

CALIFORNIA ACUPUNCTURE BOARD

MODIFIED TEXT

[Note: The originally proposed regulatory text is indicated by single underline and single strikethrough. The modifications to the originally proposed text are indicated by ~~double strikethrough~~ for deleted text and double underline for added text.]

Adopt Article 1.5 of Division 13.7 of Title 16 of the California Code of Regulations:

Article ~~7~~ 1.5.

Sponsored Free Health Care Events—Requirements for Exemption.

~~§1399.407.480.~~ Definitions.

(a) For the purposes of section 901 of the Code:

(1) ~~(a)~~ “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(2) ~~(b)~~ “Out-of-state practitioner” means a person who is not licensed in California to engage in the practice of acupuncture but who holds a current valid license or certificate in good standing in another state, district, or territory of the United States to practice acupuncture.

(3) “In good standing” means the person:

(A) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency; and

(B) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant’s professional conduct or practice, including any voluntary surrender of license; and

(C) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern ~~of~~ of negligence or incompetence.

NOTE: Authority cited: Sections 901 and 4933, Business and Professions Code.
Reference: Section 901, Business and Professions Code.

~~§1400.1.~~ 1399.407.1 Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the eCode shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board a completed "Registration of Sponsoring Entity Under Business & Professions Code Section 901" Form 901-A (DCA/2014 2016 - revised), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form 901-A on behalf of the board. The board or its delegatee shall inform the sponsoring entity within 15 calendar days of receipt of Form 901-A in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the eCode at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.

(d) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 4933, Business and Professions Code.
Reference: Section 901, Business and Professions Code.

§1400.2. 1399.407.2 Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner (“applicant”) may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed “Request For Authorization To Practice Without a California License at a Registered Free Health Care Event” Form 901-B (CAB/2014 2016), which is hereby incorporated by reference, accompanied by a non-refundable processing fee of \$25. The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B is incomplete and the applicant has not responded within 7 calendar days to the board’s request for additional information.; or

(B) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board.; or

(C) The applicant does not possess a current valid license in good standing as defined in Section 1399.407. ~~The term “good standing” means the applicant;~~

~~(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;~~

~~(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;~~

~~(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern of negligence or incompetence.~~

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin; ; or

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event; ; or

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board; ; or

(D) The applicant has already participated in four (4) or more sponsored events during the 12 month period immediately preceding the date the current application; is received by the board.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section ~~4400.3~~ 1399.407.3.

NOTE: Authority cited: Sections ~~444~~, 901 and 4933, Business and Professions Code. Reference: Sections 144 and 901, Business and Professions Code.

~~§1400.3, 1399.407.3~~ Termination of Authorization and Appeal.

(a) Grounds for Termination. The ~~B~~board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination. Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the eCode. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act, pursuant to the provisions of Chapter 4.5 (commencing with Section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the eExecutive eOfficer regarding the reasons for the termination of authorization to participate. The eExecutive eOfficer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the eExecutive eOfficer may affirm or dismiss the termination of authorization to participate. The eExecutive eOfficer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 4933, Business and Professions Code.
Reference: Section 901, Business and Professions Code.