noted in subsequent legislative analyses and may be taken into consideration by the Legislature.

Please note that the following bills reflect amendments and statuses as of July 12, 2019.

1. Assembly Bill 544 (Brough) – Professions and vocations: inactive license fees and accrued and unpaid renewal fees

Status: In Committee and held under submission on May 16, 2019.

Date as Amended: March 21, 2019

Summary: This bill would:

- Limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license.
- Prohibit a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.

Board’s Current Position: Oppose

Comments: The intent of this bill is to reduce the barrier of reentry for someone with an inactive or expired license who may have stopped working to focus on raising children or dealing with an illness, or other life events.

As a special fund agency, the Board relies heavily on renewal fees to fund its licensing and enforcement functions. Licensees often choose to renew in inactive status because it allows them to waive the continuing education (CE) requirement and maintain their license without practicing in California.

While inactive licensees are exempt from the CE requirement, they are still required to pay their full renewal fees. This is due to the Board’s continued jurisdiction over the license, which results in license maintenance and enforcement workload. Although inactive licensees may not practice in California, the Board still investigates complaints, arrests, convictions, and/or out of state disciplinary orders.

This bill would result in the Board losing approximately \$74,000 annually from the fees currently generated from inactive license renewals. In addition, when a licensee is expired on two renewal periods, the Board requires the licensee to pay the accrued

renewal fees plus the accrued delinquency fees. The provision of the bill related to prohibiting the collection of accrued and unpaid renewal fees could result in an annual revenue loss of approximately \$7,000. Other Boards have made similar projections of revenue loss and have taken oppose positions.

Staff Recommendation: None

2. Assembly Bill 613 (Low) – Professions and vocations: regulatory fees

Status: In Senate Business, Professions, and Economic Development Committee: Testimony taken. Hearing postponed by committee.

Date as Introduced: February 14, 2019

Summary: This bill would:

- Allow each board within the Department, no more than once every four years, to increase any of its fees by an amount not to exceed the increase in the California Consumer Price Index (CPI) for the preceding four (4) years.
- Require that any CPI-based fee adjustment made by a Board receive approval from the Director of the Department, who shall approve the adjustment only if none of the following apply:
 - a) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.
 - b) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.
 - c) The director determines that the fee increase would be injurious to the public health, safety, or welfare.
- Clarify that the fee adjustments allowed by the bill do not apply to administrative fines, civil penalties, or criminal penalties.

Current Board Position: **Support**

Comments: The purpose of this bill is to provide an **additional mechanism** for boards to adjust their regulatory fees as a means of sustaining fiscal health. The bill would allow for limited administrative adjustments, which would only be allowed once every four years and would be restricted to the increase in CPI calculated over the preceding four years. In addition to creating more fund stability for boards, the bill is intended to prevent licensees from being abruptly confronted with drastic increases in fees, particularly to the extent that part of those increases are based entirely on the steady change in the value of a dollar over time.

Notwithstanding this bill, boards would still be required to seek a fee adjustment through statute or regulations for any increase exceeding a four-year CPI change calculation. Nothing in the bill is intended to prevent boards from pursuing these standard methods of adjusting fees. The bill, as drafted, is limited to addressing fee adjustments made purely based on inflationary considerations.

Staff Recommendation: None

3. Assembly Bill 778 (Low) – Acupuncture: continuing education

Status: In Senate for third reading.

Date as Introduced: February 19, 2019

Summary: This bill would:

- Require the Board to establish, by regulation, a procedure for identifying acceptable providers of continuing education courses
- Require all providers of continuing education to comply with the procedures established by the Board.
- Authorize the Board to revoke or deny the right of a provider to offer continuing education coursework for failure to comply with specified provisions of law.

Current Board Position: **Support**

Comments: The bill is intended to strengthen the Board's enforcement over approved continuing education (CE) courses and CE providers. The Board already has procedures in place for CE providers to comply with through regulation; however, this bill authorizes the Board to promulgate additional procedures through regulation.

Currently, the Board has authority to issue citations and fines for any non-compliance with the CE regulations. This bill would allow the Board to revoke or deny the right of a provider to offer CE coursework for non-compliance. This bill would strengthen its public protection over CE providers.

Staff Recommendation: None

4. Assembly Bill 779 (Low) – Acupuncture: place of practice: wall license

Status: In Senate for third reading.

Date as Amended: June 5, 2019

Summary: This bill would:

- Require a licensee to apply to the Board to obtain a wall license, as defined, for each place of practice as defined, and maintained by the licensee.
- Require a licensee to post an active and valid wall license at each place of practice.
- Require a licensee to notify the board if the licensee does not have a place of practice and would require a licensee to carry a pocket license during treatments outside of a licensee's place of practice, making the pocket license available upon request. Require a licensee to renew a wall license biennially, as specified.
- Provide that a wall license is nontransferable and any change to a registered location in connection with a wall license requires a new wall license and the former wall license returned to the Board with a request for cancellation.
- Provide that an initial license fee includes one wall license registration if a place of practice is specified in the application.
- Set a separate \$15 fee for a wall license, replacement wall license, and wall license renewal.
- Sets a \$10 pocket license replacement fee.
- Provide that a licensee shall be responsible for the acupuncture, Asian massage services, or any other practice specified under Section 4937 rendered pursuant to the license of the acupuncturist in each place of practice maintained by the acupuncturist.
- Make these provisions operative on January 1, 2021.

Current Board Position: **Support**

Comments: The amended bill is very beneficial for enforcement in terms of having more transparency with all licensees' practice locations. Requiring renewal of each wall license connected to a place of practice allows for greater accountability and better tracking, which is an increase to public protection.

The Board currently has a strategic plan item related to seeking inspection authority. Having greater tracking and regulation over licensees' places of practice fits with the strategic plan item and furthers accessibility to these practice locations. The projected expenditures related to this bill are expected to be minor and absorbable within existing resources.

Staff Recommendation: None

5. Assembly Bill 888 (Low) – Opioid prescriptions: information: nonpharmacological treatments for pain

Status: In Senate: Testimony taken. Hearing postponed by committee.

Date as Amended: April 11, 2019

Summary: This bill would:

- Extend existing requirements related to minors such that prescribers, with certain exceptions, before directly dispensing or issuing to a patient the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss the risks of opioids and the availability of nonpharmacological treatments for pain, including, but not limited to, acupuncture, chiropractic care, physical therapy, occupational therapy, and licensed mental health provider services.
- Remove an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic intractable pain, as specified, and would instead make an exception in the case of a patient who is currently receiving hospice care.
- Require the prescriber, after discussing the information, to offer, as deemed appropriate by the prescriber, a referral for a provider of nonpharmacological treatments for pain, and to obtain informed written consent from the patient, a minor patient's parent or guardian, or another authorized adult, as specified.
- Make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benefits benchmark plan.

Board's Current Position: **Support**

Comments: This bill is in response to the Legislature's declaration that an opioid crisis exists within California. Urgent discussion has been prompted regarding the risks of addiction associated with overreliance on prescription medication for pain management.

Research indicates that, for many patients, nonpharmacological therapies can be equally or more effective for treating pain, without the risks of addiction or overdose associated with pharmaceutical painkillers. This bill increases the awareness and access to nonpharmacological treatments such as acupuncture.

This bill would spread awareness to consumers of acupuncture's availability and benefits. It would also expand medical doctor's referrals and acupuncture's relevancy in the medical industry. Staff estimates no fiscal impact related to the changes of this bill.

Staff Recommendation: None

6. Assembly Bill 1076 (Ting) – Criminal Records: automatic relief.

Status: In Senate. Passed as amended and re-referred to the Committee on Appropriations

Date as Amended: July 11, 2019

Summary: Existing law authorizes a person who was arrested and has successfully completed specified programs, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person's arrest record. Existing law authorizes a defendant to petition to withdraw the defendant's plea of guilty or nolo contendere and enter a plea of not guilty, if specified conditions are met. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would:

- Require the Department of Justice (DOJ), on a weekly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.
- The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a weekly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.
- For convictions entered on or after January 1, 2018, the bill would authorize the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a motion to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that motion, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.
- The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.
- The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.
- The bill would make conforming changes.

Board's Current Position: No position

Comments: The intent of this bill is to reduce housing and employment barriers and use available technology to clear arrest and criminal records for individuals already eligible for relief, and to reduce recidivism for those who are unable to find steady employment due to the difficulty of getting a job with a criminal record.

Currently, it is difficult to ascertain how many license applicants the Board has evaluated who meet the criteria set by the courts to have a plea overturned or an arrest record sealed. The Board's database does not have a mechanism to track applicants who have applied with arrests or convictions set aside or expunged.

It is concerning the Board would not have access to a licensee's criminal record if the applicant's record was expunged through this automated process. This bill does not promote public protection to the extent it reduces the Board's access to information about criminal convictions and impacts the Board's ability to exercise its discretion to deny, discipline, or revoke a license based on an applicant's criminal history.

The DOJ estimates this bill would have a significant fiscal impact on its operations and budget. As a result, the Board's DOJ costs could also increase.

Staff Recommendation: None

7. Senate Bill 53 (Wilk) – Open meetings

Status: Still under Committee review with Legislature.

Date as Amended: March 5, 2019

Summary: This bill modifies the Bagley-Keen Open Meeting Act and makes changes to the definition of a "state body."

This bill would:

- Require two-member advisory committees of a "state body" 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.

Board's Current Position: **Oppose**

Comments: In 2014 and 2015, Governor Jerry Brown vetoed similar measures. Brown's veto message indicated that any meeting involving formal action by a state body should be open to the public. An advisory committee, however, does not have authority to act on its own and must present any findings and recommendations to a larger body in a public setting for formal action, which should be sufficient to ensure transparency.

The purpose of the bill is to provide more transparency to state government and eliminate ambiguity to its definition of which state bodies are subject to Bagley-Keene. The bill is also closing a loop-hole in which the author states some two-member advisory committees are taking advantage of current law and are in fact a "state body."

Advisory committees do not take any formal action and can only make recommendations to the Board. Further, advisory committee materials and discussion go before the Board during open meetings, and advisory committee chairs report on their respective proceedings to the full Board at a public meeting.

The provisions of this bill would be very burdensome, creating unnecessary processes when trying to further Board business without improving transparency. Advisory committees streamline the research and discussion of policy issues. If this bill becomes

law, communications between any two Board members conducting official Board business via advisory committee meetings would be subject to the Bagley-Keene Open Meeting Act. Such a requirement would slow down Board business.

Additionally, staff anticipates significant costs associated with this bill in paying for more travel, meeting spaces, and other logistics to hold more public meetings. Other boards have taken oppose positions on this bill based on similar concerns.

Staff Recommendation: None

8. Senate Bill 425 (Hill) – Health care practitioners: licensee’s file: probationary physician’s and surgeon’s certificate: unprofessional conduct

Status: In the Assembly Committee on Appropriations.

Date as Amended: June 27, 2019

Summary: This bill would:

- Amend Business and Professions Code section 800, subdivision (c)(1) to delete the specification that the summary of a licensee’s central file be “comprehensive” when provided to a licensee when the source is being protected.
- Add Business and Professions Code section 805.8, requiring any defined health care facility or other defined entity to report any allegation of sexual abuse or sexual misconduct, as defined, made against a healing arts licensee by a patient, if the patient or the patient’s representative makes the allegation in writing, to the relevant state licensing agency within 15 days of receiving the written allegation.
- Require the relevant agency to investigate the circumstances underlying the received report. The bill would require such a report to be kept confidential and, with certain exceptions, such a report would not be subject to discovery or disclosure in a disciplinary hearing.
- Make a willful failure to file the report by a health care facility or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other reporting failure punishable by a civil fine not to exceed \$50,000 per violation, as specified.
- Allows the fine to be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the licensee regarding whom the report was or should have been filed.
- Provide that any willful failure to file a report constitutes unprofessional conduct by the licensee.
- Prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health care facility or other entity from incurring civil or criminal liability as a result of making a report.
- Make additional changes impacting the Medical Practice Act.

Board’s Current Position: **Support**

Comments: As of last fiscal year, sexual misconduct cases made up approximately 5% of the Board’s total complaints received. The amount of sexual misconduct cases would increase based on the changes of SB 425, but the exact increase in volume is unknown at this time. Additionally, if the Board learns of any non-compliance with the reporting requirements, that could increase complaint volume as well.

At this time, judging from the low volume of current sexual misconduct cases the Board receives per year, its estimated volume should not increase to a level warranting additional enforcement staff. The fiscal impact of SB 425 is projected to be minor and absorbable within existing resources at this time. If actual workload is greater than projected, the Board may be required to request additional resources through the annual process.

This is a noteworthy bill that provides for more public protection.

9. Senate Bill 601 (Morrell) – State agencies: licenses: fee waiver

Status: Still under Committee review with Legislature.

Date as Amended: June 27, 2019

Summary: This bill would:

- Add Government Code section 11009.5, authorizing any state agency that issues any business license (including but not limited to a certificate, registration, or other document required to engage in business) to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.
- Specify the following in the agency's fee or waiver process: 1.) Methodology used for determining whether a person been displaced or is experiencing economic hardship; 2.) The procedure for applying for a reduction or fee waiver; 3.) That the application shall be made within one year of the date on which the emergency was proclaimed or declared.
- Board's Current Position: No position

Comments: This bill would authorize, but not require, the Board to alleviate a licensee from renewal and other licensing fees in the state of an emergency.

The fiscal effect of this bill is unknown. If the Board decides to waive or reduce fees for any licensee affected by a state or federal emergency, staff's biggest concern is the potential for a significant loss in Board revenue if a qualifying emergency is declared in an area where there is a high number of licensed acupuncturists.

The concern and uncertainty related to revenue loss was addressed in the amendments made to the bill on June 27, 2019. The bill now requires an agency to establish a process for someone affected by an emergency to submit an application for a reduction or waiver of fees. This would require boards to enact regulations to establish the process with the minimum specifications from the bill and any additional criteria for evaluating applications for fee waivers and reductions. The regulation could also identify the types of fee waivers and reductions the Board is willing to permit.

With the new authority requiring boards to establish a process and criteria to evaluate applications, as well as the authority to establish limits on the types of waivers and reductions that may be approved, staff estimates the impact of this bill would be minor and absorbable within existing resources.

Staff Recommendation: None



AB 544 Language

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AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 544

Introduced by Assembly Member Brough

February 13, 2019

~~An act to amend Section 4073 of the Business and Professions Code, relating to healing arts.~~ *An act to amend Sections 121.5, 462, 703, 1006.5, 1718, 1718.3, 1936, 2427, 2456.3, 2535.2, 2538.54, 2646, 2734, 2892.1, 2984, 3147, 3147.7, 3524, 3774, 3775.5, 4545, 4843.5, 4901, 4966, 4989.36, 4999.104, 5070.6, 5600.2, 5680.1, 6796, 6980.28, 7076.5, 7417, 7672.8, 7725.2, 7729.1, 7881, 7883, 8024.7, 8802, 9832, 9832.5, 9884.5, 19170.5, and 19290 of the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 544, as amended, Brough. ~~Prescriptions.~~ *Professions and vocations: inactive license fees and accrued and unpaid renewal fees.*

Existing law provides for the licensure and regulation of professions and vocations by various boards within the Department of Consumer Affairs. Existing law provides for the payment of a fee for the renewal of certain licenses, certificates, or permits in an inactive status, and, for certain licenses, certificates, and permits that have expired, requires the payment of all accrued fees as a condition of reinstatement of the license, certificate, or permit.

This bill would limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license. The bill would also prohibit a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.

~~The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy, which is within the Department of Consumer Affairs, and authorizes a pharmacist filling a prescription order for a drug product prescribed by its brand or trade name to select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name of those drug products having the same active chemical ingredients, as specified.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 121.5 of the Business and Professions
2 Code is amended to read:

3 121.5. (a) Except as otherwise provided in this code, the
4 application of delinquency fees ~~or accrued and unpaid renewal~~
5 fees for the renewal of expired licenses or registrations shall not
6 apply to licenses or registrations that have lawfully been designated
7 as inactive or retired.

8 (b) *Notwithstanding any other law, a board shall not require a*
9 *person to pay accrued and unpaid renewal fees as a condition of*
10 *reinstating an expired license or registration.*

11 SEC. 2. Section 462 of the Business and Professions Code is
12 amended to read:

13 462. (a) Any of the boards, bureaus, commissions, or programs
14 within the department may establish, by regulation, a system for
15 an inactive category of licensure for persons who are not actively
16 engaged in the practice of their profession or vocation.

17 (b) The regulation shall contain the following provisions:

18 (1) The holder of an inactive license issued pursuant to this
19 section shall not engage in any activity for which a license is
20 required.

21 (2) An inactive license issued pursuant to this section shall be
22 renewed during the same time period in which an active license
23 is renewed. The holder of an inactive license need not comply with
24 any continuing education requirement for renewal of an active
25 license.

1 (3) The renewal fee for a license in ~~an active status shall apply~~
2 ~~also for a renewal of a license in an inactive status, unless a lesser~~
3 ~~renewal fee is specified by the board.~~ *status shall be no more than*
4 *50 percent of the renewal fee for a license in an active status.*

5 (4) In order for the holder of an inactive license issued pursuant
6 to this section to restore ~~his or her~~ *the* license to an active status,
7 the holder of an inactive license shall comply with all the
8 following:

9 (A) Pay the renewal fee.

10 (B) If the board requires completion of continuing education
11 for renewal of an active license, complete continuing education
12 equivalent to that required for renewal of an active license, unless
13 a different requirement is specified by the board.

14 (c) This section shall not apply to any healing arts board as
15 specified in Section 701.

16 *SEC. 3. Section 703 of the Business and Professions Code is*
17 *amended to read:*

18 703. (a) An inactive healing arts license or certificate issued
19 pursuant to this article shall be renewed during the same time
20 period at which an active license or certificate is renewed. In order
21 to renew a license or certificate issued pursuant to this article, the
22 holder thereof need not comply with any continuing education
23 requirement for renewal of an active license or certificate.

24 (b) ~~The~~ *Notwithstanding any other law, the* renewal fee for a
25 license or certificate in an ~~active~~ *inactive* status shall ~~apply also~~
26 ~~for renewal of a license or certificate in an inactive status, unless~~
27 ~~a lower fee has been established by the issuing board.~~ *be no more*
28 *than 50 percent of the renewal fee for a license in an active status.*

29 *SEC. 4. Section 1006.5 of the Business and Professions Code*
30 *is amended to read:*

31 1006.5. Notwithstanding any other law, the amount of
32 regulatory fees necessary to carry out the responsibilities required
33 by the Chiropractic Initiative Act and this chapter are fixed in the
34 following schedule:

35 (a) Fee to apply for a license to practice chiropractic: three
36 hundred seventy-one dollars (\$371).

37 (b) Fee for initial license to practice chiropractic: one hundred
38 eighty-six dollars (\$186).

39 (c) Fee to renew an ~~active or inactive~~ license to practice
40 chiropractic: three hundred thirteen dollars (\$313).

- 1 (d) Fee to renew an inactive license to practice chiropractic:
- 2 no more than 50 percent of the renewal fee for an active license.
- 3 ~~(d)~~
- 4 (e) Fee to apply for approval as a continuing education provider:
- 5 eighty-four dollars (\$84).
- 6 ~~(e)~~
- 7 (f) Biennial continuing education provider renewal fee: fifty-six
- 8 dollars (\$56).
- 9 ~~(f)~~
- 10 (g) Fee to apply for approval of a continuing education course:
- 11 fifty-six dollars (\$56) per course.
- 12 ~~(g)~~
- 13 (h) Fee to apply for a satellite office certificate: sixty-two dollars
- 14 (\$62).
- 15 ~~(h)~~
- 16 (i) Fee to renew a satellite office certificate: thirty-one dollars
- 17 (\$31).
- 18 ~~(i)~~
- 19 (j) Fee to apply for a license to practice chiropractic pursuant
- 20 to Section 9 of the Chiropractic Initiative Act: three hundred
- 21 seventy-one dollars (\$371).
- 22 ~~(j)~~
- 23 (k) Fee to apply for a certificate of registration of a chiropractic
- 24 corporation: one hundred eighty-six dollars (\$186).
- 25 ~~(k)~~
- 26 (l) Fee to renew a certificate of registration of a chiropractic
- 27 corporation: thirty-one dollars (\$31).
- 28 ~~(l)~~
- 29 (m) Fee to file a chiropractic corporation special report:
- 30 thirty-one dollars (\$31).
- 31 ~~(m)~~
- 32 (n) Fee to apply for approval as a referral service: five hundred
- 33 fifty-seven dollars (\$557).
- 34 ~~(n)~~
- 35 (o) Fee for an endorsed verification of licensure: one hundred
- 36 twenty-four dollars (\$124).
- 37 ~~(o)~~
- 38 (p) Fee for replacement of a lost or destroyed license: fifty
- 39 dollars (\$50).
- 40 ~~(p)~~

1 (q) Fee for replacement of a satellite office certificate: fifty
2 dollars (\$50).

3 ~~(q)~~

4 (r) Fee for replacement of a certificate of registration of a
5 chiropractic corporation: fifty dollars (\$50).

6 ~~(r)~~

7 (s) Fee to restore a forfeited or canceled license to practice
8 chiropractic: double the annual renewal fee specified in subdivision
9 (c).

10 ~~(s)~~

11 (t) Fee to apply for approval to serve as a preceptor: thirty-one
12 dollars (\$31).

13 ~~(t)~~

14 (u) Fee to petition for reinstatement of a revoked license: three
15 hundred seventy-one dollars (\$371).

16 ~~(u)~~

17 (v) Fee to petition for early termination of probation: three
18 hundred seventy-one dollars (\$371).

19 ~~(v)~~

20 (w) Fee to petition for reduction of penalty: three hundred
21 seventy-one dollars (\$371).

22 *SEC. 5. Section 1718 of the Business and Professions Code is*
23 *amended to read:*

24 1718. Except as otherwise provided in this chapter, an expired
25 license may be renewed at any time within five years after its
26 expiration on filing of application for renewal on a form prescribed
27 by the board, and payment of ~~all accrued~~ *the* renewal and
28 delinquency fees. If the license is renewed more than 30 days after
29 its expiration, the licensee, as a condition precedent to renewal,
30 shall also pay the delinquency fee prescribed by this chapter.
31 Renewal under this section shall be effective on the date on which
32 the application is filed, on the date on which the renewal fee is
33 paid, or on the date on which the delinquency fee, if any, is paid,
34 whichever last occurs. If so renewed, the license shall continue in
35 effect through the expiration date provided in Section 1715 which
36 next occurs after the effective date of the renewal, when it shall
37 expire if it is not again renewed.

38 *SEC. 6. Section 1718.3 of the Business and Professions Code*
39 *is amended to read:*

1 1718.3. (a) A license which is not renewed within five years
 2 after its expiration may not be renewed, restored, reinstated, or
 3 reissued thereafter, but the holder of the license may apply for and
 4 obtain a new license if the following requirements are satisfied:

5 (1) No fact, circumstance, or condition exists which would
 6 justify denial of licensure under Section 480.

7 (2) ~~He or she~~ *The person* pays all of the fees which would be
 8 required of ~~him or her if he or she~~ *if the person* were then applying
 9 for the license for the first time and ~~all the~~ renewal and delinquency
 10 fees which have accrued since the date on which he or she last
 11 renewed his or her license. *fees.*

12 (3) ~~He or she~~ *The person* takes and passes the examination, if
 13 any, which would be required of ~~him or her if he or she~~ *if the*
 14 *person* were then applying for the license for the first time, or
 15 otherwise establishes to the satisfaction of the board that with due
 16 regard for the public interest, ~~he or she~~ *the person* is qualified to
 17 practice the profession or activity in which ~~he or she~~ *again the*
 18 *person* seeks to be licensed.

19 (b) The board may impose conditions on any license issued
 20 pursuant to this section, as it deems necessary.

21 (c) The board may by regulation provide for the waiver or refund
 22 of all or any part of the examination fee in those cases in which a
 23 license is issued without an examination under this section.

24 *SEC. 7. Section 1936 of the Business and Professions Code is*
 25 *amended to read:*

26 1936. Except as otherwise provided in this article, an expired
 27 license may be renewed at any time within five years after its
 28 expiration by filing an application for renewal on a form prescribed
 29 by the hygiene board and payment of ~~all accrued~~ *the* renewal and
 30 delinquency fees. If the license is renewed after its expiration, the
 31 licensee, as a condition precedent of renewal, shall also pay the
 32 delinquency fee prescribed by this article. Renewal under this
 33 section shall be effective on the date on which the application is
 34 filed, on the date on which the renewal fee is paid, or on the date
 35 on which the delinquency fee, if any, is paid, whichever last occurs.
 36 If so renewed, the license shall continue in effect until the
 37 expiration date provided in Section 1935 that next occurs after the
 38 effective date of the renewal.

39 *SEC. 8. Section 2427 of the Business and Professions Code is*
 40 *amended to read:*

1 2427. (a) Except as provided in Section 2429, a license which
2 has expired may be renewed at any time within five years after its
3 expiration on filing an application for renewal on a form prescribed
4 by the licensing authority and payment of ~~all accrued~~ *the* renewal
5 ~~fees~~ *fee* and any other fees required by Section 2424. If the license
6 is not renewed within 30 days after its expiration, the licensee, as
7 a condition precedent to renewal, shall also pay the prescribed
8 delinquency fee, if any. Except as provided in Section 2424,
9 renewal under this section shall be effective on the date on which
10 the renewal application is filed, on the date on which the renewal
11 ~~fee or accrued renewal fees are~~ *is* paid, or on the date on which
12 the delinquency fee or the delinquency fee and penalty fee, if any,
13 are paid, whichever last occurs. If so renewed, the license shall
14 continue in effect through the expiration date set forth in Section
15 2422 or 2423 which next occurs after the effective date of the
16 renewal, when it shall expire and become invalid if it is not again
17 renewed.

18 (b) Notwithstanding subdivision (a), the license of a doctor of
19 podiatric medicine which has expired may be renewed at any time
20 within three years after its expiration on filing an application for
21 renewal on a form prescribed by the licensing authority and
22 payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and any other fees
23 required by Section 2424. If the license is not renewed within 30
24 days after its expiration, the licensee, as a condition precedent to
25 renewal, shall also pay the prescribed delinquency fee, if any.
26 Except as provided in Section 2424, renewal under this section
27 shall be effective on the date on which the renewal application is
28 filed, on the date on which the renewal ~~fee or accrued renewal fees~~
29 ~~are~~ *is* paid, or on the date on which the delinquency fee or the
30 delinquency fee and penalty fee, if any, are paid, whichever last
31 occurs. If so renewed, the license shall continue in effect through
32 the expiration date set forth in Section 2422 or 2423 which next
33 occurs after the effective date of the renewal, when it shall expire
34 and become invalid if it is not again renewed.

35 *SEC. 9. Section 2456.3 of the Business and Professions Code*
36 *is amended to read:*

37 2456.3. Except as provided in Section 2429, a license which
38 has expired may be renewed at any time within five years after its
39 expiration by filing an application for renewal on a form prescribed
40 by the board and payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and

1 any other fees required by Section 2455. Except as provided in
2 Section 2456.2, renewal under this section shall be effective on
3 the date on which the renewal application is filed, on the date on
4 which the renewal fee ~~or accrued renewal fees are~~ *is* paid, or on
5 the date on which the delinquency fee or the delinquency fee and
6 penalty fee, if any, are paid, whichever last occurs. If so renewed,
7 the license shall continue in effect through the expiration date set
8 forth in Section 2456.1 which next occurs after the effective date
9 of the renewal.

10 *SEC. 10. Section 2535.2 of the Business and Professions Code*
11 *is amended to read:*

12 2535.2. Except as provided in Section 2535.3, a license that
13 has expired may be renewed at any time within five years after its
14 expiration upon filing of an application for renewal on a form
15 prescribed by the board and payment of ~~all accrued and unpaid~~
16 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed on or
17 before its expiration, the licensee, as a condition precedent to
18 renewal, shall also pay the prescribed delinquency fee. Renewal
19 under this section shall be effective on the date on which the
20 application is filed, on the date on which ~~all the renewal fees are~~
21 *fee is* paid, or on the date on which the delinquency fee is paid,
22 whichever last occurs. If so renewed, the license shall continue in
23 effect through the expiration date provided in Section 2535, after
24 the effective date of the renewal, when it shall expire and become
25 invalid if it is not again renewed.

26 *SEC. 11. Section 2538.54 of the Business and Professions Code*
27 *is amended to read:*

28 2538.54. Except as otherwise provided in this article, an expired
29 license may be renewed at any time within three years after its
30 expiration on filing of an application for renewal on a form
31 prescribed by the board, and payment of ~~all accrued and unpaid~~
32 ~~renewal fees.~~ *the renewal fee.* If the license is renewed after its
33 expiration the licensee, as a condition precedent to renewal, shall
34 also pay the delinquency fee prescribed by this article. Renewal
35 under this section shall be effective on the date on which the
36 application is filed, on the date on which the renewal fee is paid,
37 or on the date on which the delinquency fee, if any, is paid,
38 whichever last occurs. If so renewed, the license shall continue in
39 effect through the date provided in Section 2538.53 which next

1 occurs after the effective date of the renewal, when it shall expire
2 if it is not again renewed.

3 *SEC. 12. Section 2646 of the Business and Professions Code*
4 *is amended to read:*

5 2646. A license that has expired may be renewed at any time
6 within five years after its expiration by applying for renewal as
7 set forth in Section 2644. Renewal under this section shall be
8 effective on the date on which the renewal application is filed, on
9 the date on which the renewal fee ~~or accrued renewal fees are~~ *is*
10 paid, or on the date on which the delinquency fee and penalty fee,
11 if any, are paid, whichever last occurs. A renewed license shall
12 continue in effect through the expiration date set forth in Section
13 2644 that next occurs after the effective date of the renewal, at
14 which time it shall expire and become invalid if it is not so
15 renewed.

16 *SEC. 13. Section 2734 of the Business and Professions Code*
17 *is amended to read:*

18 2734. Upon application in writing to the board and payment
19 of ~~the a fee not to exceed 50 percent of the~~ biennial renewal fee,
20 a licensee may have ~~his~~ *their* license placed in an inactive status
21 for an indefinite period of time. A licensee whose license is in an
22 inactive status may not practice nursing. However, such a licensee
23 does not have to comply with the continuing education standards
24 of Section 2811.5.

25 *SEC. 14. Section 2892.1 of the Business and Professions Code*
26 *is amended to read:*

27 2892.1. Except as provided in Sections 2892.3 and 2892.5, an
28 expired license may be renewed at any time within four years after
29 its expiration upon filing of an application for renewal on a form
30 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
31 ~~fees,~~ *the renewal fee,* and payment of any fees due pursuant to
32 Section 2895.1.

33 If the license is renewed more than 30 days after its expiration,
34 the licensee, as a condition precedent to renewal, shall also pay
35 the delinquency fee prescribed by this chapter. Renewal under this
36 section shall be effective on the date on which the application is
37 filed, on the date on which ~~all the renewal fees are~~ *fee is* paid, or
38 on the date on which the delinquency fee is paid, whichever last
39 occurs. If so renewed, the license shall continue in effect through
40 the date provided in Section 2892 which next occurs after the

1 effective date of the renewal, when it shall expire if it is not again
 2 renewed.

3 *SEC. 15. Section 2984 of the Business and Professions Code*
 4 *is amended to read:*

5 2984. Except as provided in Section 2985, a license that has
 6 expired may be renewed at any time within three years after its
 7 expiration on filing of an application for renewal on a form
 8 prescribed by the board and payment of ~~all accrued and unpaid~~
 9 ~~the renewal fees.~~ *fee*. If the license is renewed after its expiration,
 10 the licensee, as a condition precedent to renewal, shall also pay
 11 the prescribed delinquency fee, if any. Renewal under this section
 12 shall be effective on the date on which the application is filed, on
 13 the date on which ~~all the renewal fees are~~ *fee is* paid, or on the date
 14 on which the delinquency fee, if any, is paid, whichever last occurs.
 15 If so renewed, the license shall continue in effect through the
 16 expiration date provided in Section 2982 which next occurs after
 17 the effective date of the renewal, when it shall expire and become
 18 invalid if it is not again renewed.

19 *SEC. 16. Section 3147 of the Business and Professions Code*
 20 *is amended to read:*

21 3147. (a) Except as otherwise provided by Section 114, an
 22 expired optometrist license may be renewed at any time within
 23 three years after its expiration, and a retired license issued for less
 24 than three years may be reactivated to active status, by filing an
 25 application for renewal or reactivation on a form prescribed by the
 26 board, paying ~~all accrued and unpaid the renewal fees~~ *fee* or
 27 ~~reactivation fees~~ *fee* determined by the board, paying any
 28 delinquency fees prescribed by the board, and submitting proof of
 29 completion of the required number of hours of continuing education
 30 for the last two years, as prescribed by the board pursuant to
 31 Section 3059. Renewal or reactivation to active status under this
 32 section shall be effective on the date on which all of those
 33 requirements are satisfied. If so renewed or reactivated to active
 34 status, the license shall continue as provided in Sections 3146 and
 35 3147.5.

36 (b) Expired statements of licensure, branch office licenses, and
 37 fictitious name permits issued pursuant to Sections 3070, 3077,
 38 and 3078, respectively, may be renewed at any time by filing an
 39 application for renewal, paying ~~all accrued and unpaid renewal~~

1 ~~fees, the renewal fee~~, and paying any delinquency fees prescribed
2 by the board.

3 *SEC. 17. Section 3147.7 of the Business and Professions Code*
4 *is amended to read:*

5 3147.7. The provisions of Section 3147.6 shall not apply to a
6 person holding a license that has not been renewed within three
7 years of expiration, if the person provides satisfactory proof that
8 ~~he or she~~ *the person* holds an active license from another state and
9 meets all of the following conditions:

- 10 (a) Is not subject to denial of a license under Section 480.
- 11 (b) Applies in writing for restoration of the license on a form
12 prescribed by the board.
- 13 (c) Pays ~~all accrued and unpaid~~ *the renewal fees fee* and any
14 delinquency fees prescribed by the board.
- 15 (d) Submits proof of completion of the required number of hours
16 of continuing education for the last two years.
- 17 (e) Takes and satisfactorily passes the board's jurisprudence
18 examination.

19 *SEC. 18. Section 3524 of the Business and Professions Code*
20 *is amended to read:*

21 3524. A license or approval that has expired may be renewed
22 at any time within five years after its expiration by filing an
23 application for renewal on a form prescribed by the board or
24 Medical Board of California, as the case may be, and payment of
25 ~~all accrued and unpaid renewal fees.~~ *the renewal fee*. If the license
26 or approval is not renewed within 30 days after its expiration, the
27 licensed physician assistant and approved supervising physician,
28 as a condition precedent to renewal, shall also pay the prescribed
29 delinquency fee, if any. Renewal under this section shall be
30 effective on the date on which the application is filed, on the date
31 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
32 which the delinquency fee, if any, is paid, whichever occurs last.
33 If so renewed, the license shall continue in effect through the
34 expiration date provided in Section 3522 or 3523 which next occurs
35 after the effective date of the renewal, when it shall expire, if it is
36 not again renewed.

37 *SEC. 19. Section 3774 of the Business and Professions Code*
38 *is amended to read:*

39 3774. On or before the birthday of a licensed practitioner in
40 every other year, following the initial licensure, the board shall

1 mail to each practitioner licensed under this chapter, at the latest
2 address furnished by the licensed practitioner to the executive
3 officer of the board, a notice stating the amount of the renewal fee
4 and the date on which it is due. The notice shall state that failure
5 to pay the renewal fee on or before the due date and submit
6 evidence of compliance with Sections 3719 and 3773 shall result
7 in expiration of the license.

8 Each license not renewed in accordance with this section shall
9 expire but may within a period of three years thereafter be
10 reinstated upon payment of ~~all accrued and unpaid~~ *the* renewal
11 fees and penalty fees required by this chapter. The board may also
12 require submission of proof of the applicant's qualifications, except
13 that during the three-year period no examination shall be required
14 as a condition for the reinstatement of any expired license that has
15 lapsed solely by reason of nonpayment of the renewal fee.

16 *SEC. 20. Section 3775.5 of the Business and Professions Code*
17 *is amended to read:*

18 3775.5. The fee for an inactive license shall be ~~the same as no~~
19 *more than 50 percent of the renewal fee for an active license for*
20 *the practice of respiratory care as specified in Section 3775.*

21 *SEC. 21. Section 4545 of the Business and Professions Code*
22 *is amended to read:*

23 4545. Except as provided in Section 4545.2, a license that has
24 expired may be renewed at any time within four years after its
25 expiration on filing an application for renewal on a form prescribed
26 by the board, payment of ~~all accrued and unpaid renewal fees, the~~ *the*
27 *renewal fee*, and payment of all fees required by this chapter. If
28 the license is renewed more than 30 days after its expiration, the
29 holder, as a condition precedent to renewal, shall also pay the
30 delinquency fee prescribed by this chapter. Renewal under this
31 section shall be effective on the date on which the application is
32 filed, on the date on which the renewal fee is paid, or on the date
33 on which the delinquency fee, if any, is paid, whichever last occurs.
34 If so renewed, the license shall continue in effect through the date
35 provided in Section 4544 which next occurs after the effective date
36 of the renewal, when it shall expire if it is not again renewed.

37 A certificate which was forfeited for failure to renew under the
38 law in effect before October 1, 1961, shall, for the purposes of this
39 article, be considered to have expired on the date that it became
40 forfeited.

1 *SEC. 22. Section 4843.5 of the Business and Professions Code*
2 *is amended to read:*

3 4843.5. Except as otherwise provided in this article, an expired
4 certificate of registration may be renewed at any time within five
5 years after its expiration on filing of an application for renewal on
6 a form prescribed by the board, and payment of ~~all accrued and~~
7 ~~unpaid renewal fees.~~ *the renewal fee.* If the certificate of
8 registration is renewed more than 30 days after its expiration, the
9 registrant, as a condition precedent to renewal, shall also pay the
10 delinquency fee prescribed by this article. Renewal under this
11 section shall be effective on the date on which the application is
12 filed, on the date ~~all the renewal fees are~~ *fee is* paid, or on the date
13 on which the delinquency fee, if any, is paid, whichever occurs
14 last.

15 *SEC. 23. Section 4901 of the Business and Professions Code*
16 *is amended to read:*

17 4901. Except as otherwise provided in this chapter, an expired
18 license or registration may be renewed at any time within five
19 years after its expiration on filing of an application for renewal on
20 a form prescribed by the board, and payment of ~~all accrued and~~
21 ~~unpaid renewal fees.~~ *the renewal fee.* If the license or registration
22 is renewed more than 30 days after its expiration, the licensee or
23 registrant, as a condition precedent to renewal, shall also pay the
24 delinquency fee prescribed by this chapter. Renewal under this
25 section shall be effective on the date on which the application is
26 filed, on the date on which ~~all renewal fees are~~ *the renewal fee is*
27 paid, or on the date on which the delinquency fee, if any, is paid,
28 whichever last occurs. If so renewed, the license or registration
29 shall continue in effect through the expiration date provided in
30 Section 4900 that next occurs after the effective date of the renewal,
31 when it shall expire if it is not again renewed.

32 *SEC. 24. Section 4966 of the Business and Professions Code*
33 *is amended to read:*

34 4966. Except as provided in Section 4969, a license that has
35 expired may be renewed at any time within three years after its
36 expiration by filing of an application for renewal on a form
37 provided by the board, paying ~~all accrued and unpaid renewal fees,~~
38 *the renewal fee,* and providing proof of completing continuing
39 education requirements. If the license is not renewed prior to its
40 expiration, the acupuncturist, as a condition precedent to renewal,

1 shall also pay the prescribed delinquency fee. Renewal under this
 2 section shall be effective on the date on which the application is
 3 filed, on the date on which the renewal fee is paid, or on the date
 4 the delinquency fee is paid, whichever occurs last. If so renewed,
 5 the license shall continue in effect through the expiration date
 6 provided in Section 4965, after the effective date of the renewal,
 7 when it shall expire and become invalid if it is not again renewed.

8 *SEC. 25. Section 4989.36 of the Business and Professions Code*
 9 *is amended to read:*

10 4989.36. A licensee may renew a license that has expired at
 11 any time within three years after its expiration date by taking all
 12 of the actions described in Section 4989.32 and by paying ~~all~~
 13 ~~unpaid prior renewal fees and delinquency fees.~~ *the delinquency*
 14 *fee.*

15 *SEC. 26. Section 4999.104 of the Business and Professions*
 16 *Code is amended to read:*

17 4999.104. Licenses issued under this chapter that have expired
 18 may be renewed at any time within three years of expiration. To
 19 renew an expired license described in this section, the licensee
 20 shall do all of the following:

21 (a) File an application for renewal on a form prescribed by the
 22 board.

23 ~~(b) Pay all fees that would have been paid if the license had not~~
 24 ~~become delinquent.~~

25 ~~(c)~~

26 ~~(b)~~ Pay ~~all~~ *the delinquency fees.* *fee.*

27 ~~(d)~~

28 (c) Certify compliance with the continuing education
 29 requirements set forth in Section 4999.76.

30 ~~(e)~~

31 (d) Notify the board whether ~~he or she~~ *the licensee* has been
 32 convicted, as defined in Section 490, of a misdemeanor or felony,
 33 or whether any disciplinary action has been taken by any regulatory
 34 or licensing board in this or any other state, subsequent to the
 35 licensee's last renewal.

36 *SEC. 27. Section 5070.6 of the Business and Professions Code*
 37 *is amended to read:*

38 5070.6. Except as otherwise provided in this chapter, an expired
 39 permit may be renewed at any time within five years after its
 40 expiration upon the filing of an application for renewal on a form

1 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
2 ~~fees~~ *the renewal fee*, and providing evidence satisfactory to the
3 board of compliance as required by Section 5070.5. If the permit
4 is renewed after its expiration, its holder, as a condition precedent
5 to renewal, shall also pay the delinquency fee prescribed by this
6 chapter. Renewal under this section shall be effective on the date
7 on which the application is filed, on the date on which the ~~accrued~~
8 ~~renewal fees are~~ *fee is* paid, or on the date on which the
9 delinquency fee, if any, is paid, whichever last occurs. If so
10 renewed, the permit shall continue in effect through the date
11 provided in Section 5070.5 that next occurs after the effective date
12 of the renewal, when it shall expire if it is not again renewed.

13 *SEC. 28. Section 5600.2 of the Business and Professions Code*
14 *is amended to read:*

15 5600.2. Except as otherwise provided in this chapter, a license
16 which has expired may be renewed at any time within five years
17 after its expiration on filing of application for renewal on a form
18 prescribed by the board, and payment of ~~all accrued and unpaid~~
19 ~~renewal fees.~~ *the renewal fee*. If a license is renewed more than
20 30 days after its expiration, the licenseholder, as a condition
21 precedent to renewal, shall also pay the delinquency fee prescribed
22 by this chapter. Renewal under this section shall be effective on
23 the date on which the application is filed, on the date on which the
24 renewal fee is paid, or on the date on which the delinquency fee,
25 if any, is paid, whichever last occurs. If so renewed, the license
26 shall continue in effect through the expiration date provided in this
27 chapter which next occurs after the effective date of the renewal,
28 when it shall expire if it is not again renewed.

29 *SEC. 29. Section 5680.1 of the Business and Professions Code*
30 *is amended to read:*

31 5680.1. Except as otherwise provided in this chapter, a license
32 that has expired may be renewed at any time within five years after
33 its expiration on filing of an application for renewal on a form
34 prescribed by the board, and payment of ~~all accrued and unpaid~~
35 ~~renewal fees.~~ *the renewal fee*. If the license is renewed more than
36 30 days after its expiration, the licenseholder, as a condition
37 precedent to renewal, shall also pay the delinquency fee prescribed
38 by this chapter. Renewal under this section shall be effective on
39 the date on which the application is filed, on the date on which ~~all~~
40 ~~the renewal fees are~~ *fee is* paid, or on the date on which the

1 delinquency fee, if any, is paid, whichever last occurs. If so
 2 renewed, the license shall continue in effect through the date
 3 provided in Section 5680 that next occurs after the effective date
 4 of the renewal, when it shall expire if it is not again renewed.

5 *SEC. 30. Section 6796 of the Business and Professions Code*
 6 *is amended to read:*

7 6796. Except as otherwise provided in this article, certificates
 8 of registration as a professional engineer and certificates of
 9 authority may be renewed at any time within five years after
 10 expiration on filing of application for renewal on a form prescribed
 11 by the board and payment of ~~all accrued and unpaid renewal fees.~~
 12 *the renewal fee.* If the certificate is renewed more than 60 days
 13 after its expiration, the certificate holder, as a condition precedent
 14 to renewal, shall also pay the delinquency fee prescribed by this
 15 chapter. Renewal under this section shall be effective on the date
 16 on which the application is filed, on the date on which the renewal
 17 fee is paid, or on the date on which the delinquency fee, if any, is
 18 paid, whichever last occurs.

19 The expiration date of a certificate renewed pursuant to this
 20 section shall be determined pursuant to Section 6795.

21 *SEC. 31. Section 6980.28 of the Business and Professions Code*
 22 *is amended to read:*

23 6980.28. A locksmith license not renewed within three years
 24 following its expiration may not be renewed thereafter. Renewal
 25 of the license within three years, or issuance of an original license
 26 thereafter, shall be subject to payment of any ~~and all fines~~ *fine*
 27 assessed by the chief or the director ~~which are~~ *that is* not pending
 28 appeal and all other applicable fees.

29 *SEC. 32. Section 7076.5 of the Business and Professions Code*
 30 *is amended to read:*

31 7076.5. (a) A contractor may inactivate ~~his or her~~ *their* license
 32 by submitting a form prescribed by the registrar accompanied by
 33 the current active license certificate. When the current license
 34 certificate has been lost, the licensee shall pay the fee prescribed
 35 by law to replace the license certificate. Upon receipt of an
 36 acceptable application to inactivate, the registrar shall issue an
 37 inactive license certificate to the contractor. The holder of an
 38 inactive license shall not be entitled to practice as a contractor until
 39 ~~his or her~~ *their* license is reactivated.

1 (b) Any licensed contractor who is not engaged in work or
2 activities which require a contractor's license may apply for an
3 inactive license.

4 (c) Inactive licenses shall be valid for a period of four years
5 from their due date.

6 (d) During the period that an existing license is inactive, no
7 bonding requirement pursuant to Section 7071.6, 7071.8 or 7071.9
8 or qualifier requirement pursuant to Section 7068 shall apply. An
9 applicant for license having met the qualifications for issuance
10 may request that the license be issued inactive unless the applicant
11 is subject to the provisions of Section 7071.8.

12 (e) The board shall not refund any of the renewal fee which a
13 licensee may have paid prior to the inactivation of ~~his or her~~ *the*
14 license.

15 (f) An inactive license shall be renewed on each established
16 renewal date by submitting the renewal application and paying the
17 inactive renewal fee.

18 (g) An inactive license may be reactivated by submitting an
19 application acceptable to the registrar, by paying ~~the full~~ *a fee no*
20 *more than 50 percent of the* renewal fee for an active ~~license~~
21 *license*, and by fulfilling all other requirements of this chapter. No
22 examination shall be required to reactivate an inactive license.

23 (h) The inactive status of a license shall not bar any disciplinary
24 action by the board against a licensee for any of the causes stated
25 in this chapter.

26 *SEC. 33. Section 7417 of the Business and Professions Code*
27 *is amended to read:*

28 7417. Except as otherwise provided in this article, a license
29 that has expired for failure of the licensee to renew within the time
30 fixed by this article may be renewed at any time within five years
31 following its expiration upon application and payment of ~~all~~
32 ~~accrued and unpaid~~ *the* renewal ~~fees~~ and delinquency fees. If the
33 license is renewed after its expiration, the licensee, as a condition
34 precedent to renewal, shall also pay the delinquency fee and meet
35 current continuing education requirements, if applicable, prescribed
36 by this chapter. Renewal under this section shall be effective on
37 the date on which the application is filed, or on the date on which
38 ~~the accrued renewal fees are~~ *fee is* paid, or on the date on which
39 the delinquency fee, if any, is paid, whichever occurs last. If so
40 renewed, the license shall continue in effect through the expiration

1 date provided in this article which next occurs following the
2 effective date of the renewal, when it shall expire if it is not again
3 renewed.

4 *SEC. 34. Section 7672.8 of the Business and Professions Code*
5 *is amended to read:*

6 7672.8. All cremated remains disposer registrations shall expire
7 at midnight on September 30 of each year. A person desiring to
8 renew ~~his or her~~ *their* registration shall file an application for
9 renewal on a form prescribed by the bureau accompanied by the
10 required fee. A registration that has expired may be renewed within
11 five years of its expiration upon payment of ~~all accrued and unpaid~~
12 ~~renewal fees.~~ *the renewal fee.* The bureau shall not renew the
13 registration of any person who has not filed the required annual
14 report until ~~he or she~~ *the person* has filed a complete annual report
15 with the department.

16 *SEC. 35. Section 7725.2 of the Business and Professions Code*
17 *is amended to read:*

18 7725.2. Except as otherwise provided in this chapter, a license
19 that has expired may be renewed at any time within five years after
20 its expiration on filing of an application for renewal on a form
21 prescribed by the bureau and payment of ~~all accrued and unpaid~~
22 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed within
23 30 days after its expiration the licensee, as a condition precedent
24 to renewal, shall also pay the delinquency fee prescribed by this
25 chapter. Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which ~~all the~~
27 ~~renewal fees are~~ *fee is* paid, or on the date on which the
28 delinquency fee, if any, is paid, whichever last occurs. If so
29 renewed, the license shall continue in effect through the date
30 provided in Section 7725 that next occurs after the effective date
31 of the renewal, when it shall expire if it is not again renewed.

32 If a license is not renewed within one year following its
33 expiration, the bureau may require as a condition of renewal that
34 the holder of the license pass an examination on the appropriate
35 subjects provided by this chapter.

36 *SEC. 36. Section 7729.1 of the Business and Professions Code*
37 *is amended to read:*

38 7729.1. The amount of fees prescribed for a license or
39 certificate of authority under this act is that fixed by the following
40 provisions of this article. Any license or certificate of authority

1 provided under this act that has expired may be renewed within
2 five years of its expiration upon payment of ~~all accrued and unpaid~~
3 ~~renewal and regulatory fees.~~ *the renewal fee.*

4 *SEC. 37. Section 7881 of the Business and Professions Code*
5 *is amended to read:*

6 7881. Except as otherwise provided in this article, certificates
7 of registration as a geologist or as a geophysicist, or certified
8 specialty certificates, may be renewed at any time within five years
9 after expiration on filing an application for renewal on a form
10 prescribed by the board and payment of ~~all accrued and unpaid~~
11 ~~renewal fees.~~ *the renewal fee.* If the certificate is renewed more
12 than 30 days after its expiration, the certificate holder, as a
13 condition precedent to renewal, shall also pay the delinquency fee
14 prescribed by this chapter. Renewal under this section shall be
15 effective on the date on which the application is filed, on the date
16 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
17 which the delinquency fee, if any, is paid, whichever last occurs.
18 If so renewed, the certificate shall continue in effect through the
19 date provided in Section 7880 that next occurs after the effective
20 date of the renewal, when it shall expire if it is not again renewed.

21 *SEC. 38. Section 7883 of the Business and Professions Code*
22 *is amended to read:*

23 7883. A revoked certificate is subject to expiration as provided
24 in this article, but it may not be renewed. If it is reinstated after its
25 expiration, the holder of the certificate, as a condition precedent
26 to its reinstatement, shall pay a reinstatement fee in an amount
27 equal to the renewal fee in effect on the last regular date before
28 the date on which it is ~~reinstated, plus all accrued and unpaid~~
29 ~~renewal fees~~ *reinstated* and the delinquency fee, if any, accrued
30 at the time of its revocation.

31 *SEC. 39. Section 8024.7 of the Business and Professions Code*
32 *is amended to read:*

33 8024.7. The board shall establish an inactive category of
34 licensure for persons who are not actively engaged in the practice
35 of shorthand reporting.

36 (a) The holder of an inactive license issued pursuant to this
37 section shall not engage in any activity for which a license is
38 required.

39 (b) An inactive license issued pursuant to this section shall be
40 renewed during the same time period in which an active license

1 is renewed. The holder of an inactive license is exempt from any
2 continuing education requirement for renewal of an active license.

3 (c) The renewal fee for a license in an active status shall ~~apply~~
4 ~~also for a renewal of a license in an inactive status, unless a lesser~~
5 ~~renewal fee is specified by the board.~~ *be no more than 50 percent*
6 *of the renewal fee for a license in an active status.*

7 (d) In order for the holder of an inactive license issued pursuant
8 to this section to restore ~~his or her~~ *their* license to an active status,
9 the holder of an inactive license shall comply with both of the
10 following:

11 (1) Pay the renewal fee.

12 (2) If the board requires completion of continuing education for
13 renewal of an active license, complete continuing education
14 equivalent to that required for renewal of an active license, unless
15 a different requirement is specified by the board.

16 *SEC. 40. Section 8802 of the Business and Professions Code*
17 *is amended to read:*

18 8802. Except as otherwise provided in this article, licenses
19 issued under this chapter may be renewed at any time within five
20 years after expiration on filing of application for renewal on a form
21 prescribed by the board and payment of ~~all accrued and unpaid~~
22 ~~renewal fees.~~ *the renewal fee.* If the license is renewed more than
23 30 days after its expiration, the licensee, as a condition precedent
24 to renewal, shall also pay the delinquency fee prescribed by this
25 chapter. Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which the renewal
27 fee is paid, or on the date on which the delinquency fee, if any, is
28 paid, whichever last occurs. If so renewed, the license shall
29 continue in effect through the date provided in Section 8801 which
30 next occurs after the effective date of the renewal, when it shall
31 expire if it is not again renewed.

32 *SEC. 41. Section 9832 of the Business and Professions Code*
33 *is amended to read:*

34 9832. (a) Registrations issued under this chapter shall expire
35 no more than 12 months after the issue date. The expiration date
36 of registrations shall be set by the director in a manner to best
37 distribute renewal procedures throughout the year.

38 (b) To renew an unexpired registration, the service dealer shall,
39 on or before the expiration date of the registration, apply for

1 renewal on a form prescribed by the director, and pay the renewal
2 fee prescribed by this chapter.

3 (c) To renew an expired registration, the service dealer shall
4 apply for renewal on a form prescribed by the director, pay the
5 renewal fee in effect on the last regular renewal date, and pay ~~all~~
6 ~~accrued and unpaid~~ the delinquency ~~and renewal fees.~~ *fee.*

7 (d) Renewal is effective on the date that the application is ~~filed,~~
8 ~~filed and~~ the renewal fee is paid, and ~~all~~ delinquency fees are paid.

9 (e) For purposes of implementing the distribution of the renewal
10 of registrations throughout the year, the director may extend by
11 not more than six months, the date fixed by law for renewal of a
12 registration, except that in that event any renewal fee that may be
13 involved shall be prorated in a manner that no person shall be
14 required to pay a greater or lesser fee than would have been
15 required had the change in renewal dates not occurred.

16 *SEC. 42. Section 9832.5 of the Business and Professions Code*
17 *is amended to read:*

18 9832.5. (a) Registrations issued under this chapter shall expire
19 no more than 12 months after the issue date. The expiration date
20 of registrations shall be set by the director in a manner to best
21 distribute renewal procedures throughout the year.

22 (b) To renew an unexpired registration, the service contractor
23 shall, on or before the expiration date of the registration, apply for
24 renewal on a form prescribed by the director, and pay the renewal
25 fee prescribed by this chapter.

26 (c) To renew an expired registration, the service contractor shall
27 apply for renewal on a form prescribed by the director, pay the
28 renewal fee in effect on the last regular renewal date, and pay ~~all~~
29 ~~accrued and unpaid~~ the delinquency and renewal fees.

30 (d) Renewal is effective on the date that the application is ~~filed,~~
31 ~~filed and~~ the renewal fee is paid, and ~~all~~ delinquency fees are paid.

32 (e) For purposes of implementing the distribution of the renewal
33 of registrations throughout the year, the director may extend, by
34 not more than six months, the date fixed by law for renewal of a
35 registration, except that, in that event, any renewal fee that may
36 be involved shall be prorated in such a manner that no person shall
37 be required to pay a greater or lesser fee than would have been
38 required had the change in renewal dates not occurred.

39 (f) This section shall remain in effect only until January 1, 2023,
40 and as of that date is repealed.

1 *SEC. 43. Section 9884.5 of the Business and Professions Code*
2 *is amended to read:*

3 9884.5. A registration that is not renewed within three years
4 following its expiration shall not be renewed, restored, or reinstated
5 thereafter, and the delinquent registration shall be canceled
6 immediately upon expiration of the three-year period.

7 An automotive repair dealer whose registration has been canceled
8 by operation of this section shall obtain a new registration only if
9 ~~he or she~~ *the automotive repair dealer* again meets the requirements
10 set forth in this chapter relating to registration, is not subject to
11 denial under Section 480, and pays the applicable fees.

12 An expired registration may be renewed at any time within three
13 years after its expiration upon the filing of an application for
14 renewal on a form prescribed by the bureau and the payment of
15 ~~all accrued~~ *the* renewal and delinquency fees. Renewal under this
16 section shall be effective on the date on which the application is
17 filed and ~~all~~ *the* renewal and delinquency fees are paid. If so
18 renewed, the registration shall continue in effect through the
19 expiration date of the current registration year as provided in
20 Section 9884.3, at which time the registration shall be subject to
21 renewal.

22 *SEC. 44. Section 19170.5 of the Business and Professions Code*
23 *is amended to read:*

24 19170.5. (a) Except as provided in Section 19170.3, licenses
25 issued under this chapter expire two years from the date of
26 issuance. To renew ~~his or her~~ *a* license, a licensee shall, on or
27 before the date on which it would otherwise expire, apply for
28 renewal on a form prescribed by the chief, and pay the fees
29 prescribed by Sections 19170 and 19213.1. If a licensee fails to
30 renew ~~his or her~~ *their* license before its expiration, a delinquency
31 fee of 20 percent, but not more than one hundred dollars (\$100),
32 notwithstanding the provisions of Section 163.5, shall be added
33 to the renewal fee. If the renewal fee and delinquency fee are not
34 paid within 90 days after expiration of a license, the licensee shall
35 be assessed an additional penalty fee of 30 percent of the renewal
36 fee.

37 (b) Except as otherwise provided in this chapter, a licensee may
38 renew an expired license within six years after expiration of the
39 license by filing an application for renewal on a form prescribed

1 by the bureau, and paying ~~all accrued renewal, delinquent, the~~
2 *renewal, delinquency*, and penalty fees.

3 (c) A license that is not renewed within six years of its expiration
4 shall not be renewed, restored, reinstated, or reissued, but the holder
5 of the license may apply for and obtain a new license if both of
6 the following requirements are satisfied:

7 (1) No fact, circumstance, or condition exists which would
8 justify denial of licensure under Section 480.

9 (2) The licensee pays ~~all the~~ *renewal, delinquency, and penalty*
10 *fees that have accrued since the date on which the license was last*
11 *renewed. fees.*

12 (d) The bureau may impose conditions on any license issued
13 pursuant to subdivision (c).

14 *SEC. 45. Section 19290 of the Business and Professions Code*
15 *is amended to read:*

16 19290. (a) Permits issued under this chapter expire two years
17 from the date of issuance. To renew a permit, a permittee shall,
18 on or before the date on which it would otherwise expire, apply
19 for renewal on a form prescribed by the chief, and continue to pay
20 the fees prescribed in Sections 19288 and 19288.1. Notwithstanding
21 Section 163.5, if a permittee fails to renew the permit before its
22 expiration, a delinquency fee of 20 percent of the most recent fee
23 paid to the bureau pursuant to Sections 19288 and 19288.1 shall
24 be added to the amount due to the bureau at the next fee interval.
25 If the renewal fee and delinquency fee are not paid within 90 days
26 after expiration of a permit, the permittee shall be assessed an
27 additional fee of 30 percent of the most recent fee paid to the
28 bureau pursuant to Sections 19288 and 19288.1.

29 (b) Except as otherwise provided in this chapter, a permittee
30 may renew an expired permit within two years after expiration of
31 the permit by filing an application for renewal on a form prescribed
32 by the bureau, and paying ~~all accrued~~ fees.

33 (c) A permit that is not renewed within two years of its
34 expiration shall not be renewed, restored, reinstated, or reissued,
35 but the holder of the expired permit may apply for and obtain a
36 new permit as provided in this chapter, upon payment of all fees
37 that accrued since the date the permit was last renewed.

38 (d) The bureau may impose conditions on any permit issued
39 pursuant to subdivision (c).

1 SECTION 1. ~~Section 4073 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 4073. (a) ~~A pharmacist filling a prescription order for a drug~~
4 ~~product prescribed by its trade or brand name may select another~~
5 ~~drug product with the same active chemical ingredients of the same~~
6 ~~strength, quantity, and dosage form, and of the same generic drug~~
7 ~~name as determined by the United States Adopted Names (USAN)~~
8 ~~and accepted by the federal Food and Drug Administration (FDA),~~
9 ~~of those drug products having the same active chemical ingredients.~~

10 (b) ~~In no case shall a selection be made pursuant to this section~~
11 ~~if the prescriber personally indicates, either orally or in the~~
12 ~~prescriber's own handwriting, "Do not substitute," or words of~~
13 ~~similar meaning. Nothing in this subdivision shall prohibit a~~
14 ~~prescriber from checking a box on a prescription marked "Do not~~
15 ~~substitute"; provided that the prescriber personally initials the box~~
16 ~~or checkmark. To indicate that a selection shall not be made~~
17 ~~pursuant to this section for an electronic data transmission~~
18 ~~prescription as defined in subdivision (c) of Section 4040, a~~
19 ~~prescriber may indicate "Do not substitute," or words of similar~~
20 ~~meaning, in the prescription as transmitted by electronic data, or~~
21 ~~may check a box marked on the prescription "Do not substitute."~~
22 ~~In either instance, it shall not be required that the prohibition on~~
23 ~~substitution be manually initialed by the prescriber.~~

24 (c) ~~Selection pursuant to this section is within the discretion of~~
25 ~~the pharmacist, except as provided in subdivision (b). The person~~
26 ~~who selects the drug product to be dispensed pursuant to this~~
27 ~~section shall assume the same responsibility for selecting the~~
28 ~~dispensed drug product as would be incurred in filling a~~
29 ~~prescription for a drug product prescribed by generic name. There~~
30 ~~shall be no liability on the prescriber for an act or omission by a~~
31 ~~pharmacist in selecting, preparing, or dispensing a drug product~~
32 ~~pursuant to this section. In no case shall the pharmacist select a~~
33 ~~drug product pursuant to this section unless the drug product~~
34 ~~selected costs the patient less than the prescribed drug product.~~
35 ~~Cost, as used in this subdivision, is defined to include any~~
36 ~~professional fee that may be charged by the pharmacist.~~

37 (d) ~~This section shall apply to all prescriptions, including those~~
38 ~~presented by or on behalf of persons receiving assistance from the~~
39 ~~federal government or pursuant to the California Medical~~
40 ~~Assistance Program set forth in Chapter 7 (commencing with~~

1 ~~Section 14000) of Part 3 of Division 9 of the Welfare and~~
2 ~~Institutions Code.~~
3 ~~(e) When a substitution is made pursuant to this section, the use~~
4 ~~of the cost-saving drug product dispensed shall be communicated~~
5 ~~to the patient and the name of the dispensed drug product shall be~~
6 ~~indicated on the prescription label, except where the prescriber~~
7 ~~orders otherwise.~~

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AB 613 LANGUAGE

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ASSEMBLY BILL

No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:

3 101.1. (a) Notwithstanding any other law, no more than once
4 every four years, any board listed in Section 101 may increase any
5 fee authorized to be imposed by that board by an amount not to
6 exceed the increase in the California Consumer Price Index, as
7 determined pursuant to Section 2212 of the Revenue and Taxation
8 Code, for the preceding four years in accordance with the
9 following:

10 (1) The board shall provide its calculations and proposed fee,
11 rounded to the nearest whole dollar, to the director and the director
12 shall approve the fee increase unless any of the following apply:

13 (A) The board has unencumbered funds in an amount that is
14 equal to more than the board’s operating budget for the next two
15 fiscal years.

16 (B) The fee would exceed the reasonable regulatory costs to the
17 board in administering the provisions for which the fee is
18 authorized.

19 (C) The director determines that the fee increase would be
20 injurious to the public health, safety, or welfare.

21 (2) The adjustment of fees and publication of the adjusted fee
22 list is not subject to the Administrative Procedure Act (Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2) of the Government Code.

25 (b) For purposes of this section, “fee” includes any fees
26 authorized to be imposed by a board for regulatory costs. “Fee”
27 does not include administrative fines, civil penalties, or criminal
28 penalties.



AB 778 Language

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ASSEMBLY BILL

No. 778

Introduced by Assembly Member Low

February 19, 2019

An act to amend Section 4945 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 778, as introduced, Low. Acupuncture: continuing education.

Existing law establishes the Acupuncture Board to administer and enforce the Acupuncture Licensure Act and requires each acupuncturist to complete 50 hours of continuing education every two years. Existing law requires a provider of continuing education to apply to the board for approval to offer continuing education courses and to be monitored by the board.

This bill would require the board to establish, by regulation, a procedure for identifying acceptable providers of continuing education courses and would require all providers of continuing education to comply with the procedures established by the board. The bill would authorize the board to revoke or deny the right of a provider to offer continuing education coursework for failure to comply with specified provisions of law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4945 of the Business and Professions
- 2 Code is amended to read:

1 4945. (a) The board shall establish standards for continuing
2 education for acupuncturists.

3 (b) The board shall require each acupuncturist to complete 50
4 hours of continuing education every two years as a condition for
5 renewal of ~~his or her~~ *the acupuncturist's* license. No more than
6 five hours of continuing education in each two-year period may
7 be spent on issues unrelated to clinical matters or the actual
8 provision of health care to patients. ~~A~~

9 *(c) The board shall establish, by regulation, a procedure for*
10 *identifying acceptable providers of continuing education courses,*
11 *and all providers of continuing education shall comply with*
12 *procedures established by the board.*

13 *(d) A provider of continuing education shall apply to the board*
14 *for approval to offer continuing education courses for credit toward*
15 ~~this~~ *the requirement under subdivision (b) on a form developed*
16 *by the board, shall pay a fee covering the cost of approval and for*
17 *the monitoring of the provider by the ~~board~~ board, and shall set*
18 *forth the following information on the application:*

- 19 (1) Course content.
- 20 (2) Test criteria.
- 21 (3) Hours of continuing education credit requested for the
22 course.
- 23 (4) Experience and training of instructors.
- 24 (5) Other information as required by the board.
- 25 (6) That interpreters or bilingual instruction will be made
26 available, when necessary.

27 *(e) The board may revoke or deny the right of a provider to*
28 *offer continuing education coursework pursuant to this section for*
29 *failure to comply with this section or any regulation adopted*
30 *pursuant to this section.*

31 ~~(e)~~
32 *(f) Licensees residing out of state or out of the country shall*
33 *comply with the continuing education requirements.*

34 ~~(d)~~
35 *(g) Providers of continuing education shall be monitored by the*
36 *board as determined by the board.*

37 ~~(e)~~
38 *(h) If the board determines that any acupuncturist has not*
39 *obtained the required number of hours of continuing education, it*
40 *may renew the acupuncturist's license and require that the deficient*

1 hours of continuing education be made up during the following
2 renewal period in addition to the current continuing education
3 required for that period. If any acupuncturist fails to make up the
4 deficient hours and complete the current requirement of hours of
5 continuing education during the subsequent renewal period, then
6 ~~his or her~~ *the acupuncturist's* license to practice acupuncture shall
7 not be renewed until all the required hours are completed and
8 documented to the board.

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AB 779 Language

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AMENDED IN SENATE JUNE 5, 2019

AMENDED IN ASSEMBLY APRIL 25, 2019

AMENDED IN ASSEMBLY APRIL 22, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 779

Introduced by Assembly Member Low

February 19, 2019

An act to ~~amend~~ *amend, repeal, and add* Sections 4961 and 4970 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 779, as amended, Low. Acupuncture: place of practice: wall license.

Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Existing law requires a licensee, within 30 days of licensure, to register each of the licensee's places of practice or notify the board if the licensee does not have a place of practice. Existing law requires an acupuncturist to post a wall license at their place of practice and, if the acupuncturist has more than one place of practice, to obtain and post a duplicate wall license at each place of practice.

This bill would require a licensee to apply to the board to obtain a wall license for each place of practice and to renew each wall license biennially. The bill would require a licensee to carry a pocket license during treatments outside of the licensee's place of practice and to make the pocket license available upon request. The bill would require a licensee to return a former wall license to the board if the licensee obtains a new wall license for a location. The bill would specify that

an acupuncturist shall be responsible for the services rendered pursuant to the acupuncturist's license at each of licensee's places of practice and ensuring that each place of practice is in compliance with standards of practice. The bill would revise specified fees associated with acupuncture practice, including specifying that an initial license fee shall include one wall license registration if a place of practice is specified in the application, and establish a wall license renewal fee, a wall license replacement fee, and a pocket license replacement fee. The bill would make these provisions operative on January 1, 2021.

~~Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board to administer and enforce the act. Under existing law, an acupuncturist's license authorizes the holder to, among other things, engage in the practice of acupuncture and perform Asian massage. Existing law requires a person licensed to practice acupuncture in this state to register the licensee's place of practice, as specified. Existing law requires a licensee who has no place of practice to notify the board. Existing law requires a licensee that changes the location of the licensee's place of practice to register the change within 30 days of making that change and authorizes the board to deny the renewal of licensure if a licensee fails to register that change. Existing law requires a licensee to post a wall license at each location maintained by the licensee.~~

~~This bill would instead require a licensee to apply to the board to obtain a wall license, as defined, for each place of practice, as defined, maintained by the licensee. The bill would apply the posting requirement to each place of practice. The bill would exempt a licensee who performs acupuncture treatments at a patient's residence from the wall license posting requirement. The bill would require a licensee practicing acupuncture at any location to provide a prescribed notice to each patient. The bill would require a licensee to renew a wall license biennially. The bill would set fees for a wall license, a duplicate wall license, and wall license renewal. The bill would provide that a licensee assumes legal responsibility and liability for the acupuncture and Asian massage services rendered in each place of practice maintained by the acupuncturist. The bill would also make other nonsubstantive changes.~~

~~Existing law establishes amounts for other specific fees prescribed for licensed acupuncturists, including a \$10 duplicate renewal receipt fee.~~

~~This bill would instead impose that fee on a duplicate renewal pocket license.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 4961 of the Business and Professions*
2 *Code is amended to read:*

3 4961. (a) Every person who is now or hereafter licensed to
4 practice acupuncture in this state shall register, on forms prescribed
5 by the Acupuncture Board, the licensee’s place of practice, or, if
6 the licensee has more than one place of practice, all of the places
7 of practice. If the licensee has no place of practice, the licensee
8 shall notify the board of that fact. A person licensed by the board
9 shall register within 30 days after the date of ~~his or her~~ licensure.

10 (b) An acupuncturist licensee shall post ~~his or her~~ the wall
11 license in a conspicuous location in ~~his or her~~ the acupuncturist’s
12 place of practice at all times. If an acupuncturist licensee has more
13 than one place of practice, ~~he or she~~ the licensee shall obtain from
14 the board a duplicate wall license for each additional location and
15 post the duplicate wall license at each location.

16 (c) Any licensee that changes the location of ~~his or her~~ their
17 place of practice shall register each change within 30 days of
18 making that change. In the event a licensee fails to notify the board
19 of any change in the address of a place of practice within the time
20 prescribed by this section, the board may deny renewal of licensure.
21 An applicant for renewal of licensure shall specify in the
22 application whether or not there has been a change in the location
23 of the licensee’s place of practice and, if so, the date of that change.
24 The board may accept that statement as evidence of the change of
25 address.

26 (d) *This section shall remain in effect only until January 1, 2021,*
27 *and as of that date is repealed.*

28 SEC. 2. *Section 4961 is added to the Business and Professions*
29 *Code, to read:*

30 4961. (a) (1) *Every person who is licensed to practice*
31 *acupuncture in this state shall register, on forms prescribed by*
32 *the board that may include an application for an initial license or*
33 *for renewal of a license, each place of practice and apply to the*
34 *board to obtain a wall license for each place of practice.*

1 (2) A wall license shall be renewed biennially, coinciding with
2 the license renewal date. A licensee with a wall license issued
3 before January 1, 2021, shall not be required to apply for a new
4 wall license until the licensee's next license renewal date.

5 (3) If the licensee has no place of practice, the licensee shall
6 notify the board of that fact on a form prescribed by the board. A
7 wall license is not required to be posted when a licensee performs
8 acupuncture treatments outside of the licensee's place of practice.
9 However, the licensee shall carry a pocket license during
10 treatments outside of the licensee's place of practice and make the
11 pocket license available upon request.

12 (4) A licensee shall register each place of practice within 30
13 days after the date of the licensee being licensed by the board or
14 the establishment of a new place of practice, whichever occurs
15 first.

16 (b) (1) An acupuncturist licensee shall post a wall license issued
17 by the board to the licensee in a conspicuous location in each
18 place of practice at all times.

19 (2) If an acupuncturist licensee has more than one place of
20 practice, the licensee shall obtain from the board a separate wall
21 license for each additional location and post the assigned wall
22 license at each location.

23 (c) A licensed acupuncturist shall not display any acupuncture
24 wall license that is not currently active and valid.

25 (d) (1) If a licensee changes the location of a place of practice,
26 the licensee shall apply for the change of location within 30 days
27 of changing the licensee's place of practice on forms prescribed
28 by the board.

29 (2) If a licensee fails to apply for a new wall license with the
30 board due to a change of location within the time prescribed by
31 this subdivision, the board may deny renewal of the license.

32 (e) (1) A wall license is nontransferable.

33 (2) Any change to the registered location in connection with
34 the wall license, such as moving, requires a new wall license, and
35 the former wall license shall be returned to the board with a
36 request for cancellation.

37 (3) The licensee shall apply to the board to obtain a new wall
38 license using the forms prescribed by the board for the new wall
39 license or change of location.

1 (f) (1) *An acupuncturist shall be responsible for the*
2 *acupuncture, Asian massage services, or any other practice*
3 *specified under Section 4937 rendered pursuant to the license of*
4 *the acupuncturist in each place of practice maintained by the*
5 *acupuncturist.*

6 (2) *An acupuncturist maintaining more than one place of*
7 *practice shall ensure that each place of practice is in compliance*
8 *with the standards of practice requirements of this chapter.*

9 (g) *As used in this section:*

10 (1) *“Place of practice” means an acupuncture office where any*
11 *act of acupuncture is practiced and includes a place of practice*
12 *in which the applicant holds a proprietary interest of any nature*
13 *whatsoever or in which the licensee holds any right to participate*
14 *in the management or control thereof.*

15 (2) *“Wall license” means an official document that is issued by*
16 *the board upon application for a place of practice and has a unique*
17 *identification number that is specific to the location provided by*
18 *the licensee in the application.*

19 (h) *This section shall become operative on January 1, 2021.*

20 *SEC. 3. Section 4970 of the Business and Professions Code is*
21 *amended to read:*

22 4970. The amount of fees prescribed for licensed acupuncturists
23 shall be those set forth in this section unless a lower fee is fixed
24 by the board in accordance with Section 4972:

25 (a) The application fee shall be seventy-five dollars (\$75).

26 (b) The examination and reexamination fees shall be the actual
27 cost to the Acupuncture Board for the development and writing
28 of, grading, and administering of each examination.

29 (c) The initial license fee shall be three hundred twenty-five
30 dollars (\$325), except that if the license will expire less than one
31 year after its issuance, then the initial license fee shall be an amount
32 equal to 50 percent of the initial license fee.

33 (d) The renewal fee shall be three hundred twenty-five dollars
34 (\$325) and in the event a lower fee is fixed by the board, shall be
35 an amount sufficient to support the functions of the board in the
36 administration of this chapter. The renewal fee shall be assessed
37 on an annual basis until January 1, 1996, and on and after that date
38 the board shall assess the renewal fee biennially.

39 (e) The delinquency fee shall be set in accordance with Section
40 163.5.

1 (f) The application fee for the approval of a school or college
 2 under Section 4939 shall be three thousand dollars (\$3,000). This
 3 subdivision shall become inoperative on January 1, 2017.

4 (g) The duplicate wall license fee is an amount equal to the cost
 5 to the board for the issuance of the duplicate license.

6 (h) The duplicate renewal receipt fee is ten dollars (\$10).

7 (i) The endorsement fee is ten dollars (\$10).

8 (j) The fee for a duplicate license for an additional office
 9 location as required under Section 4961 shall be fifteen dollars
 10 (\$15).

11 (k) *This section shall remain in effect only until January 1, 2021,*
 12 *and as of that date is repealed.*

13 SEC. 4. *Section 4970 is added to the Business and Professions*
 14 *Code, to read:*

15 *4970. The amount of fees prescribed for licensed acupuncturists*
 16 *shall be those set forth in this section unless a lower fee is fixed*
 17 *by the board in accordance with Section 4972:*

18 (a) *The application fee shall be seventy-five dollars (\$75).*

19 (b) *The examination and reexamination fees shall be the actual*
 20 *cost to the board for the development and writing of, grading, and*
 21 *administering of each examination.*

22 (c) *The initial license fee shall be three hundred twenty-five*
 23 *dollars (\$325), except that if the license will expire less than one*
 24 *year after its issuance, then the initial license fee shall be an*
 25 *amount equal to 50 percent of the initial license fee. The initial*
 26 *license fee shall include one wall license registration if a place of*
 27 *practice is specified in the application.*

28 (d) *The renewal fee shall be three hundred twenty-five dollars*
 29 *(\$325) and, if a lower fee is fixed by the board, shall be an amount*
 30 *sufficient to support the functions of the board in the administration*
 31 *of this chapter. The board shall assess the renewal fee biennially.*

32 (e) *The delinquency fee shall be set in accordance with Section*
 33 *163.5.*

34 (f) *The wall license fee shall be fifteen dollars (\$15).*

35 (g) *The wall license renewal fee shall be fifteen dollars (\$15).*

36 (h) *If a pocket license is lost or destroyed, the pocket license*
 37 *replacement fee is ten dollars (\$10).*

38 (i) *The endorsement fee is ten dollars (\$10).*

39 (j) *If a wall license is lost or destroyed, the wall license*
 40 *replacement fee is fifteen dollars (\$15).*

1 (k) *This section shall become operative on January 1, 2021.*

2 SECTION 1. ~~Section 4961 of the Business and Professions~~
3 ~~Code is amended to read:~~

4 ~~4961. (a) (1) Every person who is licensed to practice~~
5 ~~acupuncture in this state shall register, on forms prescribed by~~
6 ~~board, which may include an application for an initial license or~~
7 ~~for renewal of a license, each place of practice and apply to the~~
8 ~~board to obtain a wall license for each place of practice.~~

9 ~~(2) A wall license shall be renewed biennially, coinciding with~~
10 ~~the license renewal date. A licensee with a wall license issued~~
11 ~~before January 1, 2020, shall not be required to apply for a new~~
12 ~~wall license until the licensee's next license renewal date.~~

13 ~~(3) If the licensee has no place of practice, the licensee shall~~
14 ~~notify the board of that fact on a form prescribed by the board. A~~
15 ~~wall license is not required to be posted when a licensee performs~~
16 ~~acupuncture treatments at a patient's residence.~~

17 ~~(4) A licensee practicing acupuncture at any location shall~~
18 ~~provide a notice to each patient that the acupuncturist is licensed~~
19 ~~and regulated by the board and shall include, at a minimum, the~~
20 ~~licensee's license number and the contact information for the board,~~
21 ~~including the board's phone number and mailing address.~~

22 ~~(5) A licensee shall register each place of practice within 30~~
23 ~~days after the date of the licensee being licensed by the board or~~
24 ~~the establishment of a new place of practice, whichever occurs~~
25 ~~first.~~

26 ~~(b) (1) An acupuncturist licensee shall post a wall license issued~~
27 ~~by the board to the licensee in a conspicuous location in each place~~
28 ~~of practice at all times.~~

29 ~~(2) In accordance with subdivision (f) of Section 119, a licensee~~
30 ~~shall not produce photocopies or any other self-reproduced versions~~
31 ~~of a license.~~

32 ~~(3) If an acupuncturist licensee has more than one place of~~
33 ~~practice, the licensee shall obtain from the board a separate wall~~
34 ~~license for each additional location and post the place of practice~~
35 ~~certificate at each location.~~

36 ~~(c) A licensed acupuncturist shall not display any acupuncture~~
37 ~~wall license that is not currently active and valid.~~

38 ~~(d) (1) If a licensee changes the location of a place of practice,~~
39 ~~the licensee shall apply for the change of location within 30 days~~

1 of changing the licensee's place of practice on forms prescribed
2 by the board.

3 (2) If a licensee fails to apply for a new wall license due to a
4 change of location with the board within the time prescribed by
5 this subdivision, the board may deny renewal of the license.

6 (e) (1) A wall license is nontransferable.

7 (2) Any change to the registered location in connection with
8 the wall license, such as moving, requires a new wall license and
9 the former wall license shall be returned to the board with a request
10 for cancellation.

11 (3) The licensee shall apply to the board to obtain a new wall
12 license using the forms prescribed by the board for the new wall
13 license or change of location.

14 (f) (1) In addition to any existing legal responsibility or liability,
15 an acupuncturist maintaining more than one place of practice shall
16 assume legal responsibility and liability for the acupuncture and
17 Asian massage services rendered in each of the places of practice
18 maintained by the acupuncturist.

19 (2) An acupuncturist maintaining more than one place of practice
20 shall ensure that each place of practice is in compliance with the
21 standards of practice requirements of this chapter.

22 (g) As used in this section:

23 (1) "Place of practice" means an acupuncture office where any
24 act of acupuncture is practiced and includes a place of practice in
25 which the applicant holds a proprietary interest of any nature
26 whatsoever or in which the licensee holds any right to participate
27 in the management or control thereof.

28 (2) "Wall license" means an official document that is issued by
29 the board upon application for a place of practice and has a unique
30 identification number that is specific to the location provided by
31 the licensee in the application.

32 SEC. 2. Section 4970 of the Business and Professions Code is
33 amended to read:

34 4970. The amount of fees prescribed for licensed acupuncturists
35 shall be those set forth in this section unless a lower fee is fixed
36 by the board in accordance with Section 4972:

37 (a) The application fee shall be seventy-five dollars (\$75).

38 (b) The examination and reexamination fees shall be the actual
39 cost to the board for the development and writing of, grading, and
40 administering of each examination.

- 1 ~~(e) The initial license fee shall be three hundred twenty-five~~
2 ~~dollars (\$325), except that if the license will expire less than one~~
3 ~~year after its issuance, then the initial license fee shall be an amount~~
4 ~~equal to 50 percent of the initial license fee.~~
5 ~~(d) The renewal fee shall be three hundred twenty-five dollars~~
6 ~~(\$325) and if a lower fee is fixed by the board, shall be an amount~~
7 ~~sufficient to support the functions of the board in the administration~~
8 ~~of this chapter. The board shall assess the renewal fee biennially.~~
9 ~~(e) The delinquency fee shall be set in accordance with Section~~
10 ~~463.5.~~
11 ~~(f) The wall license fee shall be fifteen dollars (\$15). There shall~~
12 ~~be no fee if the application for a place of practice is made at the~~
13 ~~time of initial license.~~
14 ~~(g) The duplicate renewal pocket license fee is ten dollars (\$10).~~
15 ~~(h) The endorsement fee is ten dollars (\$10).~~
16 ~~(i) The duplicate wall license fee as required under Section 4961~~
17 ~~shall be fifteen dollars (\$15).~~
18 ~~(j) The wall license renewal fee shall be fifteen dollars (\$15).~~

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AB 888 Language

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AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Member Low

February 20, 2019

An act to amend Section 11158.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, Low. Opioid prescriptions: information: nonpharmacological treatments for pain.

Existing law requires a prescriber, with certain exceptions, before directly dispensing or issuing for a minor the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss specified information with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment.

This bill would extend that requirement for the prescriber by applying it to any patient, not only a minor, under those circumstances. The bill would also require the prescriber to discuss the availability of nonpharmacological treatments for pain, as defined.

Existing law makes an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic intractable pain, as specified.

This bill would remove that exception and would instead make an exception in the case of a patient who is currently receiving hospice care.

The bill would require the prescriber, after discussing the information, to ~~offer~~ *offer, as deemed appropriate by the prescriber*, a referral for a provider of nonpharmacological treatments for pain, and to obtain informed written consent from the patient, a minor patient's parent or guardian, or another authorized adult, as specified.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health benefit plan issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined.

This bill would make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benefits benchmark plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The opioid crisis has devastated communities within
4 California, which has prompted an urgent discussion about the
5 risks of addiction associated with overreliance on prescription
6 medication for pain management.

7 (b) A growing body of research indicates that certain
8 nonpharmacological therapies are proven to be equally effective
9 to treat certain causes of pain as prescription opioids, without
10 placing patients at risk for addiction or overdose.

11 (c) To this end, awareness of, and access to, nonpharmacological
12 treatments for pain are vitally important to the state's efforts to
13 combat the opioid crisis, and that coverage of these treatments
14 should be considered during the next update to the state's essential
15 health ~~benefit~~ *benefits* benchmark plan pursuant to Section 156.111
16 of Title 45 of the Code of Federal Regulations.

17 SEC. 2. Section 11158.1 of the Health and Safety Code is
18 amended to read:

19 11158.1. (a) Except when a patient is being treated as set forth
20 in Sections 11159, 11159.2, and 11167.5, and Article 2
21 (commencing with Section 11215) of Chapter 5, pertaining to the

1 treatment of addicts, or except when a patient is currently receiving
2 hospice care, a prescriber shall discuss all of the following
3 information with the patient, or, if the patient is a minor, the minor,
4 the minor's parent or guardian, or another adult authorized to
5 consent to the minor's medical treatment, before directly dispensing
6 or issuing to a patient the first prescription in a single course of
7 treatment for a controlled substance containing an opioid:

8 (1) The risks of addiction and overdose associated with the use
9 of opioids.

10 (2) The increased risk of addiction to an opioid for an individual
11 who is suffering from both mental and substance abuse disorders.

12 (3) The danger of taking an opioid with a benzodiazepine,
13 alcohol, or another central nervous system depressant.

14 (4) The availability of nonpharmacological treatments for pain.

15 (5) Any other information required by law.

16 (b) After discussing the information required by subdivision
17 (a), the prescriber shall do both of the following:

18 (1) Obtain informed written consent from the patient, a minor
19 patient's parent or guardian, or another adult authorized to consent
20 to the minor patient's medical treatment, which shall be placed in
21 the patient's medical record and shall contain all of the following:

22 (A) The name and quantity of the controlled substance being
23 prescribed or issued to the patient, and the amount of the initial
24 dose.

25 (B) A statement certifying that the prescriber discussed with
26 the patient, a minor patient's parent or guardian, or another adult
27 authorized to consent to the minor patient's medical treatment, the
28 information required by subdivision (a).

29 (C) A space for the signature of the patient, a minor patient's
30 parent or guardian, or another adult authorized to consent to the
31 minor patient's medical treatment.

32 (2) ~~Offer~~ *Offer, as deemed appropriate by the prescriber, a*
33 *referral for a provider of nonpharmacological treatments for pain.*

34 (c) This section does not apply in any of the following
35 circumstances:

36 (1) If the patient's treatment includes emergency services and
37 care as defined in Section 1317.1.

38 (2) If the patient's treatment is associated with, or incidental to,
39 an emergency surgery, regardless of whether the surgery is
40 performed on an inpatient or outpatient basis.

- 1 (3) If, in the prescriber’s professional judgment, fulfilling the
- 2 requirements of subdivision (a) or (b) would be detrimental to the
- 3 patient’s health or safety, or in violation of the patient’s legal rights
- 4 regarding confidentiality.
- 5 (d) For purposes of this section, “nonpharmacological treatments
- 6 for pain” include, but are not limited to, acupuncture, chiropractic
- 7 care, physical therapy, occupational therapy, and licensed mental
- 8 health provider services.
- 9 (e) *This section shall not be construed as requiring health care*
- 10 *coverage, or changing existing health care coverage requirements,*
- 11 *for nonpharmacological treatments for pain.*
- 12 ~~(e)~~
- 13 (f) Notwithstanding any other law, including Section 11374,
- 14 failure to comply with this section shall not constitute a criminal
- 15 offense.

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AB 1076 Language

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AMENDED IN SENATE JULY 11, 2019

AMENDED IN SENATE JUNE 26, 2019

AMENDED IN ASSEMBLY MAY 16, 2019

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1076

Introduced by Assembly Member Ting
(Coauthors: Assembly Members Chiu and Mark Stone)
(Coauthor: Senator Wiener)

February 21, 2019

An act to amend Sections 480 and 480.2 of the Business and Professions Code, and to amend Section 11105 of, and to add Sections 851.93 and 1203.425 to, the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, as amended, Ting. Criminal records: automatic relief.

Existing law authorizes a person who was arrested and has successfully completed a prefiling diversion program, a person who has successfully completed a specified drug diversion program, a person who has successfully completed a specified deferred entry of judgment program, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person's arrest record. Under existing law, if a defendant successfully completes certain diversion programs, the arrest for the crime for which the defendant was diverted is deemed to have never occurred.

Existing law authorizes a defendant to petition to withdraw the defendant's plea of guilty or nolo contendere and enter a plea of not

guilty, if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met, and the defendant is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would, commencing January 1, 2021, require the Department of Justice, on a weekly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.

The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a weekly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

~~The~~

For convictions entered on or after January 1, 2018, the bill would authorize the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a motion to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that motion, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.

The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.

The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.

The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 480 of the Business and Professions Code,
2 as amended by Section 3 of Chapter 995 of the Statutes of 2018,
3 is amended to read:

4 480. (a) A board may deny a license regulated by this code
5 on the grounds that the applicant has one of the following:

6 (1) Been convicted of a crime. A conviction within the meaning
7 of this section means a plea or verdict of guilty or a conviction
8 following a plea of nolo contendere. Any action that a board is
9 permitted to take following the establishment of a conviction may
10 be taken when the time for appeal has elapsed, or the judgment of
11 conviction has been affirmed on appeal, or when an order granting
12 probation is made suspending the imposition of sentence,
13 irrespective of a subsequent order under the provisions of Section
14 1203.4, 1203.4a, ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal
15 Code.

16 (2) Done any act involving dishonesty, fraud, or deceit with the
17 intent to substantially benefit ~~himself or herself~~ *themselves* or
18 another, or substantially injure another.

19 (3) (A) Done any act that if done by a licentiate of the business
20 or profession in question, would be grounds for suspension or
21 revocation of license.

22 (B) The board may deny a license pursuant to this subdivision
23 only if the crime or act is substantially related to the qualifications,
24 functions, or duties of the business or profession for which
25 application is made.

26 (b) Notwithstanding any other provision of this code, a person
27 shall not be denied a license solely on the basis that ~~he or she has~~
28 ~~they have~~ been convicted of a felony if ~~he or she has~~ ~~they have~~
29 obtained a certificate of rehabilitation under Chapter 3.5
30 (commencing with Section 4852.01) of Title 6 of Part 3 of the
31 Penal Code or that ~~he or she has~~ ~~they have~~ been convicted of a

1 misdemeanor if ~~he or she~~ *they have* met all applicable
 2 requirements of the criteria of rehabilitation developed by the board
 3 to evaluate the rehabilitation of a person when considering the
 4 denial of a license under subdivision (a) of Section 482.

5 (c) Notwithstanding any other provisions of this code, a person
 6 shall not be denied a license solely on the basis of a conviction
 7 that has been dismissed pursuant to Section 1203.4, 1203.4a, ~~or~~
 8 ~~1203.41~~ *1203.41, or 1203.425* of the Penal Code. An applicant
 9 who has a conviction that has been dismissed pursuant to Section
 10 1203.4, 1203.4a, ~~or 1203.41~~ *1203.41, or 1203.425* of the Penal
 11 Code shall provide proof of the dismissal.

12 (d) A board may deny a license regulated by this code on the
 13 ground that the applicant knowingly made a false statement of fact
 14 that is required to be revealed in the application for the license.

15 (e) This section shall become inoperative on July 1, 2020, and,
 16 as of January 1, 2021, is repealed.

17 *SEC. 2. Section 480 of the Business and Professions Code, as*
 18 *added by Section 4 of Chapter 995 of the Statutes of 2018, is*
 19 *amended to read:*

20 480. (a) Notwithstanding any other provision of this code, a
 21 board may deny a license regulated by this code on the grounds
 22 that the applicant has been convicted of a crime or has been subject
 23 to formal discipline only if either of the following conditions are
 24 met:

25 (1) The applicant has been convicted of a crime within the
 26 preceding seven years from the date of application that is
 27 substantially related to the qualifications, functions, or duties of
 28 the business or profession for which the application is made,
 29 regardless of whether the applicant was incarcerated for that crime,
 30 or the applicant has been convicted of a crime that is substantially
 31 related to the qualifications, functions, or duties of the business or
 32 profession for which the application is made and for which the
 33 applicant is presently incarcerated or for which the applicant was
 34 released from incarceration within the preceding seven years from
 35 the date of application. However, the preceding seven-year
 36 limitation shall not apply in either of the following situations:

37 (A) The applicant was convicted of a serious felony, as defined
 38 in Section 1192.7 of the Penal Code or a crime for which
 39 registration is required pursuant to paragraph (2) or (3) of
 40 subdivision (d) of Section 290 of the Penal Code.

1 (B) The applicant was convicted of a financial crime currently
2 classified as a felony that is directly and adversely related to the
3 fiduciary qualifications, functions, or duties of the business or
4 profession for which the application is made, pursuant to
5 regulations adopted by the board, and for which the applicant is
6 seeking licensure under any of the following:

- 7 (i) Chapter 1 (commencing with Section 5000) of Division 3.
- 8 (ii) Chapter 6 (commencing with Section 6500) of Division 3.
- 9 (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- 10 (iv) Chapter 11.3 (commencing with Section 7512) of Division
11 3.
- 12 (v) Licensure as a funeral director or cemetery manager under
13 Chapter 12 (commencing with Section 7600) of Division 3.
- 14 (vi) Division 4 (commencing with Section 10000).

15 (2) The applicant has been subjected to formal discipline by a
16 licensing board in or outside California within the preceding seven
17 years from the date of application based on professional misconduct
18 that would have been cause for discipline before the board for
19 which the present application is made and that is substantially
20 related to the qualifications, functions, or duties of the business or
21 profession for which the present application is made. However,
22 prior disciplinary action by a licensing board within the preceding
23 seven years shall not be the basis for denial of a license if the basis
24 for that disciplinary action was a conviction that has been dismissed
25 pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~ 1203.42,
26 *or 1203.425* of the Penal Code or a comparable dismissal or
27 expungement.

28 (b) Notwithstanding any other provision of this code, a person
29 shall not be denied a license on the basis that ~~he or she~~ *the person*
30 has been convicted of a crime, or on the basis of acts underlying
31 a conviction for a crime, if ~~he or she~~ *that person* has obtained a
32 certificate of rehabilitation under Chapter 3.5 (commencing with
33 Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been
34 granted clemency or a pardon by a state or federal executive, or
35 has made a showing of rehabilitation pursuant to Section 482.

36 (c) Notwithstanding any other provision of this code, a person
37 shall not be denied a license on the basis of any conviction, or on
38 the basis of the acts underlying the conviction, that has been
39 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~
40 *1203.42, or 1203.425* of the Penal Code, or a comparable dismissal

1 or expungement. An applicant who has a conviction that has been
2 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~
3 *1203.42, or 1203.425* of the Penal Code shall provide proof of the
4 dismissal if it is not reflected on the report furnished by the
5 Department of Justice.

6 (d) Notwithstanding any other provision of this code, a board
7 shall not deny a license on the basis of an arrest that resulted in a
8 disposition other than a conviction, including an arrest that resulted
9 in an infraction, citation, or a juvenile adjudication.

10 (e) A board may deny a license regulated by this code on the
11 ground that the applicant knowingly made a false statement of fact
12 that is required to be revealed in the application for the license. A
13 board shall not deny a license based solely on an applicant's failure
14 to disclose a fact that would not have been cause for denial of the
15 license had it been disclosed.

16 (f) A board shall follow the following procedures in requesting
17 or acting on an applicant's criminal history information:

18 (1) A board issuing a license pursuant to Chapter 3 (commencing
19 with Section 5500), Chapter 3.5 (commencing with Section 5615),
20 Chapter 10 (commencing with Section 7301), Chapter 20
21 (commencing with Section 9800), or Chapter 20.3 (commencing
22 with Section 9880), of Division 3, or Chapter 3 (commencing with
23 Section 19000) or Chapter 3.1 (commencing with Section 19225)
24 of Division 8 may require applicants for licensure under those
25 chapters to disclose criminal conviction history on an application
26 for licensure.

27 (2) Except as provided in paragraph (1), a board shall not require
28 an applicant for licensure to disclose any information or
29 documentation regarding the applicant's criminal history. However,
30 a board may request mitigating information from an applicant
31 regarding the applicant's criminal history for purposes of
32 determining substantial relation or demonstrating evidence of
33 rehabilitation, provided that the applicant is informed that
34 disclosure is voluntary and that the applicant's decision not to
35 disclose any information shall not be a factor in a board's decision
36 to grant or deny an application for licensure.

37 (3) If a board decides to deny an application for licensure based
38 solely or in part on the applicant's conviction history, the board
39 shall notify the applicant in writing of all of the following:

40 (A) The denial or disqualification of licensure.

1 (B) Any existing procedure the board has for the applicant to
2 challenge the decision or to request reconsideration.

3 (C) That the applicant has the right to appeal the board's
4 decision.

5 (D) The processes for the applicant to request a copy of ~~his or~~
6 ~~her~~ *the applicant's* complete conviction history and question the
7 accuracy or completeness of the record pursuant to Sections 11122
8 to 11127 of the Penal Code.

9 (g) (1) For a minimum of three years, each board under this
10 code shall retain application forms and other documents submitted
11 by an applicant, any notice provided to an applicant, all other
12 communications received from and provided to an applicant, and
13 criminal history reports of an applicant.

14 (2) Each board under this code shall retain the number of
15 applications received for each license and the number of
16 applications requiring inquiries regarding criminal history. In
17 addition, each licensing authority shall retain all of the following
18 information:

19 (A) The number of applicants with a criminal record who
20 received notice of denial or disqualification of licensure.

21 (B) The number of applicants with a criminal record who
22 provided evidence of mitigation or rehabilitation.

23 (C) The number of applicants with a criminal record who
24 appealed any denial or disqualification of licensure.

25 (D) The final disposition and demographic information,
26 consisting of voluntarily provided information on race or gender,
27 of any applicant described in subparagraph (A), (B), or (C).

28 (3) (A) Each board under this code shall annually make
29 available to the public through the board's ~~Internet Web site~~
30 *internet website* and through a report submitted to the appropriate
31 policy committees of the Legislature deidentified information
32 collected pursuant to this subdivision. Each board shall ensure
33 confidentiality of the individual applicants.

34 (B) A report pursuant to subparagraph (A) shall be submitted
35 in compliance with Section 9795 of the Government Code.

36 (h) "Conviction" as used in this section shall have the same
37 meaning as defined in Section 7.5.

38 (i) This section does not in any way modify or otherwise affect
39 the existing authority of the following entities in regard to
40 licensure:

- 1 (1) The State Athletic Commission.
- 2 (2) The Bureau for Private Postsecondary Education.
- 3 (3) The California Horse Racing Board.
- 4 (j) This section shall become operative on July 1, 2020.

5 *SEC. 3. Section 480.2 of the Business and Professions Code*
 6 *is amended to read:*

7 480.2. (a) The Bureau for Private Postsecondary Education,
 8 the State Athletic Commission, and the California Horse Racing
 9 Board may deny a license regulated by it on the grounds that the
 10 applicant has one of the following:

- 11 (1) Been convicted of a crime.
- 12 (2) Done any act involving dishonesty, fraud, or deceit with the
 13 intent to substantially benefit ~~himself or herself~~ *themselves* or
 14 another, or substantially injure another.
- 15 (3) (A) Done any act that if done by a licentiate of the business
 16 or profession in question, would be grounds for suspension or
 17 revocation of license.

18 (B) The Bureau for Private Postsecondary Education, the State
 19 Athletic Commission, and the California Horse Racing Board may
 20 deny a license pursuant to this subdivision only if the crime or act
 21 is substantially related to the qualifications, functions, or duties of
 22 the business or profession for which application is made.

23 (b) Notwithstanding any other provision of this code, a person
 24 shall not be denied a license solely on the basis that ~~he or she~~ *the*
 25 *person* has been convicted of a felony if ~~he or she~~ *that person* has
 26 obtained a certificate of rehabilitation under Chapter 3.5
 27 (commencing with Section 4852.01) of Title 6 of Part 3 of the
 28 Penal Code or that ~~he or she~~ *the person* has been convicted of a
 29 misdemeanor if ~~he or she~~ *the person* has met all applicable
 30 requirements of the criteria of rehabilitation developed by the
 31 Bureau for Private Postsecondary Education, the State Athletic
 32 Commission, and the California Horse Racing Board to evaluate
 33 the rehabilitation of a person when considering the denial of a
 34 license under paragraph (1) of subdivision (f).

35 (c) Notwithstanding any other provisions of this code, a person
 36 shall not be denied a license by the Bureau for Private
 37 Postsecondary Education, the State Athletic Commission, or the
 38 California Horse Racing Board solely on the basis of a conviction
 39 that has been dismissed pursuant to Section 1203.4, 1203.4a, ~~or~~
 40 ~~1203.41~~ *1203.41, or 1203.425* of the Penal Code. An applicant

1 who has a conviction that has been dismissed pursuant to Section
2 1203.4, 1203.4a, ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal
3 Code shall provide proof of the dismissal.

4 (d) The Bureau for Private Postsecondary Education, the State
5 Athletic Commission, and the California Horse Racing Board may
6 deny a license regulated by it on the ground that the applicant
7 knowingly made a false statement of fact that is required to be
8 revealed in the application for the license.

9 (e) The Bureau for Private Postsecondary Education, the State
10 Athletic Commission, and the California Horse Racing Board shall
11 develop criteria to aid it, when considering the denial, suspension
12 or revocation of a license, to determine whether a crime or act is
13 substantially related to the qualifications, functions, or duties of
14 the business or profession it regulates.

15 (f) (1) The Bureau for Private Postsecondary Education, the
16 State Athletic Commission, and the California Horse Racing Board
17 shall develop criteria to evaluate the rehabilitation of a person
18 either when:

19 (A) Considering the denial of a license under this section.

20 (B) Considering suspension or revocation of a license under
21 Section 490.

22 (2) The Bureau for Private Postsecondary Education, the State
23 Athletic Commission, and the California Horse Racing Board shall
24 take into account all competent evidence of rehabilitation furnished
25 by the applicant or licensee.

26 (g) Except as otherwise provided by law, following a hearing
27 requested by an applicant pursuant to subdivision (b) of Section
28 485, the Bureau for Private Postsecondary Education, the State
29 Athletic Commission, and the California Horse Racing Board may
30 take any of the following actions:

31 (1) Grant the license effective upon completion of all licensing
32 requirements by the applicant.

33 (2) Grant the license effective upon completion of all licensing
34 requirements by the applicant, immediately revoke the license,
35 stay the revocation, and impose probationary conditions on the
36 license, which may include suspension.

37 (3) Deny the license.

38 (4) Take other action in relation to denying or granting the
39 license as the Bureau for Private Postsecondary Education, the

1 State Athletic Commission, or the California Horse Racing Board,
 2 in its discretion, may deem proper.

3 (h) Notwithstanding any other law, in a proceeding conducted
 4 by the Bureau for Private Postsecondary Education, the State
 5 Athletic Commission, or the California Horse Racing Board to
 6 deny an application for a license or to suspend or revoke a license
 7 or otherwise take disciplinary action against a person who holds
 8 a license, upon the ground that the applicant or the licensee has
 9 been convicted of a crime substantially related to the qualifications,
 10 functions, and duties of the licensee in question, the record of
 11 conviction of the crime shall be conclusive evidence of the fact
 12 that the conviction occurred, but only of that fact, and the Bureau
 13 for Private Postsecondary Education, the State Athletic
 14 Commission, and the California Horse Racing Board may inquire
 15 into the circumstances surrounding the commission of the crime
 16 in order to fix the degree of discipline or to determine if the
 17 conviction is substantially related to the qualifications, functions,
 18 and duties of the licensee in question.

19 (i) Notwithstanding Section 7.5, a conviction within the meaning
 20 of this section means a plea or verdict of guilty or a conviction
 21 following a plea of nolo contendere. Any action that the Bureau
 22 for Private Postsecondary Education, the State Athletic
 23 Commission, or the California Horse Racing Board is permitted
 24 to take following the establishment of a conviction may be taken
 25 when the time for appeal has elapsed, the judgment of conviction
 26 has been affirmed on appeal, or when an order granting probation
 27 is made suspending the imposition of sentence, irrespective of a
 28 subsequent order under the provisions of Section 1203.4, 1203.4a,
 29 ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal Code.

30 (j) This section shall become operative on July 1, 2020.

31 **SECTION 1.**

32 *SEC. 4.* Section 851.93 is added to the Penal Code, to read:

33 851.93. (a) (1) On a weekly basis, the Department of Justice
 34 shall review the records in the statewide criminal justice databases,
 35 and based on information in the state summary criminal history
 36 repository, shall identify persons with records of arrest that meet
 37 the criteria set forth in paragraph (2) and are eligible for arrest
 38 record relief.

1 (2) A person is eligible for relief pursuant to this section, if the
2 arrest occurred on or after January 1, 1973, and meets any of the
3 following conditions:

4 (A) The arrest was for a misdemeanor offense and the charge
5 was dismissed.

6 (B) The arrest was for a misdemeanor offense, *there is no*
7 *indication that criminal proceedings have been initiated*, at least
8 one calendar year has elapsed since the date of the arrest, and no
9 conviction occurred, or the arrestee was acquitted of any charges
10 that arose, from that arrest.

11 (C) The arrest was for an offense that is punishable by
12 imprisonment pursuant to paragraph (1) or (2) of subdivision (h)
13 of Section 1170, *there is no indication that criminal proceedings*
14 *have been initiated*, at least three calendar years have elapsed since
15 the date of the arrest, and no conviction occurred, or the arrestee
16 was acquitted of any charges ~~arising from~~, *arising, from* that arrest.

17 (D) The person successfully completed any of the following,
18 relating to that arrest:

19 (i) A prefiling diversion program, as defined in Section 851.87,
20 administered by a prosecuting attorney in lieu of filing an
21 accusatory pleading.

22 (ii) A drug diversion program administered by a superior court
23 pursuant to Section 1000.5, or a deferred entry of judgment
24 program pursuant to Section 1000 or 1000.8.

25 (iii) A pretrial diversion program, pursuant to Section 1000.4.

26 (iv) A diversion program, pursuant to Section 1001.9.

27 (v) Any diversion program described in Chapter 2.8
28 (commencing with Section 1001.20), Chapter 2.8A (commencing
29 with Section 1001.35), Chapter 2.81 (commencing with Section
30 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter
31 2.9A (commencing with Section 1001.60), Chapter 2.9B
32 (commencing with Section 1001.70), Chapter 2.9C (commencing
33 with Section 1001.80), Chapter 2.9D (commencing with Section
34 1001.81), or Chapter 2.92 (commencing with Section 1001.85),
35 of Title 6.

36 (b) (1) The department shall grant relief to a person identified
37 pursuant to subdivision (a), without requiring a petition or motion
38 by a party for that relief if the relevant information is present in
39 the department's records.

1 (2) The state summary criminal history information shall
2 include, directly next to or below the entry or entries regarding the
3 person's arrest record, a note stating "arrest relief granted," listing
4 the date that the department granted relief, and this section. This
5 note shall be included in all statewide criminal databases with a
6 record of the arrest.

7 (3) Except as otherwise provided in subdivision (d), an arrest
8 for which arrest relief has been granted is deemed not to have
9 occurred, and a person who has been granted arrest relief is released
10 from any penalties and disabilities resulting from the arrest, and
11 may answer any question relating to that arrest accordingly.

12 (c) On a weekly basis, the department shall electronically submit
13 a notice to the superior court having jurisdiction over the criminal
14 case, informing the court of all cases for which a complaint was
15 filed in that jurisdiction and for which relief was granted pursuant
16 to this section. Commencing on February 1, 2021, for any record
17 retained by the court pursuant to Section 68152 of the Government
18 Code, *except as provided in subdivision (d)*, the court shall not
19 disclose information concerning an arrest that is granted relief
20 pursuant to this section to any person or entity, in any format,
21 except to the person whose arrest was granted relief or a criminal
22 justice agency, as defined in Section 851.92.

23 (d) Relief granted pursuant to this section is subject to the
24 following conditions:

25 (1) Arrest relief does not relieve a person of the obligation to
26 disclose an arrest in response to a direct question contained in a
27 questionnaire or application for employment as a peace officer, as
28 defined in Section 830.

29 (2) Relief granted pursuant to this section has no effect on the
30 ability of a criminal justice agency, as defined in Section 851.92,
31 to access and use records that are granted relief to the same extent
32 that would have been permitted for a criminal justice agency had
33 relief not been granted.

34 (3) Relief granted pursuant to this section does not affect a
35 person's authorization to own, possess, or have in the person's
36 custody or control any firearm, or the person's susceptibility to
37 conviction under Chapter 2 (commencing with Section 29800) of
38 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
39 this authorization or susceptibility.

1 (4) Relief granted pursuant to this section does not affect any
2 prohibition from holding public office that would otherwise apply
3 under law as a result of the arrest.

4 (5) *Relief granted pursuant to this section does not affect the*
5 *authority to receive, or take adverse action based on, criminal*
6 *history information, including the authority to receive certified*
7 *court records received or evaluated pursuant to Section 1522,*
8 *1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or*
9 *pursuant to any statutory or regulatory provisions that incorporate*
10 *the criteria of those sections.*

11 (e) This section shall not limit petitions, motions, or orders for
12 arrest record relief, as required or authorized by any other law,
13 including, but not limited to, Sections 851.87, 851.90, 851.91,
14 1000.4, and 1001.9.

15 (f) The department shall annually publish statistics for each
16 county regarding the total number of arrests granted relief pursuant
17 to this section and the percentage of arrests for which the state
18 summary criminal history information does not include a
19 disposition, on the OpenJustice Web portal, as defined in Section
20 13010.

21 (g) This section shall be operative commencing January 1, 2021.
22 ~~SEC. 2.~~

23 *SEC. 5.* Section 1203.425 is added to the Penal Code,
24 immediately following Section 1203.42, to read:

25 1203.425. (a) (1) On a weekly basis, the Department of Justice
26 shall review the records in the statewide criminal justice databases,
27 and based on information in the state summary criminal history
28 repository and the Supervised Release File, shall identify persons
29 with convictions that meet the criteria set forth in paragraph (2)
30 and are eligible for automatic conviction record relief.

31 (2) A person is eligible for automatic conviction relief pursuant
32 to this section if they meet all of the following conditions:

33 (A) The person is not required to register pursuant to the Sex
34 Offender Registration Act.

35 (B) The person does not have an active record for local, state,
36 or federal supervision in the Supervised Release File.

37 (C) The person is not currently serving a sentence for any
38 offense and does not have any pending criminal charges.

1 (D) Except as otherwise provided in clause (iii) of subparagraph
2 (E), there is no indication that the conviction resulted in a sentence
3 of incarceration in the state prison.

4 (E) The conviction occurred on or after January 1, 1973, and
5 meets one of the following criteria:

6 (i) The defendant was sentenced to probation and, based upon
7 the disposition date and the term of probation specified in the
8 department’s records, appears to have completed their term of
9 probation without revocation.

10 (ii) The defendant was convicted of an infraction or
11 misdemeanor, was not granted probation, has completed their
12 sentence, and, based upon the disposition date in the department’s
13 record, at least one calendar year has elapsed since the date of
14 judgment.

15 (iii) The defendant was sentenced for a crime ~~which~~ *that* is, or
16 on or before January 1, 2012, would have been, eligible for
17 sentencing pursuant to subdivision (h) of Section 1170, and, based
18 upon the disposition date and the sentence specified in the
19 department’s records, it appears that two years have elapsed
20 following the defendant’s completion of the sentence.

21 (b) (1) Except as specified in subdivision ~~(g)~~, (h), the
22 department shall grant relief, including dismissal of a conviction,
23 to a person identified pursuant to subdivision (a), without requiring
24 a petition or motion by a party for that relief if the relevant
25 information is present in the department’s records.

26 (2) The state summary criminal history information shall
27 include, directly next to or below the entry or entries regarding the
28 person’s criminal record, a note stating “relief granted,” listing the
29 date that the department granted relief and this section. This note
30 shall be included in all statewide criminal databases with a record
31 of the conviction.

32 (3) Except as otherwise provided in subdivision (d) and in
33 Section 13555 of the Vehicle Code, a person granted conviction
34 relief pursuant to this section shall be released from all penalties
35 and disabilities resulting from the offense of which the person has
36 been convicted.

37 (c) On a weekly basis, the department shall electronically submit
38 a notice to the superior court having jurisdiction over the criminal
39 case, informing the court of all cases for which a complaint was
40 filed in that jurisdiction and for which relief was granted pursuant

1 to this section. Commencing on February 1, 2021, for any record
2 retained by the court pursuant to Section 68152 of the Government
3 Code, *except as provided in subdivision (d)*, the court shall not
4 disclose information concerning a conviction granted relief
5 pursuant to this section or ~~Sections~~ Section 1203.4, 1203.4a,
6 1203.41, ~~and~~ or 1203.42, to any person or entity, in any format,
7 except to the person whose conviction was granted relief or a
8 criminal justice agency, as defined in Section 851.92.

9 (d) Relief granted pursuant to this section is subject to the
10 following conditions:

11 (1) Relief granted pursuant to this section does not relieve a
12 person of the obligation to disclose a criminal conviction in
13 response to a direct question contained in a questionnaire or
14 application for employment as a peace officer, as defined in Section
15 830.

16 (2) Relief granted pursuant to this section does not relieve a
17 person of the obligation to disclose the conviction in response to
18 any direct question contained in any questionnaire or application
19 for public office, or for contracting with the California State Lottery
20 Commission.

21 (3) Relief granted pursuant to this section has no effect on the
22 ability of a criminal justice agency, as defined in Section 851.92,
23 to access and use records that are granted relief to the same extent
24 that would have been permitted for a criminal justice agency had
25 relief not been granted.

26 (4) Relief granted pursuant to this section does not limit the
27 jurisdiction of the court over any subsequently filed motion to
28 amend the record, petition or motion for postconviction relief, or
29 collateral attack on a conviction for which relief has been granted
30 pursuant to this section.

31 (5) Relief granted pursuant to this section does not affect a
32 person's authorization to own, possess, or have in the person's
33 custody or control any firearm, or the person's susceptibility to
34 conviction under Chapter 2 (commencing with Section 29800) of
35 Division 9 of Title 4 of Part 6, if the criminal conviction would
36 otherwise affect this authorization or susceptibility.

37 (6) Relief granted pursuant to this section does not affect any
38 prohibition from holding public office that would otherwise apply
39 under law as a result of the criminal conviction.

1 (7) Relief granted pursuant to this section does not affect the
2 authority to receive, or take adverse action based on, criminal
3 history information, including the authority to receive certified
4 court records received or evaluated pursuant to Section 1522,
5 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
6 pursuant to any statutory or regulatory provisions that incorporate
7 the criteria of those sections.

8 (8) Relief granted pursuant to this section does not make eligible
9 a person who is otherwise ineligible to provide, or receive payment
10 for providing, in-home supportive services pursuant to Article 7
11 (commencing with Section 12300) of Chapter 3 of Part 3 of
12 Division 9 of the Welfare and Institutions Code, or pursuant to
13 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
14 Institutions Code.

15 ~~(7)~~

16 (9) In any subsequent prosecution of the defendant for any other
17 offense, the prior conviction may be pleaded and proved and shall
18 have the same effect as if the relief had not been granted.

19 (e) This section shall not limit petitions, motions, or orders for
20 relief in a criminal case, as required or authorized by any other
21 law, including, but not limited to, Sections 1203.4, 1203.4a,
22 1203.41, and 1203.42.

23 (f) The department shall annually publish statistics for each
24 county regarding the total number of convictions granted relief
25 pursuant to this section and the total number of convictions
26 prohibited from automatic relief pursuant to subdivision (h), on
27 the OpenJustice Web portal, as defined in Section 13010.

28 (g) Subdivisions (a) to ~~(g)~~, (f), inclusive, shall be operative
29 commencing January 1, 2021.

30 (h) For convictions entered on or after January 1, 2018, the
31 prosecuting attorney or probation department may, no later than
32 90 calendar days before the date of a person's eligibility for relief
33 pursuant to this section, file a motion to prohibit the department
34 from granting automatic relief pursuant to this section. The court
35 shall give notice to the defendant and conduct a hearing on the
36 motion within 45 days after the motion is filed. If the court grants
37 that motion, the court shall report that outcome to the department,
38 and the department shall not grant relief pursuant to this section.
39 The person may continue to be eligible for relief pursuant to
40 Section 1203.4, 1203.4a, 1203.41, or 1203.42, and if the court

1 subsequently grants such a motion, the court shall report that
2 outcome to the department and the department shall grant relief
3 pursuant to the applicable section.

4 (i) At the time of sentencing, the court shall advise a defendant,
5 either orally or in writing, of the provisions of this section and of
6 the defendant's right, if any, to petition for a certificate of
7 rehabilitation and pardon.

8 ~~SEC. 3.~~

9 *SEC. 6.* Section 11105 of the Penal Code is amended to read:

10 11105. (a) (1) The Department of Justice shall maintain state
11 summary criminal history information.

12 (2) As used in this section:

13 (A) "State summary criminal history information" means the
14 master record of information compiled by the Attorney General
15 pertaining to the identification and criminal history of a person,
16 such as name, date of birth, physical description, fingerprints,
17 photographs, dates of arrests, arresting agencies and booking
18 numbers, charges, dispositions, sentencing information, and similar
19 data about the person.

20 (B) "State summary criminal history information" does not refer
21 to records and data compiled by criminal justice agencies other
22 than the Attorney General, nor does it refer to records of complaints
23 to or investigations conducted by, or records of intelligence
24 information or security procedures of, the office of the Attorney
25 General and the Department of Justice.

26 (b) The Attorney General shall furnish state summary criminal
27 history information to the following, if needed in the course of
28 their duties, provided that when information is furnished to assist
29 an agency, officer, or official of state or local government, a public
30 utility, or any other entity, in fulfilling employment, certification,
31 or licensing duties, Chapter 1321 of the Statutes of 1974 and
32 Section 432.7 of the Labor Code shall apply:

33 (1) The courts of the state.

34 (2) Peace officers of the state, as defined in Section 830.1,
35 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
36 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
37 (b) of Section 830.5.

38 (3) District attorneys of the state.

39 (4) Prosecuting city attorneys or city prosecutors of a city within
40 the state.

- 1 (5) City attorneys pursuing civil gang injunctions pursuant to
2 Section 186.22a, or drug abatement actions pursuant to Section
3 3479 or 3480 of the Civil Code, or Section 11571 of the Health
4 and Safety Code.
- 5 (6) Probation officers of the state.
- 6 (7) Parole officers of the state.
- 7 (8) A public defender or attorney of record when representing
8 a person in proceedings upon a petition for a certificate of
9 rehabilitation and pardon pursuant to Section 4852.08.
- 10 (9) A public defender or attorney of record when representing
11 a person in a criminal case or a juvenile delinquency proceeding,
12 including all appeals and postconviction motions, or a parole,
13 mandatory supervision pursuant to paragraph (5) of subdivision
14 (h) of Section 1170, or postrelease community supervision
15 revocation or revocation extension proceeding, if the information
16 is requested in the course of representation.
- 17 (10) An agency, officer, or official of the state if the state
18 summary criminal history information is required to implement a
19 statute or regulation that expressly refers to specific criminal
20 conduct applicable to the subject person of the state summary
21 criminal history information, and contains requirements or
22 exclusions, or both, expressly based upon that specified criminal
23 conduct. The agency, officer, or official of the state authorized by
24 this paragraph to receive state summary criminal history
25 information may also transmit fingerprint images and related
26 information to the Department of Justice to be transmitted to the
27 Federal Bureau of Investigation.
- 28 (11) A city or county, city and county, district, or an officer or
29 official thereof if access is needed in order to assist that agency,
30 officer, or official in fulfilling employment, certification, or
31 licensing duties, and if the access is specifically authorized by the
32 city council, board of supervisors, or governing board of the city,
33 county, or district if the state summary criminal history information
34 is required to implement a statute, ordinance, or regulation that
35 expressly refers to specific criminal conduct applicable to the
36 subject person of the state summary criminal history information,
37 and contains requirements or exclusions, or both, expressly based
38 upon that specified criminal conduct. The city or county, city and
39 county, district, or the officer or official thereof authorized by this
40 paragraph may also transmit fingerprint images and related

1 information to the Department of Justice to be transmitted to the
2 Federal Bureau of Investigation.

3 (12) The subject of the state summary criminal history
4 information under procedures established under Article 5
5 (commencing with Section 11120).

6 (13) A person or entity when access is expressly authorized by
7 statute if the criminal history information is required to implement
8 a statute or regulation that expressly refers to specific criminal
9 conduct applicable to the subject person of the state summary
10 criminal history information, and contains requirements or
11 exclusions, or both, expressly based upon that specified criminal
12 conduct.

13 (14) Health officers of a city, county, city and county, or district
14 when in the performance of their official duties enforcing Section
15 120175 of the Health and Safety Code.

16 (15) A managing or supervising correctional officer of a county
17 jail or other county correctional facility.

18 (16) A humane society, or society for the prevention of cruelty
19 to animals, for the specific purpose of complying with Section
20 14502 of the Corporations Code for the appointment of humane
21 officers.

22 (17) Local child support agencies established by Section 17304
23 of the Family Code. When a local child support agency closes a
24 support enforcement case containing state summary criminal
25 history information, the agency shall delete or purge from the file
26 and destroy any documents or information concerning or arising
27 from offenses for or of which the parent has been arrested, charged,
28 or convicted, other than for offenses related to the parent's having
29 failed to provide support for minor children, consistent with the
30 requirements of Section 17531 of the Family Code.

31 (18) County child welfare agency personnel who have been
32 delegated the authority of county probation officers to access state
33 summary criminal history information pursuant to Section 272 of
34 the Welfare and Institutions Code for the purposes specified in
35 Section 16504.5 of the Welfare and Institutions Code. Information
36 from criminal history records provided pursuant to this subdivision
37 shall not be used for a purpose other than those specified in this
38 section and Section 16504.5 of the Welfare and Institutions Code.
39 When an agency obtains records both on the basis of name checks

1 and fingerprint checks, final placement decisions shall be based
2 only on the records obtained pursuant to the fingerprint check.

3 (19) The court of a tribe, or court of a consortium of tribes, that
4 has entered into an agreement with the state pursuant to Section
5 10553.1 of the Welfare and Institutions Code. This information
6 may be used only for the purposes specified in Section 16504.5
7 of the Welfare and Institutions Code and for tribal approval or
8 tribal licensing of foster care or adoptive homes. Article 6
9 (commencing with Section 11140) shall apply to officers, members,
10 and employees of a tribal court receiving state summary criminal
11 history information pursuant to this section.

12 (20) Child welfare agency personnel of a tribe or consortium
13 of tribes that has entered into an agreement with the state pursuant
14 to Section 10553.1 of the Welfare and Institutions Code and to
15 whom the state has delegated duties under paragraph (2) of
16 subdivision (a) of Section 272 of the Welfare and Institutions Code.
17 The purposes for use of the information shall be for the purposes
18 specified in Section 16504.5 of the Welfare and Institutions Code
19 and for tribal approval or tribal licensing of foster care or adoptive
20 homes. When an agency obtains records on the basis of name
21 checks and fingerprint checks, final placement decisions shall be
22 based only on the records obtained pursuant to the fingerprint
23 check. Article 6 (commencing with Section 11140) shall apply to
24 child welfare agency personnel receiving criminal record offender
25 information pursuant to this section.

26 (21) An officer providing conservatorship investigations
27 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
28 Institutions Code.

29 (22) A court investigator providing investigations or reviews
30 in conservatorships pursuant to Section 1826, 1850, 1851, or
31 2250.6 of the Probate Code.

32 (23) A person authorized to conduct a guardianship investigation
33 pursuant to Section 1513 of the Probate Code.

34 (24) A humane officer pursuant to Section 14502 of the
35 Corporations Code for the purposes of performing the officer's
36 duties.

37 (25) A public agency described in subdivision (b) of Section
38 15975 of the Government Code, for the purpose of oversight and
39 enforcement policies with respect to its contracted providers.

1 (26) (A) A state entity, or its designee, that receives federal tax
2 information. A state entity or its designee that is authorized by this
3 paragraph to receive state summary criminal history information
4 also may transmit fingerprint images and related information to
5 the Department of Justice to be transmitted to the Federal Bureau
6 of Investigation for the purpose of the state entity or its designee
7 obtaining federal level criminal offender record information from
8 the Department of Justice. This information shall be used only for
9 the purposes set forth in Section 1044 of the Government Code.

10 (B) For purposes of this paragraph, “federal tax information,”
11 “state entity” and “designee” are as defined in paragraphs (1), (2),
12 and (3), respectively, of subdivision (f) of Section 1044 of the
13 Government Code.

14 (c) The Attorney General may furnish state summary criminal
15 history information and, when specifically authorized by this
16 subdivision, federal level criminal history information upon a
17 showing of a compelling need to any of the following, provided
18 that when information is furnished to assist an agency, officer, or
19 official of state or local government, a public utility, or any other
20 entity in fulfilling employment, certification, or licensing duties,
21 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
22 Labor Code shall apply:

23 (1) A public utility, as defined in Section 216 of the Public
24 Utilities Code, that operates a nuclear energy facility when access
25 is needed in order to assist in employing persons to work at the
26 facility, provided that, if the Attorney General supplies the data,
27 the Attorney General shall furnish a copy of the data to the person
28 to whom the data relates.

29 (2) To a peace officer of the state other than those included in
30 subdivision (b).

31 (3) To an illegal dumping enforcement officer as defined in
32 subdivision (j) of Section 830.7.

33 (4) To a peace officer of another country.

34 (5) To public officers, other than peace officers, of the United
35 States, other states, or possessions or territories of the United
36 States, provided that access to records similar to state summary
37 criminal history information is expressly authorized by a statute
38 of the United States, other states, or possessions or territories of
39 the United States if the information is needed for the performance
40 of their official duties.

1 (6) To a person when disclosure is requested by a probation,
2 parole, or peace officer with the consent of the subject of the state
3 summary criminal history information and for purposes of
4 furthering the rehabilitation of the subject.

5 (7) The courts of the United States, other states, or territories
6 or possessions of the United States.

7 (8) Peace officers of the United States, other states, or territories
8 or possessions of the United States.

9 (9) To an individual who is the subject of the record requested
10 if needed in conjunction with an application to enter the United
11 States or a foreign nation.

12 (10) (A) (i) A public utility, as defined in Section 216 of the
13 Public Utilities Code, or a cable corporation as defined in
14 subparagraph (B), if receipt of criminal history information is
15 needed in order to assist in employing current or prospective
16 employees, contract employees, or subcontract employees who,
17 in the course of their employment, may be seeking entrance to
18 private residences or adjacent grounds. The information provided
19 shall be limited to the record of convictions and arrests for which
20 the person is released on bail or on ~~his or her~~ *their* own
21 recognizance pending trial.

22 (ii) If the Attorney General supplies the data pursuant to this
23 paragraph, the Attorney General shall furnish a copy of the data
24 to the current or prospective employee to whom the data relates.

25 (iii) State summary criminal history information is confidential
26 and the receiving public utility or cable corporation shall not
27 disclose its contents, other than for the purpose for which it was
28 acquired. The state summary criminal history information in the
29 possession of the public utility or cable corporation and all copies
30 made from it shall be destroyed not more than 30 days after
31 employment or promotion or transfer is denied or granted, except
32 for those cases where a current or prospective employee is out on
33 bail or on ~~his or her~~ *their* own recognizance pending trial, in which
34 case the state summary criminal history information and all copies
35 shall be destroyed not more than 30 days after the case is resolved.

36 (iv) A violation of this paragraph is a misdemeanor, and shall
37 give the current or prospective employee who is injured by the
38 violation a cause of action against the public utility or cable
39 corporation to recover damages proximately caused by the
40 violations. A public utility's or cable corporation's request for

1 state summary criminal history information for purposes of
2 employing current or prospective employees who may be seeking
3 entrance to private residences or adjacent grounds in the course
4 of their employment shall be deemed a “compelling need” as
5 required to be shown in this subdivision.

6 (v) This section shall not be construed as imposing a duty upon
7 public utilities or cable corporations to request state summary
8 criminal history information on current or prospective employees.

9 (B) For purposes of this paragraph, “cable corporation” means
10 a corporation or firm that transmits or provides television,
11 computer, or telephone services by cable, digital, fiber optic,
12 satellite, or comparable technology to subscribers for a fee.

13 (C) Requests for federal level criminal history information
14 received by the Department of Justice from entities authorized
15 pursuant to subparagraph (A) shall be forwarded to the Federal
16 Bureau of Investigation by the Department of Justice. Federal level
17 criminal history information received or compiled by the
18 Department of Justice may then be disseminated to the entities
19 referenced in subparagraph (A), as authorized by law.

20 (11) To a campus of the California State University or the
21 University of California, or a four-year college or university
22 accredited by a regional accreditation organization approved by
23 the United States Department of Education, if needed in
24 conjunction with an application for admission by a convicted felon
25 to a special education program for convicted felons, including, but
26 not limited to, university alternatives and halfway houses. Only
27 conviction information shall be furnished. The college or university
28 may require the convicted felon to be fingerprinted, and any inquiry
29 to the department under this section shall include the convicted
30 felon’s fingerprints and any other information specified by the
31 department.

32 (12) To a foreign government, if requested by the individual
33 who is the subject of the record requested, if needed in conjunction
34 with the individual’s application to adopt a minor child who is a
35 citizen of that foreign nation. Requests for information pursuant
36 to this paragraph shall be in accordance with the process described
37 in Sections 11122 to 11124, inclusive. The response shall be
38 provided to the foreign government or its designee and to the
39 individual who requested the information.

1 (d) Whenever an authorized request for state summary criminal
2 history information pertains to a person whose fingerprints are on
3 file with the Department of Justice and the department has no
4 criminal history of that person, and the information is to be used
5 for employment, licensing, or certification purposes, the fingerprint
6 card accompanying the request for information, if any, may be
7 stamped “no criminal record” and returned to the person or entity
8 making the request.

9 (e) Whenever state summary criminal history information is
10 furnished as the result of an application and is to be used for
11 employment, licensing, or certification purposes, the Department
12 of Justice may charge the person or entity making the request a
13 fee that it determines to be sufficient to reimburse the department
14 for the cost of furnishing the information. In addition, the
15 Department of Justice may add a surcharge to the fee to fund
16 maintenance and improvements to the systems from which the
17 information is obtained. Notwithstanding any other law, a person
18 or entity required to pay a fee to the department for information
19 received under this section may charge the applicant a fee sufficient
20 to reimburse the person or entity for this expense. All moneys
21 received by the department pursuant to this section, Sections
22 11105.3 and 26190, and former Section 13588 of the Education
23 Code shall be deposited in a special account in the General Fund
24 to be available for expenditure by the department to offset costs
25 incurred pursuant to those sections and for maintenance and
26 improvements to the systems from which the information is
27 obtained upon appropriation by the Legislature.

28 (f) Whenever there is a conflict, the processing of criminal
29 fingerprints and fingerprints of applicants for security guard or
30 alarm agent registrations or firearms qualification permits
31 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
32 of the Business and Professions Code shall take priority over the
33 processing of other applicant fingerprints.

34 (g) It is not a violation of this section to disseminate statistical
35 or research information obtained from a record, provided that the
36 identity of the subject of the record is not disclosed.

37 (h) It is not a violation of this section to include information
38 obtained from a record in (1) a transcript or record of a judicial or
39 administrative proceeding or (2) any other public record if the

1 inclusion of the information in the public record is authorized by
2 a court, statute, or decisional law.

3 (i) Notwithstanding any other law, the Department of Justice
4 or a state or local law enforcement agency may require the
5 submission of fingerprints for the purpose of conducting state
6 summary criminal history information checks that are authorized
7 by law.

8 (j) The state summary criminal history information shall include
9 any finding of mental incompetence pursuant to Chapter 6
10 (commencing with Section 1367) of Title 10 of Part 2 arising out
11 of a complaint charging a felony offense specified in Section 290.

12 (k) (1) This subdivision shall apply whenever state or federal
13 summary criminal history information is furnished by the
14 Department of Justice as the result of an application by an
15 authorized agency or organization and the information is to be
16 used for peace officer employment or certification purposes. As
17 used in this subdivision, a peace officer is defined in Chapter 4.5
18 (commencing with Section 830) of Title 3 of Part 2.

19 (2) Notwithstanding any other law, whenever state summary
20 criminal history information is initially furnished pursuant to
21 paragraph (1), the Department of Justice shall disseminate the
22 following information:

23 (A) Every conviction rendered against the applicant.

24 (B) Every arrest for an offense for which the applicant is
25 presently awaiting trial, whether the applicant is incarcerated or
26 has been released on bail or on ~~his or her~~ *their* own recognizance
27 pending trial.

28 (C) Every arrest or detention, except for an arrest or detention
29 resulting in an exoneration, provided, however, that where the
30 records of the Department of Justice do not contain a disposition
31 for the arrest, the Department of Justice first makes a genuine effort
32 to determine the disposition of the arrest.

33 (D) Every successful diversion.

34 (E) Every date and agency name associated with all retained
35 peace officer or nonsworn law enforcement agency employee
36 preemployment criminal offender record information search
37 requests.

38 (F) Sex offender registration status of the applicant.

39 (G) Sentencing information, if present in the department's
40 records at the time of the response.

1 (l) (1) This subdivision shall apply whenever state or federal
2 summary criminal history information is furnished by the
3 Department of Justice as the result of an application by a criminal
4 justice agency or organization as defined in Section 13101, and
5 the information is to be used for criminal justice employment,
6 licensing, or certification purposes.

7 (2) Notwithstanding any other law, whenever state summary
8 criminal history information is initially furnished pursuant to
9 paragraph (1), the Department of Justice shall disseminate the
10 following information:

11 (A) Every conviction rendered against the applicant.

12 (B) Every arrest for an offense for which the applicant is
13 presently awaiting trial, whether the applicant is incarcerated or
14 has been released on bail or on ~~his or her~~ *their* own recognizance
15 pending trial.

16 (C) Every arrest for an offense for which the records of the
17 Department of Justice do not contain a disposition or which did
18 not result in a conviction, provided that the Department of Justice
19 first makes a genuine effort to determine the disposition of the
20 arrest. However, information concerning an arrest shall not be
21 disclosed if the records of the Department of Justice indicate or if
22 the genuine effort reveals that the subject was exonerated,
23 successfully completed a diversion or deferred entry of judgment
24 program, or the arrest was deemed a detention, or the subject was
25 granted relief pursuant to Section 851.91.

26 (D) Every date and agency name associated with all retained
27 peace officer or nonsworn law enforcement agency employee
28 preemployment criminal offender record information search
29 requests.

30 (E) Sex offender registration status of the applicant.

31 (F) Sentencing information, if present in the department's
32 records at the time of the response.

33 (m) (1) This subdivision shall apply whenever state or federal
34 summary criminal history information is furnished by the
35 Department of Justice as the result of an application by an
36 authorized agency or organization pursuant to Section 1522,
37 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
38 a statute that incorporates the criteria of any of those sections or
39 this subdivision by reference, and the information is to be used for
40 employment, licensing, or certification purposes.

1 (2) Notwithstanding any other law, whenever state summary
2 criminal history information is initially furnished pursuant to
3 paragraph (1), the Department of Justice shall disseminate the
4 following information:

5 (A) Every conviction of an offense rendered against the
6 applicant, except a conviction for which relief has been granted
7 pursuant to Section 1203.49.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on ~~his or her~~ *their* own recognizance
11 pending trial.

12 (C) Every arrest for an offense for which the Department of
13 Social Services is required by paragraph (1) of subdivision (a) of
14 Section 1522 of the Health and Safety Code to determine if an
15 applicant has been arrested. However, if the records of the
16 Department of Justice do not contain a disposition for an arrest,
17 the Department of Justice shall first make a genuine effort to
18 determine the disposition of the arrest.

19 (D) Sex offender registration status of the applicant.

20 (E) Sentencing information, if present in the department's
21 records at the time of the response.

22 (3) Notwithstanding the requirements of the sections referenced
23 in paragraph (1) of this subdivision, the Department of Justice
24 shall not disseminate information about an arrest subsequently
25 deemed a detention or an arrest that resulted in the successful
26 completion of a diversion program, exoneration, or a grant of relief
27 pursuant to Section 851.91.

28 (n) (1) This subdivision shall apply whenever state or federal
29 summary criminal history information, to be used for employment,
30 licensing, or certification purposes, is furnished by the Department
31 of Justice as the result of an application by an authorized agency,
32 organization, or individual pursuant to any of the following:

33 (A) Paragraph (10) of subdivision (c), when the information is
34 to be used by a cable corporation.

35 (B) Section 11105.3 or 11105.4.

36 (C) Section 15660 of the Welfare and Institutions Code.

37 (D) A statute that incorporates the criteria of any of the statutory
38 provisions listed in subparagraph (A), (B), or (C), or of this
39 subdivision, by reference.

1 (2) With the exception of applications submitted by
2 transportation companies authorized pursuant to Section 11105.3,
3 and notwithstanding any other law, whenever state summary
4 criminal history information is initially furnished pursuant to
5 paragraph (1), the Department of Justice shall disseminate the
6 following information:

7 (A) Every conviction, except a conviction for which relief has
8 been granted pursuant to Section 1203.49, rendered against the
9 applicant for a violation or attempted violation of an offense
10 specified in subdivision (a) of Section 15660 of the Welfare and
11 Institutions Code. However, with the exception of those offenses
12 for which registration is required pursuant to Section 290, the
13 Department of Justice shall not disseminate information pursuant
14 to this subdivision unless the conviction occurred within 10 years
15 of the date of the agency’s request for information or the conviction
16 is over 10 years old but the subject of the request was incarcerated
17 within 10 years of the agency’s request for information.

18 (B) Every arrest for a violation or attempted violation of an
19 offense specified in subdivision (a) of Section 15660 of the Welfare
20 and Institutions Code for which the applicant is presently awaiting
21 trial, whether the applicant is incarcerated or has been released on
22 bail or on ~~his or her~~ *their* own recognizance pending trial.

23 (C) Sex offender registration status of the applicant.

24 (D) Sentencing information, if present in the department’s
25 records at the time of the response.

26 (o) (1) This subdivision shall apply whenever state or federal
27 summary criminal history information is furnished by the
28 Department of Justice as the result of an application by an
29 authorized agency or organization pursuant to Section 379 or 550
30 of the Financial Code, or a statute that incorporates the criteria of
31 either of those sections or this subdivision by reference, and the
32 information is to be used for employment, licensing, or certification
33 purposes.

34 (2) Notwithstanding any other law, whenever state summary
35 criminal history information is initially furnished pursuant to
36 paragraph (1), the Department of Justice shall disseminate the
37 following information:

38 (A) Every conviction rendered against the applicant for a
39 violation or attempted violation of an offense specified in Section

1 550 of the Financial Code, except a conviction for which relief
2 has been granted pursuant to Section 1203.49.

3 (B) Every arrest for a violation or attempted violation of an
4 offense specified in Section 550 of the Financial Code for which
5 the applicant is presently awaiting trial, whether the applicant is
6 incarcerated or has been released on bail or on ~~his or her~~ *their* own
7 recognizance pending trial.

8 (C) Sentencing information, if present in the department's
9 records at the time of the response.

10 (p) (1) This subdivision shall apply whenever state or federal
11 criminal history information is furnished by the Department of
12 Justice as the result of an application by an agency, organization,
13 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
14 by a transportation company authorized pursuant to Section
15 11105.3, or a statute that incorporates the criteria of that section
16 or this subdivision by reference, and the information is to be used
17 for employment, licensing, or certification purposes.

18 (2) Notwithstanding any other law, whenever state summary
19 criminal history information is initially furnished pursuant to
20 paragraph (1), the Department of Justice shall disseminate the
21 following information:

22 (A) Every conviction rendered against the applicant, except a
23 conviction for which relief has been granted pursuant to Section
24 ~~1203.425~~ 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or
25 1203.49.

26 (B) Every arrest for an offense for which the applicant is
27 presently awaiting trial, whether the applicant is incarcerated or
28 has been released on bail or on ~~his or her~~ *their* own recognizance
29 pending trial.

30 (C) Sex offender registration status of the applicant.

31 (D) Sentencing information, if present in the department's
32 records at the time of the response.

33 (q) All agencies, organizations, or individuals defined in
34 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
35 Department of Justice for subsequent notification pursuant to
36 Section 11105.2. This subdivision shall not supersede sections that
37 mandate an agency, organization, or individual to contract with
38 the Department of Justice for subsequent notification pursuant to
39 Section 11105.2.

1 (r) This section does not require the Department of Justice to
2 cease compliance with any other statutory notification
3 requirements.

4 (s) The provisions of Section 50.12 of Title 28 of the Code of
5 Federal Regulations are to be followed in processing federal
6 criminal history information.

7 (t) Whenever state or federal summary criminal history
8 information is furnished by the Department of Justice as the result
9 of an application by an authorized agency, organization, or
10 individual defined in subdivisions (k) to (p), inclusive, and the
11 information is to be used for employment, licensing, or certification
12 purposes, the authorized agency, organization, or individual shall
13 expeditiously furnish a copy of the information to the person to
14 whom the information relates if the information is a basis for an
15 adverse employment, licensing, or certification decision. When
16 furnished other than in person, the copy shall be delivered to the
17 last contact information provided by the applicant.



SB 53 Language

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AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

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SB 425 Language

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AMENDED IN ASSEMBLY JUNE 27, 2019

AMENDED IN ASSEMBLY JUNE 17, 2019

AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 425

Introduced by Senator Hill

February 21, 2019

An act to amend Sections 800, 2221, and 2234 of, and to add Section 805.8 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Hill. Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.

Existing law requires the Medical Board of California and specified other boards responsible for the licensure, regulation, and discipline of health care practitioners to separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board, including prescribed historical information for each licensee. Existing law makes the contents of any central file that are not public records confidential, except that the licensee or their counsel or a representative are authorized to inspect and have copies made of the licensee's complete file other than the disclosure of the identity of an information source. Existing law authorizes a board to protect an information source by providing a copy of the material with

only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material.

This bill would delete the specification that the summary be comprehensive.

Existing law establishes a peer review process for certain healing arts licentiates, as defined, and requires the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to report specified information, including the denial or revocation of staff privileges, as defined, for a medical disciplinary cause or reason, within 15 days of the denial or revocation to the relevant state licensing agency. Existing law makes a violation of this reporting requirement punishable by a civil fine.

This bill would require any health care facility, as defined, or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients to report any allegation of sexual abuse or sexual misconduct, as defined, made against a healing arts licensee by a patient, if the patient or the patient's representative makes the allegation in writing, to the relevant state licensing agency within 15 days of receiving the written allegation and would require the relevant agency to investigate the circumstances underlying a received report. The bill would require such a report to be kept confidential and, with certain exceptions, such a report would not be subject to discovery or disclosure in a disciplinary hearing. The bill would make a willful failure to file the report by a health care facility or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation, as specified. The bill would also prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health care facility, or other entity from incurring civil or criminal liability as a result of making a ~~report if made in good faith.~~ *report.*

The Medical Practice Act establishes the Medical Board of California for the licensure, regulation, and discipline of physicians and surgeons.

The act authorizes the board to deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of their license. The act authorizes the board in its sole discretion to issue a

probationary physician's and surgeon's certificate to an applicant subject to terms and conditions.

This bill would require the board to disclose a probationary physician's and surgeon's certificate and the operative statement of issues to an inquiring member of the public and to post the certificate and statement on the board's internet website for 10 years from issuance.

The act requires the board to take action against any licensee who is charged with unprofessional conduct and provides that unprofessional conduct includes the repeated failure by a certificate holder who is the subject of an investigation by the board, in the absence of good cause, to attend and participate in an interview by the board.

This bill would delete the condition that the failure to attend and participate in an interview by the board be repeated. The bill would also delete an obsolete provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:
3 800. (a) The Medical Board of California, the Podiatric
4 Medical Board of California, the Board of Psychology, the Dental
5 Board of California, the Dental Hygiene Board of California, the
6 Osteopathic Medical Board of California, the State Board of
7 Chiropractic Examiners, the Board of Registered Nursing, the
8 Board of Vocational Nursing and Psychiatric Technicians of the
9 State of California, the State Board of Optometry, the Veterinary
10 Medical Board, the Board of Behavioral Sciences, the Physical
11 Therapy Board of California, the California State Board of
12 Pharmacy, the Speech-Language Pathology and Audiology and
13 Hearing Aid Dispensers Board, the California Board of
14 Occupational Therapy, the Acupuncture Board, and the Physician
15 Assistant Board shall each separately create and maintain a central
16 file of the names of all persons who hold a license, certificate, or
17 similar authority from that board. Each central file shall be created
18 and maintained to provide an individual historical record for each
19 licensee with respect to the following information:

1 (1) Any conviction of a crime in this or any other state that
2 constitutes unprofessional conduct pursuant to the reporting
3 requirements of Section 803.

4 (2) Any judgment or settlement requiring the licensee or the
5 licensee's insurer to pay any amount of damages in excess of three
6 thousand dollars (\$3,000) for any claim that injury or death was
7 proximately caused by the licensee's negligence, error or omission
8 in practice, or by rendering unauthorized professional services,
9 pursuant to the reporting requirements of Section 801 or 802.

10 (3) Any public complaints for which provision is made pursuant
11 to subdivision (b).

12 (4) Disciplinary information reported pursuant to Section 805,
13 including any additional exculpatory or explanatory statements
14 submitted by the licensee pursuant to subdivision (f) of Section
15 805. If a court finds, in a final judgment, that the peer review
16 resulting in the 805 report was conducted in bad faith and the
17 licensee who is the subject of the report notifies the board of that
18 finding, the board shall include that finding in the central file. For
19 purposes of this paragraph, "peer review" has the same meaning
20 as defined in Section 805.

21 (5) Information reported pursuant to Section 805.01, including
22 any explanatory or exculpatory information submitted by the
23 licensee pursuant to subdivision (b) of that section.

24 (b) (1) Each board shall prescribe and promulgate forms on
25 which members of the public and other licensees or certificate
26 holders may file written complaints to the board alleging any act
27 of misconduct in, or connected with, the performance of
28 professional services by the licensee.

29 (2) If a board, or division thereof, a committee, or a panel has
30 failed to act upon a complaint or report within five years, or has
31 found that the complaint or report is without merit, the central file
32 shall be purged of information relating to the complaint or report.

33 (3) Notwithstanding this subdivision, the Board of Psychology,
34 the Board of Behavioral Sciences, and the Respiratory Care Board
35 of California shall maintain complaints or reports as long as each
36 board deems necessary.

37 (c) (1) The contents of any central file that are not public
38 records under any other provision of law shall be confidential
39 except that the licensee involved, or the licensee's counsel or
40 representative, may inspect and have copies made of the licensee's

1 complete file except for the provision that may disclose the identity
2 of an information source. For the purposes of this section, a board
3 may protect an information source by providing a copy of the
4 material with only those deletions necessary to protect the identity
5 of the source or by providing a summary of the substance of the
6 material. Whichever method is used, the board shall ensure that
7 full disclosure is made to the subject of any personal information
8 that could reasonably in any way reflect or convey anything
9 detrimental, disparaging, or threatening to a licensee’s reputation,
10 rights, benefits, privileges, or qualifications, or be used by a board
11 to make a determination that would affect a licensee’s rights,
12 benefits, privileges, or qualifications. The information required to
13 be disclosed pursuant to Section 803.1 shall not be considered
14 among the contents of a central file for the purposes of this
15 subdivision.

16 (2) The licensee may, but is not required to, submit any
17 additional exculpatory or explanatory statement or other
18 information that the board shall include in the central file.

19 (3) Each board may permit any law enforcement or regulatory
20 agency when required for an investigation of unlawful activity or
21 for licensing, certification, or regulatory purposes to inspect and
22 have copies made of that licensee’s file, unless the disclosure is
23 otherwise prohibited by law.

24 (4) These disclosures shall effect no change in the confidential
25 status of these records.

26 SEC. 2. Section 805.8 is added to the Business and Professions
27 Code, to read:

28 805.8. (a) As used in this section, the following terms shall
29 have the following meanings:

30 (1) “Agency” means the relevant state licensing agency with
31 regulatory jurisdiction over a healing arts licensee listed in
32 paragraph (2).

33 (2) “Healing arts licensee” or “licensee” means a licensee
34 licensed under Division 2 (commencing with Section 500) or any
35 initiative act referred to in that division. “Healing arts licensee”
36 or “licensee” also includes a person authorized to practice medicine
37 pursuant to Sections 2064.5, 2113, and 2168.

38 (3) “Health care facility” means a clinic or health facility
39 licensed or exempt from licensure pursuant to Division 2
40 (commencing with Section 1200) of the Health and Safety Code.

1 (4) “Other entity” includes, but is not limited to, a postsecondary
2 educational institution as defined in Section 66261.5 of the
3 Education Code.

4 (5) “Sexual misconduct” means inappropriate contact or
5 communication of a sexual nature.

6 (b) A health care facility or other entity that makes any
7 arrangement under which a healing arts licensee is allowed to
8 practice or provide care for patients shall file a report of any
9 allegation of sexual abuse or sexual misconduct made against a
10 healing arts licensee by a patient, if the patient or the patient’s
11 representative makes the allegation in writing, to the agency within
12 15 days of receiving the written allegation of sexual abuse or sexual
13 misconduct. An arrangement under which a licensee is allowed to
14 practice or provide care for patients includes, but is not limited to,
15 full staff privileges, active staff privileges, limited staff privileges,
16 auxiliary staff privileges, provisional staff privileges, temporary
17 staff privileges, courtesy staff privileges, locum tenens
18 arrangements, and contractual arrangements to provide professional
19 services, including, but not limited to, arrangements to provide
20 outpatient services.

21 (c) The report provided pursuant to subdivision (b) shall be kept
22 confidential and shall not be subject to discovery, except that the
23 information may be reviewed as provided subdivision in (c) of
24 Section 800 and may be disclosed in any subsequent disciplinary
25 hearing conducted pursuant to the Administrative Procedure Act
26 (Chapter 5 (commencing with Section 11500) of Part 1 of Division
27 3 of Title 2 of the Government Code).

28 (d) A willful failure to file the report described in subdivision
29 (b) shall be punishable by a fine, not to exceed one hundred
30 thousand dollars (\$100,000) per violation, that shall be paid by the
31 health care facility or other entity subject to subdivision (b). The
32 fine may be imposed in any civil or administrative action or
33 proceeding brought by or on behalf of any agency having
34 regulatory jurisdiction over the licensee regarding whom the report
35 was or should have been filed. If the person who is designated or
36 otherwise required to file the report under this section is a licensed
37 physician and surgeon, the action or proceeding shall be brought
38 by the Medical Board of California. If the person who is designated
39 or otherwise required to file the report required under this section
40 is a licensed doctor of podiatric medicine, the action or proceeding

1 shall be brought by the Podiatric Medical Board of California. The
2 fine shall be paid to that agency, but not expended until
3 appropriated by the Legislature. A violation of this subdivision
4 may constitute unprofessional conduct by the licensee. A person
5 who is alleged to have violated this subdivision may assert any
6 defense available at law. As used in this subdivision, “willful”
7 means a voluntary and intentional violation of a known legal duty.

8 (e) Except as provided in subdivision (c), any failure to file the
9 report described in subdivision (b) shall be punishable by a fine,
10 not to exceed fifty thousand dollars (\$50,000) per violation, that
11 shall be paid by the health care facility or other entity subject to
12 subdivision (b). The fine may be imposed in any civil or
13 administrative action or proceeding brought by or on behalf of any
14 agency having regulatory jurisdiction over the person regarding
15 whom the report was or should have been filed. If the person who
16 is designated or otherwise required to file the report required under
17 this section is a licensed physician and surgeon, the action or
18 proceeding shall be brought by the Medical Board of California.
19 If the person who is designated or otherwise required to file the
20 report required under this section is a licensed doctor of podiatric
21 medicine, the action or proceeding shall be brought by the Podiatric
22 Medical Board of California. The fine shall be paid to that agency,
23 but not expended until appropriated by the Legislature. The amount
24 of the fine imposed, not exceeding fifty thousand dollars (\$50,000)
25 per violation, shall be proportional to the severity of the failure to
26 report and shall differ based upon written findings, including
27 whether the failure to file caused harm to a patient or created a
28 risk to patient safety; whether any person who is designated or
29 otherwise required by law to file the report required under this
30 section exercised due diligence despite the failure to file or whether
31 the person knew or should have known that a report required under
32 this section would not be filed; whether there has been a prior
33 failure to file a report required under this section; and whether a
34 report was filed with another state agency or law enforcement.
35 The amount of the fine imposed may also differ based on whether
36 a health care facility is a small or rural ~~hospital~~ *hospital*, as defined
37 in Section 124840 of the Health and Safety Code.

38 (f) A person, including an employee or individual contracted
39 or subcontracted to provide health care services, a health care
40 facility, or other entity shall not incur any civil or criminal liability

1 as a result of making a report required by this ~~section if made in~~
2 ~~good faith.~~ *section.*

3 (g) The agency shall investigate the circumstances underlying
4 a report received pursuant to this section.

5 SEC. 3. Section 2221 of the Business and Professions Code is
6 amended to read:

7 2221. (a) The board may deny a physician's and surgeon's
8 certificate to an applicant guilty of unprofessional conduct or of
9 any cause that would subject a licensee to revocation or suspension
10 of their license. The board, in its sole discretion, may issue a
11 probationary physician's and surgeon's certificate to an applicant
12 subject to terms and conditions, including, but not limited to, any
13 of the following conditions of probation:

14 (1) Practice limited to a supervised, structured environment
15 where the licensee's activities shall be supervised by another
16 physician and surgeon.

17 (2) Total or partial restrictions on drug prescribing privileges
18 for controlled substances.

19 (3) Continuing medical or psychiatric treatment.

20 (4) Ongoing participation in a specified rehabilitation program.

21 (5) Enrollment and successful completion of a clinical training
22 program.

23 (6) Abstention from the use of alcohol or drugs.

24 (7) Restrictions against engaging in certain types of medical
25 practice.

26 (8) Compliance with all provisions of this chapter.

27 (9) Payment of the cost of probation monitoring.

28 (b) The board may modify or terminate the terms and conditions
29 imposed on the probationary certificate upon receipt of a petition
30 from the licensee. The board may assign the petition to an
31 administrative law judge designated in Section 11371 of the
32 Government Code. After a hearing on the petition, the
33 administrative law judge shall provide a proposed decision to the
34 board.

35 (c) The board shall deny a physician's and surgeon's certificate
36 to an applicant who is required to register pursuant to Section 290
37 of the Penal Code. This subdivision does not apply to an applicant
38 who is required to register as a sex offender pursuant to Section
39 290 of the Penal Code solely because of a misdemeanor conviction
40 under Section 314 of the Penal Code.

1 (d) An applicant shall not be eligible to reapply for a physician's
2 and surgeon's certificate for a minimum of three years from the
3 effective date of the denial of their application, except that the
4 board, in its discretion and for good cause demonstrated, may
5 permit reapplication after not less than one year has elapsed from
6 the effective date of the denial.

7 (e) The board shall disclose a probationary physician's and
8 surgeon's certificate issued pursuant to this section and the
9 operative statement of issues to an inquiring member of the public
10 and shall post the certificate and statement on the board's internet
11 website for 10 years from issuance.

12 SEC. 4. Section 2234 of the Business and Professions Code is
13 amended to read:

14 2234. The board shall take action against any licensee who is
15 charged with unprofessional conduct. In addition to other
16 provisions of this article, unprofessional conduct includes, but is
17 not limited to, the following:

18 (a) Violating or attempting to violate, directly or indirectly,
19 assisting in or abetting the violation of, or conspiring to violate
20 any provision of this chapter.

21 (b) Gross negligence.

22 (c) Repeated negligent acts. To be repeated, there must be two
23 or more negligent acts or omissions. An initial negligent act or
24 omission followed by a separate and distinct departure from the
25 applicable standard of care shall constitute repeated negligent acts.

26 (1) An initial negligent diagnosis followed by an act or omission
27 medically appropriate for that negligent diagnosis of the patient
28 shall constitute a single negligent act.

29 (2) When the standard of care requires a change in the diagnosis,
30 act, or omission that constitutes the negligent act described in
31 paragraph (1), including, but not limited to, a reevaluation of the
32 diagnosis or a change in treatment, and the licensee's conduct
33 departs from the applicable standard of care, each departure
34 constitutes a separate and distinct breach of the standard of care.

35 (d) Incompetence.

36 (e) The commission of any act involving dishonesty or
37 corruption that is substantially related to the qualifications,
38 functions, or duties of a physician and surgeon.

39 (f) Any action or conduct that would have warranted the denial
40 of a certificate.

- 1 (g) The failure by a certificate holder, in the absence of good
- 2 cause, to attend and participate in an interview by the board. This
- 3 subdivision shall only apply to a certificate holder who is the
- 4 subject of an investigation by the board.

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SB 601 Language

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AMENDED IN ASSEMBLY JUNE 27, 2019

AMENDED IN SENATE MARCH 28, 2019

SENATE BILL

No. 601

Introduced by Senator Morrell
(Coauthors: Senators Bates, Borgeas, Dahle, and Nielsen)
(Coauthors: Assembly Members Dahle and Mathis)
(Coauthor: Assembly Member Mathis)

February 22, 2019

An act to add Section 11009.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as amended, Morrell. State agencies: licenses: fee waiver.

Existing law requires various licenses to be obtained by a person before engaging in certain professions or vocations or business activities, including licensure as a healing arts professional by various boards within the Department of Consumer Affairs.

This bill would authorize any state agency that issues any business license to ~~reduce or waive any required fees for licensure, renewal of licensure, or the replacement of a physical license for display if a person or business establishes to the satisfaction of the state agency that the person or business has been displaced or affected by a declared federal emergency or proclaimed state emergency, as defined.~~ *establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11009.5 is added to the Government
 2 Code, to read:
 3 11009.5. (a) *For purposes of this section:*
 4 (1) *“Displaced” means a condition in which the person or*
 5 *business is unable to return to the address of record or other*
 6 *address associated with the license before experiencing economic*
 7 *hardship.*
 8 (2) *“Economic hardship” means the inability to pay living or*
 9 *business expenses, unless otherwise defined by a state agency*
 10 *pursuant to subdivision (c).*
 11 (3) *“Emergency” means an emergency as defined in Section*
 12 *8558 or a declared federal emergency.*
 13 (4) *“License” includes, but is not limited to, a certificate,*
 14 *registration, or other required document to engage in business.*
 15 (b) ~~Notwithstanding any other law, a state agency that issues~~
 16 ~~any business license may, within one year of the proclamation of~~
 17 ~~an emergency as defined in Section 8558 or a declared federal~~
 18 ~~emergency, reduce or waive any required fees for licensure,~~
 19 ~~renewal of licensure, or the replacement of a physical license for~~
 20 ~~display if a person or business establishes to the satisfaction of the~~
 21 ~~state agency that the person or business has been displaced or~~
 22 ~~affected by the proclaimed or declared emergency. may establish~~
 23 *a process for a person or business that has been displaced or is*
 24 *experiencing economic hardship as a result of an emergency to*
 25 *submit an application, that the agency may grant, for a reduction*
 26 *or waiver of any fees required by the agency to obtain a license,*
 27 *renew or activate a license, or replace a physical license for*
 28 *display.*
 29 (c) *A fee or waiver process established pursuant to subdivision*
 30 *(b) shall specify, at a minimum, all of the following:*
 31 (1) *The methodology used by the agency for determining whether*
 32 *a person, as a result of an emergency, has been displaced or is*
 33 *experiencing economic hardship.*
 34 (2) *The procedure for applying for a reduction or fee waiver.*

- 1 (3) *That the application shall be made within one year of the*
2 *date on which the emergency was proclaimed or declared.*
3 ~~(b) For purposes of this section, “license” includes, but is not~~
4 ~~limited to, a certificate, registration, or other required document~~
5 ~~to engage in business.~~

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Acupuncture Board Regulatory Update

Updated: July 10, 2019

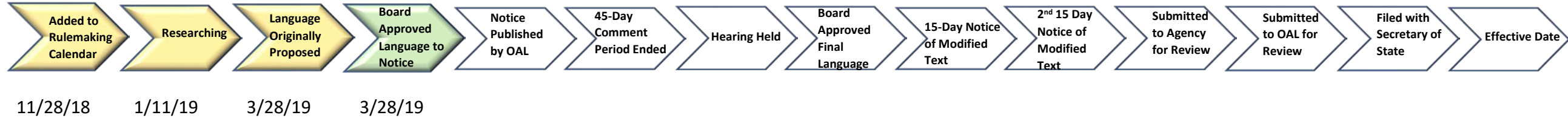
In the table below is a list of the Board’s regulations proposed for rulemaking packages in the 2019 calendar year. This list may be incomplete and subject to change depending upon Legislative or Executive action. Due date reflects the final due date when regulatory filing is anticipated to be submitted for rulemaking to Office of Administrative Law (OAL).

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

Pending Regulations					
	Subject	Title 16, California Code of Regulations (CCR) Section referred	Original authorizing vote date/ subsequent vote	Current Status	Filing Dates / Anticipated Filing Date
1	AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction	Adopt new Sections: • 1399.469.4 • 1399.469.5 • 1399.469.6	3/28/19	Rulemaking package under Legal review	<i>Sep 2019</i>
2	SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines	Amend existing Section • 1399.469	3/28/19	Rulemaking package under staff development	<i>Nov 2019</i>
3	SB 1448: Disclosure of Probation Status to Patients	Section 1399.469 (Implementation through Disciplinary Guidelines)	3/28/19	Rulemaking package under staff development	<i>Nov 2019</i>
4	SB 1246: Align Curriculum Standards and Approval Related Regulations with the Statutes	Amend existing Sections: • 1399.415 • 1399.416 • 1399.434 • 1399.435 • 1399.438 • 1399.439	8/16/19	Amendments scheduled for discussion/possible adoption at 8/16 Board Meeting	<i>Dec 2019</i>
5	AB 2190: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service	Amend existing Sections: • 1399.411 • 1399.413 • 1399.414 • 1399.415 • 1399.416 Adopt new Sections: • 1399.416.1 • 1399.416.2	TBD	Language drafted and under review. Proposed regulatory language expected to be presented at November 2019 Lic/Exam Comm mtg	<i>Feb 2020</i>
6	Increase Board Fees	Amend existing Sections: • 1399.460 • 1399.462	8/15/19	Amendments scheduled for discussion/possible adoption at 8/15 Board Meeting	<i>Jan 2020</i>

2019 Rulemaking Tracking Form

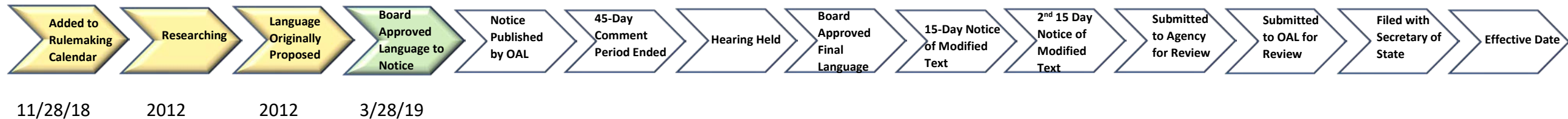
AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction



OAL No.:

Notes: Proposed regulatory language was presented at the March 2019 Board meeting. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff submitted the draft rulemaking package to Legal for review on June 20, 2019.

SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines



OAL No.:

Notes: Proposed regulatory language was presented at the March 2019 Board meeting. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff and DCA Legal Counsel are working on preparing the initial rulemaking package.

2019 Rulemaking Tracking Form

SB 1448: Disclosure of Probation Status to Patients													
Added to Rulemaking Calendar	Researching	Language Originally Proposed	Board Approved Language to Notice	Notice Published by OAL	45-Day Comment Period Ended	Hearing Held	Board Approved Final Language	15-Day Notice of Modified Text	2 nd 15 Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date
2/11/19	2/1/19	3/28/19	3/28/19										
OAL No.:													
Notes: Proposed probationary language within the Disciplinary Guidelines incorporated by reference in the proposed regulatory language was presented at the March 2019 Board meeting. The Board approved the proposed language and directed staff to initiate the formal rulemaking process. Staff and DCA Legal Counsel are working on preparing the initial rulemaking package.													
SB 1246: Align Curriculum Standards and Approval Related Regulations with the Statutes													
Added to Rulemaking Calendar	Researching	Language Originally Proposed	Board Approved Language to Notice	Notice Published by OAL	45-Day Comment Period Ended	Hearing Held	Board Approved Final Language	15-Day Notice of Modified Text	2 nd 15 Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date
2/11/19	4/1/19	6/13/19											
OAL No.:													
Notes: Proposed regulatory language and amendments were brought to the June 2019 Education and Research Committee for discussion. The committee recommended approval of the proposed regulatory language with some amendments and directed staff to take the proposed regulations to the full Board for discussion and possible adoption. It is scheduled for the August 2019 Board meeting.													

2019 Rulemaking Tracking Form

AB 2190: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service

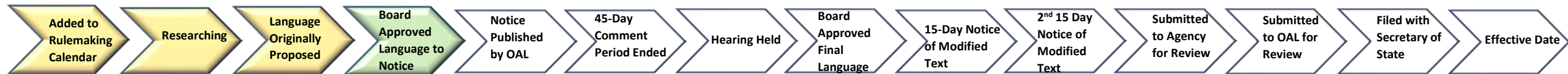


11/28/18 2018/2019

OAL No.:

Notes: Staff has developed proposed regulatory language and drafted applications for the process. Staff has met with more than one NACES member and discussed operations of the evaluation of foreign applicants for the California Acupuncture Licensing Exam. Staff plans to bring proposed regulatory language to the Licensing and Examination Committee in November 2019.

Increase Board Fees



7/12/19 8/15/19

OAL No.:

Notes: Proposed regulatory language is being presented at the August 2019 Board Meeting for discussion and possible approval.



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www.acupuncture.ca.gov



DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations §§ 1399.415, 1399.416, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439 (Curriculum Oversight Authority)

Chapter 397, Statutes of 2014 (SB 1246), extended the sunset date of the Acupuncture Licensure Act and the Acupuncture Board's (Board) operations until January 1, 2017. It also made substantial changes to the Board's education regulation and oversight.

Effective January 1, 2017, the bill deleted the requirement that schools and colleges offering education and training in the practice of acupuncture obtain all necessary approvals within three years of Board approval. The bill also eliminated the requirement that the Board approve those schools and colleges offering education and training in the practice of acupuncture.

Instead, a new definition and term was put forth for "approved educational and training programs", limiting the Board's role of approval to curriculum and ensuring that programs include 3,000 hours of Board specified training. The other parts to an "approved educational and training program" are approval from the Bureau for Private Postsecondary Education (BPPE), or other appropriate out-of-state governmental educational authority, and granted accreditation or pre-accreditation status by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or a letter of intent to pursue accreditation to the ACAOM.

The Board has already enacted many of the necessary amendments and deletions to existing regulations, including California Code of Regulations (CCR) sections 1399.436 and 1399.437, to remove the inoperative sections that related to Board approved training programs and allow for a curriculum application/review process. However, further staff and legal review was conducted identifying additional areas of the Board's regulations that require amendments to align with the changes of SB 1246, and the loss of training program approval.

The Education and Research Committee (ERC) met on June 13, 2019 to discuss staff's suggested amendments to the regulations affected by SB 1246. The ERC recommended approval of the amendments, and directed staff to bring the language to the full Board. The following memorandums and regulatory language detail the suggested amendments and options identified for discussion and vote.



CCR §1399.415

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DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations § 1399.415

Discussion

California Code of Regulations (CCR) section 1399.415 Documentation of Training

This section sets forth the education and tutorial criteria required to qualify for the examination. The regulation states that the education and tutorial requirements must be documented by the registrar or tutor. It also states that any education or tutorial completed to be eligible for the examination must be completed at least thirty (30) days prior to the date of the examination. All of these requirements are still applicable and are unchanged.

Subdivision (b)(1) currently identifies applicants who enrolled in an approved training program prior to January 1, 2005, shall have completed the coursework and training set forth in CCR section 1399.436. This section was repealed when previous regulatory changes occurred due to Chapter 397, Statutes of 2014 (SB 1246). Therefore, this subdivision has been removed.

Subdivision (b)(2) currently states that all applicants who are enrolled in an approved training program after January 1, 2005, shall have completed the coursework and training set forth in CCR section 1399.434. Since there are no longer date-specific program requirements, amendments have been made to subdivision (b)(2) to indicate that applicants must comply with the coursework requirements in CCR section 1399.434, which is the only regulation that identifies coursework requirements after the repeal of CCR section 1399.436.

Motion

Possible Motions for CCR section 1399.415

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.415, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Amend Section 1399.415 of Article 2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.415 Documentation of Training.

(a) Each applicant shall have completed the education or tutorial requirements set forth in these regulations as documented by the registrar of each school from which the applicant attended or from the applicant's tutor, in the case of a tutorial program.

~~(b)(1) All applicants for examination who are enrolled in an approved acupuncture and Oriental medicine educational training program prior to January 1, 2005, shall have completed the coursework and training set forth in Section 1399.436.~~

~~(2) All applicants for examination who are enrolled in an approved acupuncture and Oriental medicine educational training program on or after January 1, 2005, shall have completed the coursework and training set forth in Section 1399.434.~~

(c) All applicants applying for examination shall meet the minimum educational or tutorial requirements set forth in these regulations at least thirty (30) days prior to the date of the examination for which the application has been made.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4927.5, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.



CCR §1399.416

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www.acupuncture.ca.gov



DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations § 1399.416

Discussion

California Code of Regulations (CCR) section 1399.416 Equivalent Training and Clinical Experience Qualifying for Licensure

This section states that the documentation of educational training and clinical experience to qualify an applicant for licensure under Business and Professions Code section 4938 (b)(3), shall be provided by the applicant. In addition, the applicant's documentation shall meet the requirements of CCR section 1399.436, which has been repealed.

The Education and Research Committee (Committee) is recommending the cleanup of the introductory language of the regulation by removing "In order." The Committee is also recommending the deletion of the reference to CCR section 1399.436 and leaving only the referenced CCR section 1399.434, as this is currently the only regulation on coursework and curriculum requirements.

This section sets forth the documentation requirements for foreign trained applicants in that a report from a member of the National Association of Credentials Evaluation Services, Inc. must be submitted directly to the Acupuncture Board (Board) from the credential evaluation service on behalf of the applicant with his or her application for examination.

This requirement is being changed from the credential evaluation report being submitted by the applicant with his or her application for examination to now requiring the report be submitted to the Board directly from the credential evaluation service. This change was necessary to align with Business and Professions Code (BPC) section 4939 (b)(2) and the changes that were implemented by Chapter 667, Statutes of 2016 (AB 2190) to BPC section 4939.

Motion

Possible Motions for CCR section 1399.416

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.416, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(2) Amend Section 1399.416 of Article 2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.416 Equivalent Training and Clinical Experience Qualifying for Licensure.

~~In order f~~For documented educational training and clinical experience to qualify for licensure under Section 4938, subdivision (b)(3) of the Code, the applicant shall document that such education and experience meets the requirements of ~~Section 1399.436, subsections (a), (b), and (c) or, if applicable, Section 1399.434.~~ All foreign trained applicants shall submit documentation of his or her education to a credentials evaluation service that is a member of the National Association of Credentials Evaluation Services, Inc. for review and a report to the board. This report shall be ~~filed by the~~submitted directly to the board from the credential evaluation service on behalf of the applicant with his or her application for examination.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections ~~4925,~~ 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.



CCR § 1399.434/
CCR § 1399.435/
Title for Art 3.5

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BOARD**

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DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations § 1399.434 and Repealing § 1399.435

Discussion

CCR 1399.435 Criteria for Acupuncture and Oriental Medicine Training Programs CCR 1399.434 Criteria for Approval of Acupuncture and Oriental Medicine Curriculum

The Education and Research Committee (Committee) is proposing to implement amendments to California Code of Regulations (CCR) section 1399.434 and a repeal of CCR section 1399.435. Retained and unchanged regulatory language from CCR section 1399.435 would move under CCR section 1399.434 and include amendments.

The Committee is also proposing the retitling of Article 3.5 Acupuncture Training Programs to Approved Educational and Training Programs, to align with the statutory term from Business and Professions Code (BPC) section 4927.5.

CCR section 1399.434 sets forth the criteria for approval of acupuncture and oriental medicine curriculum. It sets out a detailed breakdown in curriculum hours by coursework area that is required of an approved educational and training program. The Committee agrees with staff’s recommendation that the other requirements for an approved educational and training program be moved to this section as well.

Therefore, the proposal consolidates the two sections with more clarity and improved organization of all provisions related to curriculum and approved educational and training programs.

Below is a list of each amendment:

- Retitling of CCR section 1399.434 from “Criteria for approval of acupuncture and oriental medicine curriculum” to “Criteria for approval of acupuncture educational and training program curriculum” to align with the statutory term from BPC section 4927.5.
- All of CCR section 1399.435 is proposed to be repealed. However, some subsections will be moved under CCR section 1399.434, as specified below.

- The introduction of CCR section 1399.435 was not moved under CCR section 1399.434 because there are no longer different curriculums contingent on an applicant's enrollment date. Therefore, this preamble is no longer relevant or necessary.
- Subdivision (a) of CCR section 1399.435 was not moved under CCR section 1399.434, which is a requirement that candidates have completion of 60 semester units/90 quarter credits of education at the baccalaureate level. This subdivision is not being retained because it is not a requirement that aligns with the curriculum standards under the Board's purview. Rather, this is a requirement that the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) ensures is being upheld by the programs when accreditation is granted.
- Subdivision (b) of CCR section 1399.435 was not moved under CCR section 1399.434 because this requirement is duplicative of BPC 4927.5 (a)(2), which is the provision requiring Bureau for Private Postsecondary Education (BPPE) approval for an approved educational and training program.
- Subdivision (c) of CCR section 1399.435 pertains to the development of a self-study evaluation process required for training programs. This subdivision is not being retained and moved over because this is currently a requirement of ACAOM accreditation, which makes it unnecessary and duplicative.
- Subdivisions (d) through (f) of CCR section 1399.435 have been moved over to CCR section 1399.434 as subdivisions (i) through (k) but no amendments to content are suggested.
- Subdivision (g) of CCR section 1399.435 has been moved to CCR section 1399.434 as subdivision (l). The words "educational and" have been added to existing language to reflect the statutory term "educational and training." The word "program" has been removed and replaced with "curriculum" because CCR section 1399.434 covers curriculum requirements and not the program as a whole.
- Subdivision (g)(1) of CCR section 1399.435 has been moved to CCR section 1399.434 as subdivision (l)(1). This language has been amended to add the authority to accept coursework as credit when a course has been challenged by a College Level Examination Program (CLEP) exam as determined by the Board. Staff feels this is necessary to align with other academic institutions, as well as ACAOM, who all accept CLEP challenged courses for transfer students.
- Subdivision (g)(2) of CCR section 1399.435 was moved under CCR section 1399.434 as subdivision (l)(2). There are no amendments.
- Subdivision (g)(3) has been moved under CCR section 1399.434 as subdivision (l)(3). This subdivision is amended to add the statutory term "educational and training curriculum."
- Subdivision (g)(4) of CCR section 1399.435 was moved under CCR section 1399.434 as subdivision (l)(4). It has been amended to update the correct Education Code citation for BPPE authority.
- Subdivision (g)(5) of CCR section 1399.435 was not moved under CCR section 1399.434 because all Traditional Chinese Medicine programs in the US are

accredited by ACAOM, therefore, ACAOM already oversees any transfer credit rules.

- Subdivision (g)(6) of CCR section 1399.435 has been moved under CCR section 1399.434 (l)(5). It has been amended to remove the requirement that record of a student's transfer credit evaluation and award be filed with the Board upon request. This is unnecessary because transcripts documenting such an evaluation and award of transfer credit is already submitted to the Board by the educational and training program.
- Subdivision (g)(7) of CCR section 1399.435 has not been moved under CCR section 1399.434 as it is outside the Board's jurisdiction to oversee transfer credit policies and procedures. ACAOM is the entity that oversees transfer rules.

Motion

Possible Motions for CCR sections 1399.434 and 1399.435

Option 1:

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.434 and repeal of CCR section 1399.435, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

Possible Motions for Retitling of Article 3.5

Option 1:

Recommendation for Approval:

Option 1:

Motion to approve the proposed retitling of Article 3.5 of Division 13.7 of Title 16 of the CCR, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(3) Amend Section 1399.434 of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.434. Criteria for approval of acupuncture educational and oriental medicine-training program curriculum.

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 coursework that contains 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 the "Clean Needle Technique Manual 7th edition" (rev. January 2016), published by the Council of Colleges of Acupuncture and Oriental Medicine, which is hereby incorporated by reference. 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-10);
- (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 and diagnostic codes, including Current Procedural Terminology (CPT) and International Classification of Disease ICD-10 diagnostic codes;
 - (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 sections 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) The director and supervisor(s) of the clinical portion of the training program shall be a licensed acupuncturist in the state where the educational institution is located and with at least 5 years of licensed clinical experience in the practice of acupuncture and Oriental medicine.

(j) Coursework shall carry academic credit.

(k) All instructors shall be competent to teach their designated courses by virtue of their education, training and experience. All faculty credentials shall be equivalent to the course and degree level being taught.

(l) Each educational and training curriculum shall develop policies and procedures to evaluate and award transfer credit to students for coursework and experience which is equivalent to current coursework and clinical instruction required. Such policies and procedures shall be defined in the school's catalog and shall include the following:

(1) Credit shall only be awarded for actual coursework, or by a College Level Examination Program (CLEP) examination as determined by the board.

(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 and retained by the school in the subject area(s) in which transfer credit may be awarded.

(3) Up to 100% transfer credit may be awarded for coursework and clinical instruction completed successfully at another acupuncture school or college which is an educational and training curriculum approved by the board.

(4) Up to 100% transfer credit may be awarded for courses completed successfully in basic sciences, clinical medicine, case management, practice management, public health, and professional development at a school which is approved under Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code or by an accrediting agency recognized by the U.S. Department of Education.

(5) The entire record of the 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.

Note: Authority cited: Sections 4927.5 and 4933, Business and Professions Code.
Reference: Sections 4927.5, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(4) Repeal Section 1399.435 of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations:

~~1399.435 Criteria for Acupuncture and Oriental Medicine Training Programs.~~

~~An acupuncture and Oriental medicine training program approved by the board shall adopt the following procedures for its program effective January 1, 2005:~~

~~(a) Candidates for admission shall have successfully completed at least two (2) academic years (60 semester credits/90 quarter credits) of education at the baccalaureate level that is appropriate preparation for graduate level work, or the equivalent from an institution accredited by an agency recognized by the U.S. Secretary of Education.~~

~~(b) The training program should be located in an educational 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.~~

~~(c) The training program shall develop self study evaluation process to determine the effectiveness of its theoretical and clinical program.~~

~~(d) Coursework shall carry academic credit.~~

~~(e) The director and supervisor(s) of the clinical portion of the training program shall be a licensed acupuncturist in the state where the educational institution is located and with at least 5 years of licensed clinical experience in the practice of acupuncture and Oriental medicine.~~

~~(f) All instructors shall be competent to teach their designated courses by virtue of their education, training and experience. All faculty credentials shall be equivalent to the course and degree level being taught.~~

~~(g) Each training program shall develop policies and procedures to evaluate and award transfer credit to students for coursework and experience which is equivalent to current coursework and clinical instruction required. Such policies and procedures shall be defined in the school's catalog and shall include the following~~

~~(1) Credit shall only be awarded for actual coursework.~~

~~(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 and retained by the school in the subject area(s) in which transfer credit may be awarded.

~~(3) 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.~~

~~(4) Up to 100% transfer credit may be awarded for courses completed successfully in basic sciences, clinical medicine, case management, practice management, public health, and professional development 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.~~

~~(5) Up to fifty percent (50%) credit, by transfer or challenge exam, for clinical practice coursework and instruction in acupuncture and Oriental medicine principles, theories and treatment procedures 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 individual subjects are completed successfully at a school approved by the board.~~

~~(6) The entire record of the 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.~~

~~(7) All students shall receive upon matriculation a copy of the school's policies and procedures for evaluating and awarding transfer credit.~~

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(5) Amend Title of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

Article 3.5. ~~Acupuncture~~ Approved Educational and Training Programs



CCR § 1399.437/
CCR § 1399.438

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DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations §§ 1399.437 and 1399.438

Discussion

California Code of Regulations section (CCR) 1399.437 Requirements for Board Approval of Curriculum.

CCR section 1399.437 was amended in 2017 in response to Chapter 397, Statutes of 2014 (SB 1246). The regulation now provides a process for the Acupuncture Board (Board) approval of curriculum and outlines the application components. When the regulation was carried out the title of the section was changed from “Documentation Required for Approval” to “Requirements for Board Approval of Curriculum.”

The Education and Research Committee (Committee) is suggesting a minor change to this section. After further staff review and advice from Legal Counsel, it has been determined the regulation could be clearer if the title was amended to read, “Application Process for Board Approval of Curriculum.”

The Committee wants to highlight that this distinction is necessary because CCR sections 1399.434 and 1399.435 are the two regulations that set forth the requirements for Board approved curriculum and approved educational and training programs. CCR section 1399.437 is focused on the application process itself.

Staff is starting to move away from incorporating forms by reference through regulation. Therefore, given that the Board is already making amendments to CCR section 1399.437, staff felt it was opportune to remove the form incorporated by reference and instead list the required information that must be disclosed by the educational and training program seeking Board approval of its curriculum. Listing components of the form and the information required of the party allows the Board to make non-substantive changes, such as new letterhead, formatting, and operational instructions, without going through the rulemaking process every time.

Staff is recommending the removal of subdivision (a)(1) through (5) that relate to information requested from the educational and training program. Instead, this same information is being incorporated in a newly proposed subdivision (f). Subdivision (f) identifies all of the components of the application and the information requested by the

Board for curriculum approval. The required information that is listed matches the application incorporated by reference that is currently in use. Therefore, there are no changes to the actual form and the information that is required to be disclosed.

References to the title of the application that appear in CCR section 1399.437 are being removed and replaced with the word 'application' so the title of the form can also be changed without being changed in regulation.

CCR section 1399.438 Suspension or Revocation of Approval.

The Committee is recommending minor changes for cleanup of this regulation to align with the statutory term and intent of Business and Professions Code (BPC) section 4927.5.

The Committee is recommending the word "curriculum" be added to the sentence regarding the Board's authority to deny, place on probation, suspend or revoke, or grant approval to programs' curriculum. This will provide more clarity in setting out the Board's proper authority. In addition, the Board has added the words "approved educational and" to the sentence to specify the statutory term, approved educational and training program.

Motions:

Possible Motions for CCR section 1399.437

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.437, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

Possible Motions for CCR section 1399.438

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.438, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(6) Amend Title of Section 1399.437 of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.437. ~~Requirements~~ Application Process for Board Approval of Curriculum.

(a) Each educational and training program seeking board approval of its curriculum shall submit an ~~“Application for Board Approval of Curriculum” (rev 4/15), hereby incorporated by reference~~ application for board approval of curriculum on a form provided by the board. The application form shall ~~be accompanied by the following request the~~ information and documentation described in subdivision (f).:

~~(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 information and documentation submitted under this section shall be in English.~~

(b) An ~~“Application for Board Approval of Curriculum”~~ application shall be deemed received and complete pursuant to Business and Professions Code Section 4927.5, subdivision (b), when the board has received a complete application, including the form and all information and documentation, as defined in subdivision (a) of this regulation.

(c) An educational and training program whose ~~“Application for Board Approval of Curriculum”~~ application is incomplete shall be notified, in writing, that the application is incomplete, and of the reasons the application is incomplete and instructions for how to address the incomplete application. An educational and training program's incomplete application shall be deemed abandoned if the educational and training program does not submit a complete application to the board within 30 days of the mailing of the written notification that the application is incomplete.

(d) An ~~“Application for Board Approval of Curriculum”~~application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

(e) Any changes to coursework as listed in Section 1399.434 after Board approval constitutes a new curriculum and requires ~~B~~board approval pursuant to Business and Professions Code Section 4927.5. The approval shall be attained prior to implementing the new curriculum.

(f) For all educational and training program(s) requested for board curriculum approval, the application described in this section shall request the following:

(1) General Information: Application date; legal name of school; current address identifying the physical location of the school campus; mailing address; phone number; fax number; email; name and title of contact person; phone number and email for contact person; and name of each program requested for board curriculum approval.

(2) Course-by-Course List of Required Curriculum: Academic year; a completed course-by-course list for each course that meets the board required coursework with course number from the program’s course catalog, clock hour, and course unit to document that the curriculum meets the requirements of Section 1399.434; total clock hours for each major subject area as set forth under Section 1399.434; curriculum as set forth under Section 1399.434; and total program clock hours.

(3) List of All Courses in the Program: A list of all courses in the program requested for board approval of curriculum with course number, full course title, course unit, and course hour for all courses listed pursuant to in subdivision (f)(2).

(4) A copy of all course syllabi for program(s) requested for board curriculum approval.

(5) A copy of the current course catalog.

(g) All information and documentation submitted under this section shall be in English.

Note: Authority cited: Sections 4927.5 and 4933, Business and Professions Code.
Reference: Sections 4927.5, 4937 and 4938, Business and Professions Code.

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(7) Amend Section 1399.438 of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.438. Suspension or Revocation of Approval

The board may deny, place on probation, suspend or revoke the curriculum approval granted to any ~~acupuncture~~ approved educational and training program for any failure to comply with the regulations in this article, the Acupuncture Regulations or the Acupuncture Licensure Act.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4925 and ~~4939~~ 4927.5, Business and Professions Code.



CCR § 1399.439

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DATE	August 16, 2019
TO	Board Members, Acupuncture Board
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Amending Title 16, California Code of Regulations § 1399.439

Discussion

California Code of Regulations (CCR) section 1399.439 School Monitoring; Records; Reporting

The Education and Research Committee (Committee) is recommending the title of CCR section 1399.439 be amended to read, “Education and Training Program Curriculum Monitoring; Records; Reporting” to clarify the Board’s authority is over curriculum, and not the schools themselves.

CCR section 1399.439 relates to school annual reports and the requirements for this process when it was in existence. Since the Board no longer has authority over the training programs themselves, there are some necessary changes to make in order to provide the proper authority over curriculum and approved educational and training programs as defined under Business and Professions Code (BPC) section 4927.5. Below are the recommended changes to CCR section 1399.439:

- The title of CCR section 1399.439 has been changed from “School Monitoring; Records; Reporting” to “Educational and Training Program Curriculum Monitoring; Records; Reporting” to align the terminology with the statutory term “educational and training program” pursuant to BPC section 4927.5.
- Terminology has been aligned with the statute changing ‘acupuncture school’ to ‘educational and training program’ under subdivision (a).
- The Committee is also recommending moving up the reporting period from 60 days after the close of a school’s fiscal year to 90 days or before the close of the school’s academic year. Moving the reporting period up allows the Board more time to review any curriculum changes prior to the start of the school’s new academic year. Academic year was specified instead of fiscal year because changes to curriculum are planned and aligned as part the academic year versus a school’s fiscal year end.
- Reference to the application for board approval of curriculum as defined in Section 1399.437 was added to specify that approved educational and training programs

communicate annual curriculum changes through the same form used to apply for curriculum approval.

- Course catalog was deleted because the application for board approval of curriculum is only deemed complete when a copy of a current course catalog is included as set forth under CCR section 1399.437 (a)(5). Therefore, it is unnecessary and duplicative to include the submission of a course catalog again in CCR section 1399.439.
- Currently the Board requires approved educational and training programs to communicate any changes in faculty, however, the Board only has criteria related to clinic supervisors. Therefore, staff has removed faculty and replaced it with clinic supervisors to allow the Board to only receive information about changes to clinic supervisors.
- The Board does not have authority over a school's administration, facility, or financial condition, so staff has amended CCR section 1399.439 to remove all of those references. The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), and the Bureau for Private Postsecondary Education (BPPE) are the entities that oversee these areas.
- A minor change to subdivision (b) changing the word 'school' to 'curriculum,' since the Board only has authority to review and evaluate curriculum, not the school itself.
- Subdivision (c) has been revised for clarity, so it is understood that all student records shall be maintained in English, at minimum. This is a non-substantive change.
- Subdivision (d) has been removed because the process for approved educational and training program's communication of changes to curriculum have already been addressed under subdivision (a).

Motions:

Possible Motions for CCR 1399.439

Recommendation for Approval:

Option 1:

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.439, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2:

Motion to approve the proposed regulatory text as amended:

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(8) Amend Section 1399.439 of Article 3.5 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.439. School Educational and Training Program Curriculum Monitoring; Records; Reporting.

(a) Every approved ~~acupuncture school~~ educational and training program shall be required to submit to the board ~~within sixty ninety (690) days after or before~~ the close of the school's fiscal academic year a current ~~course catalog with~~ application for board approval of curriculum as defined in Section 1399.437 and a letter outlining the following: 1) any courses added/deleted or significantly changed from the previous year's curriculum; 2) and any changes in faculty, administration, or governing body; 3) any major changes in the school facility; and 4) ~~a statement regarding the school's financial condition, which enables the board to evaluate whether the school has sufficient resources to ensure the capability of the program for enrolled students~~ clinical supervisors.

(b) If determined necessary an on-site visit by representatives of the board will be made to the school to review and evaluate the status of the ~~school~~ curriculum. The school will be required to reimburse the board for direct costs incurred in conducting such review and evaluation.

(c) ~~All~~ At minimum, all student records shall be maintained in ~~at least~~ English.

(d) ~~Each approved acupuncture school shall report to the board within 30 days any substantial changes to the facility and/or clinic(s), and curriculum required in this section.~~

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections ~~4939~~ 4927.5 and 4944, Business and Professions Code.



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DATE	August 16, 2019
TO	Licensing and Examination Committee
FROM	Jay Herdt, Licensing Manager
SUBJECT	Discussion on Retired Licensing Status Designation

Historically, the Acupuncture Board (Board) has not had statutory authority to grant a retired status to an acupuncture license when a licensee makes the decision to retire from acupuncture.

The Board has only had inactive status pursuant to Business and Professions Code (BPC) section 462 and California Code of Regulations (CCR) section 1399.489.1. These sections allow for a licensee to place a license on inactive status if they are not actively engaged in the practice of acupuncture. During the time he or she is inactive, the licensee is still required to pay the \$325 biennial fee. The licensee is, however, allowed to renew without the completion of continuing education.

The only other option for licensees who neither wish to practice acupuncture nor continually renew a license is to intentionally let the license lapse and permanently cancel with a cancellation designation, which may carry a negative connotation.

These two options do not adequately address the needs of a retired licensee, nor do these statuses accurately reflect the current state of the licensee ending his or her career as an acupuncturist, usually in good standing.

On January 1, 2017, however, BPC section 464 became effective, permitting boards who do not currently have a statute in their Act, the authority to establish a regulation to allow licensees a retired status. There are several mandatory components to include within the regulation, including criteria to go on retired status, fees to cover the reasonable regulatory cost of granting retired status, and requirements to restore a retired status to active status, including the payment of an additional fee. All of these statutory requirements have been included in the recommended retired status regulation for the Board's consideration.

Staff has also researched eight other boards who currently have retired status designations to gather best practices, industry standards, and suggested language. Given the need of the profession and the new authority to enact a regulatory process, on June 13, 2019, the Licensing and Examination Committee (Committee) considered the proposed regulation and moved to recommend the proposed regulation to the full Board for further discussion and review. While the proposed regulation describes the contents of an application form for the Board's usage, staff further prepared a form for the Board's review that is consistent with the proposed regulation.

Discussion

Staff recommends that the Board adopt new CCR section 1399.419.3 entitled “Application for Retired Status; Retired Status; Restoration.” The statute requires an acupuncturist with an active or inactive license that was not placed on inactive status for disciplinary reasons the option to apply for retired status. Further, staff included a licensee with a current license that is not suspended, revoked, or otherwise restricted or subject to discipline the option to apply for retired status with the Board.

This requirement was included based upon research of other board’s retirement laws and regulations. Additionally, staff recommends only licensees in good standing be allowed to apply for retired status. The licensee is required to complete an application and pay a \$75 fee pursuant to BPC 464 subdivision (b)(4) to cover the reasonable regulatory cost of issuing a retired license. The fee has been set at \$75 based upon staff’s research of other boards. In addition, methodology, including personnel services costs and operating expenses and equipment costs to determine the cost per unit were taken into account in setting the fee.

The licensee also cannot be engaged in the practice of acupuncture while on retired status, which is a statutory requirement for the regulation. Once the licensee has been placed on retired status, he or she is not required to renew the license or complete continuing education (CE). Pardoning the licensee from renewal and CE requirements matches other boards’ practices and makes sense given the fact a retired licensee cannot engage in the practice of acupuncture anymore.

For a licensee to restore the retired license status to active status, a form must be completed along with a payment of \$250 pursuant to BPC 464 subdivision (b)(5)(A). The fee is being set at this amount based upon the Board’s fee audit which identified the baseline initial application fee at \$250. The retirement restoration fee covers a similar workload and process as the initial application fee. This includes pulling the licensee’s file from storage, reviewing the licensee’s file, including the licensee’s prior eligibility and licensing history, when he or she applies for re-examination as part of the restoration process.

In addition to completing an application, the retired licensee must take and pass the California Acupuncture Licensing Examination (CALE), be fingerprinted, and pay an initial license fee. BPC 464 subdivision (b)(5)(C) requires the regulation to include a licensee comply with fingerprint submission requirements. The law also requires the licensee certify that he or she has not committed an act or crime constituting grounds for denial of licensure, therefore, the proposed regulation includes this requirement.

The authorizing statute includes the option of requiring the completion of CE in order to restore a retired license to active status. Staff explored this option but found it difficult to ensure competency with CE alone, compounded by the different lengths licensees may be out of practice. Staff felt placing a more stringent requirement, such as passing the exam, to restore a retired license to active status would be a better measure of the licensee’s competency and protection of the public.

Given the options already in place with going inactive or letting a license cancel, the licensee can determine the appropriate path for his or her career and license status.

The Committee met and discussed the proposed regulation and has moved for its presentation to the full Board for review and discussion for possible action. Staff has further developed a form for the Board's review consistent with this regulation.

Recommended Motion Language

Option 1: Motion to Approve

Motion to approve the proposed regulatory text for Title 16, CCR section 1399.419.3, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option 2: Motion to Approve, as Amended

Motion to approve the proposed regulatory text and form as amended:

Option 3: Motion for Additional Research

Motion for additional research by staff and the Licensing and Examination Committee to bring back amendments to the proposed regulatory text for Title 16, CCR section 1399.419.3 to be presented to the Board at a future meeting.

ACUPUNCTURE BOARD

Proposed Language

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Add Section 1399.419.3 of Article 2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.419.3. Application for Retired Status; Retired Status; Restoration.

(a) On or after (effective date), the Board shall grant retired status to a licensee with either a current active or inactive acupuncture license that was not placed on inactive status for disciplinary reasons, and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline, upon completion of an application form provided by the board and payment of a seventy-five dollar (\$75) application fee.

(1) The holder of a license in retired status shall meet the following requirements:

(A) Not engage in the practice of acupuncture.

(B) Use only the titles “retired acupuncturist” or “acupuncturist, retired.”

(2) The holder of a license in retired status shall not be required to renew that license or comply with continuing education requirements.

(3) The placement of a license on retired status shall not deprive the board of jurisdiction to commence or proceed with any investigation of a complaint, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

(b) The holder of a license in retired status may restore his or her license to an active status upon completion of an application form provided by the Board and payment of a two hundred fifty-dollar (\$250) fee. An applicant pursuant to this subdivision shall also meet the following requirements:

(1) Take and pass the Board’s Licensing Examination and comply with the application requirements set forth under Section 1399.413 subdivision (b).

(2) Comply with the fingerprint submission requirements set forth in Section 1399.419.2.

(3) Payment of the examination and initial licensure fees for an acupuncture license as set forth in Section 1399.460, subdivisions (b) and (c).

(c) The applications for retired status and restoration of a license on retired status described in this section shall request that the applicant provide the following information:

(1) Type of application.

(2) Licensee name.

(3) Address of record.

(4) The licensee's individual taxpayer identification number or social security number.

(5) Date of birth.

(6) License number.

(7) Phone number.

(8) Email address.

(9) Conviction and license discipline disclosure question requiring disclosure of whether the licensee has been disciplined by any public agency or has been convicted or pled nolo contendere to any violation of any state in the United States or foreign country.

(10) Date licensee last practiced acupuncture.

(11) Declaration agreeing to not engage in the practice of acupuncture while on retired status, and, while on retired status, to only use the titles permitted by subdivision (a)(1)(B).

(12) The licensee will attest to the truth of all information disclosed under penalty of perjury.

Note: Authority cited: Sections 464 and 4933, Business and Professions Code.
Reference: Sections 464, 4938, 4939, 4940, and 4944, Business and Professions Code.



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APPLICATION FOR RETIRED STATUS / RESTORE LICENSE FROM RETIRED STATUS

SECTION A: Application Type	
<input type="checkbox"/> I wish to place my license on 'Retired Status' (\$75.00) Step 1. Please attach payment with this form with a check or money order for \$75.00. Step 2. Complete all sections <i>except</i> section D.	<input type="checkbox"/> I wish to restore my license from retired status (\$250.00) Step 1. Please attach payment with this form with a check or money order for \$250.00 made out to the Acupuncture Board. Step 2. Attach the "Application Update for Examination" form and applicable fee. Step 3. Complete all sections of this form.

Failure to provide any requested data may prevent or significantly delay the processing of your application. Submit completed forms by mail. You can verify your Retired status on our website under "Verify a License".

Licensees in Retired status are prohibited from engaging in the practice of acupuncture. Such licensees are exempt from the renewal fee and continuing education requirements.

SECTION B: Personal Information		
License Number		
Licensee Name		
Address of Record		
Street Address	City	Zip Code
SSN or Tax Payer Identification No.	Date of Birth	
Daytime Phone	Email Address	

SECTION C: Mandatory Conviction and License Discipline Disclosure Question

Since you last renewed your license, have you had any license disciplined by a government agency or other disciplinary body? Have you been convicted of or pled guilty or nolo contendere to any felony, misdemeanor, infraction or other criminal offense under the laws of any state, the United States, or a foreign country, including any conviction which has been dismissed under Section 1203.4 of the Penal Code? If you are awaiting judgment and sentencing following entry of a plea or jury verdict, you must still disclose the conviction.

*Yes No

*If you answered yes to this question please provide details. If you have had a license disciplined, provide certified copies of the disciplinary order and any documentation of rehabilitation to the Acupuncture Board. If you have been convicted, please provide CERTIFIED TRUE COPIES of the court and arrest records for each criminal offense to the Acupuncture Board. Mail all documents within 30 days to: Acupuncture Board 1747 N. Market Blvd., Ste. 180, Sacramento, CA 95834

SECTION D: Retirement Date

Date you last practiced acupuncture

SECTION E: Declaration

By signing below, I am requesting Retired Status or the restoration of my license from retired status. I understand that I am prohibited from engaging in the practice of acupuncture during the time I am on Retired Status. I understand I am only permitted to use the titles "retired acupuncturist" or "acupuncturist, retired" during the time I am on Retired Status. I declare under penalty of perjury under the laws of the State of California that the information given above is true, correct and that I am the person who was issued a license by the Acupuncture Board of California.

Signature: _____ **Date:** _____

FOR BOARD USE ONLY
AMOUNT \$ _____
RECPT # _____
CHECK # _____
DATE _____

§ 1399.419.3. Application for Retired Status; Retired Status; Restoration

(a) On or after (effective date), the Board shall grant retired status to a licensee with either a current active or inactive acupuncture license that was not placed on inactive status for disciplinary reasons, and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline, upon completion of an application form provided by the board and payment of a seventy-five dollar (\$75) application fee.

(1) The holder of a license in retired status shall meet the following requirements:

(A) Not engage in the practice of acupuncture.

(B) Use only the titles "retired acupuncturist" or "acupuncturist, retired."

(2) The holder of a license in retired status shall not be required to renew that license or comply with continuing education requirements.

(3) The placement of a license on retired status shall not deprive the board of jurisdiction to commence or proceed with any investigation of a complaint, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

(b) The holder of a license in retired status may restore his or her license to an active status upon completion of an application form provided by the Board and payment of a two hundred fifty-dollar (\$250) fee. An applicant pursuant to this subdivision shall also meet the following requirements:

(1) Take and pass the Board's Licensing Examination and comply with the application requirements set forth under Section 1399.413 subdivision (b).

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(10) Date licensee last practiced acupuncture.

(11) Declaration agreeing to not engage in the practice of acupuncture while on retired status, and, while on retired status, to only use the titles permitted by subdivision (a)(1)(B).

(12) The licensee will attest to the truth of all information disclosed under penalty of perjury.