

**TITLE 16, ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing scheduled

Subject Matter of Proposed Regulations: Application for Retired Status; Retired Status; Restoration

Section(s) Affected: 1399.419.3 and 1399.460

Background and Statement of the Problem:

The California Acupuncture Board (Board) regulates the practice of acupuncture in California and is the sole issuer of acupuncture licenses in the state. The Board regulates over thirteen thousand licensed acupuncturists. The Board establishes and maintains standards of conduct within the acupuncture profession, primarily through its authority to license and enforce minimum standards for the protection of the public. (Acupuncture Licensure Act (Chapter 12 (commencing with section 11.5) of Division 2 of the Business and Professions Code (BPC)) (Act).) BPC section 4928.2 states that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. The Board is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (Bus. & Prof. Code, § 4933.)

Business and Professions Code (BPC) section 464 authorizes any board within the Department of Consumer Affairs (DCA) to establish, by regulation, a system for a retired category of licensure for individuals who are not actively engaged in the practice of their profession.

Currently, the Board does not have a regulation to implement a retirement process to obtain a retired license designation. The Board has two options for licensees to “retire” in practice or discontinue compliance with renewal requirements: 1) Apply for inactive license status under BPC section 701 and Title 16 California Code of Regulations (CCR) section 1399.489.1 and 2) Let the license lapse and permanently cancel by not renewing the license under BPC section 4967.

The first option of an inactive license signals to the public that the licensee cannot practice acupuncture and, therefore, doesn’t require continuing education; however, the licensee is still required to pay biennial renewal fees. The second option of a cancelled license signals to the public that the license was cancelled by the Board due to non-payment of renewal fees and could be misinterpreted to be a punitive result. Both options do not satisfactorily represent to the public that the licensee retired and elected to place their license in a retired status, which is a common culmination of a person’s career.

The Board has drafted the following proposal that would specify all of the following requirements in regulation:

- Defines the meaning of “disciplinary reasons” within the regulation
- Authorize an acupuncturist to apply for and be issued a license in retired status
- Exempt a holder of a retired license from continuing education and renewal requirements
- Establish qualifications of the licensee to be eligible for a retired license
- Establish an application process for a retired license
- Prohibit a holder of a retired license from engaging in any activity for which an active license is required
- Set professional title requirements for a holder of a retired license
- Establish qualifications and requirements to be eligible to restore a retired license to active status
- Establish an application process to restore a retired license to active status within three years of being issued a retired license
- Establish an option to apply for a new license in accordance with BPC section 4967 to restore to active status if retired for more than three years
- Establish a retired license application fee

At the March 22, 2024 meeting, the Board rescinded previous text, and approved new text for CCR section 1399.413.1, directed staff to commence the formal rulemaking process, and authorized the Executive Officer to make any non-substantive or technical changes to the package.

Anticipated benefits from this regulatory action:

This proposal establishes a consistent and simple process for obtaining retired license status and would eliminate barriers for those who wish to retire and have the option of placing their license in a retired status. By providing a means to obtain a retired status, licensees who are no longer practicing avoid the possible stigma in their professional community from having a license placed in a “delinquent” or “cancelled” status and can be relieved from the expense of renewal fees.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

The Board proposes the adoption of CCR section 1399.419.3 and the amendment of CCR section 1399.460 for the following reasons:

1. Adopt CCR section 1399.419.3:

Purpose:

To add descriptive title “Application for Retired Status; Retired Status; Restoration” and new section covering retired license designation, an application process to retire and restore a license, eligibility criteria for a retired license, and a retired license application fee.

Rationale:

This section will provide ease of reference for licensees seeking information on the requirements to retire their acupuncture license.

2. Adopt new subsection (a):

Purpose:

This subsection will define “disciplinary reasons,” which may prevent a licensee from entering into a retired license. BPC section 464 authorizes the Board to implement a system for retired category of licensure through regulation and requires the regulation to contain specified criteria listed in subdivisions (b)(1)-(1)(4). This definition implements, interprets, or makes specific the provisions of BPC 464(b)(1), “A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status *for disciplinary reasons*” (emphasis added).

Rationale:

Existing law and regulation do not include a definition for “disciplinary reasons,” which is subject to multiple interpretations. This definition is therefore necessary for the regulated community to understand the requirements in subdivision (b)(1) of BPC section 464 and the implementing regulation contained in subsection (d)(4), below. The proposed definition accurately reflects the grounds for disciplining a license pursuant to BPC sections 822 and the mechanisms the Board would use to take such actions in compliance with the requirements of the Administrative Procedure Act (Accusations initiate action to restrict or limit a license per Government Code section 11503) and BPC section 494 (interim suspension orders). Here, discipline is delineated as a restricted license after the formal administrative hearing process, the results of which could involve revocation or suspension of a license, or restrictive practice conditions on the license. It includes orders issued by the Board restricting the license under BPC 822, which could stem from a licensee’s impairment due to mental illness or physical illness affecting competency.

3. Adopt new subsection (b):

Purpose:

This subsection would set standards by specifying that an acupuncture licensee may apply for and be issued a license in retired status, provided all eligibility requirements in 1399.19.3 subsection (d)(1) – (5) are met. This subsection would also create a shorthand reference for an “applicant” (licensed acupuncturist).

Rationale:

Currently, there are no existing regulatory requirements that set minimum compliance standards for an acupuncture licensee to apply for and be issued a license by the Board in retired license status (“retired license” is added as a shorthand reference for easier comprehension). Subsection (b) sets up the enumerated eligibility requirements to obtain a retired license.

4. Adopt new subsection (c):

Purpose:

BPC section 464 authorizes the Board to implement a system for retired category of licensure through regulation and requires the regulation to contain specified criteria listed in subdivisions (b)(1)-(1)(4). This definition implements, interprets, or makes specific the provisions of BPC 464(b)(3), which provides: “[t]he holder of retired license shall not be required to renew that license.”

Rationale:

Since renewal requirements typically include meeting the continuing education requirements in CCR section 1399.489, this proposal would specify that a holder of a retired license is not required to renew the license and is therefore also exempt from meeting the continuing education requirements as specified in CCR section 1399.489. This is consistent with the intent of BPC section 464 and would avoid licensee confusion about whether continuing education prescribed by CCR section 1399.489 would still be required to maintain the retired license.

5. Adopt new subsection (d):

Purpose:

This subsection defines the minimum eligibility requirements to be eligible for a retired license to ensure that only qualified individuals can receive this designation.

Rationale:

Currently, there are no existing regulatory requirements that set minimum compliance standards for an acupuncture licensee to apply for and be issued a license by the Board in retired status. By providing a means to obtain a retired status, licensees who are no longer practicing avoid the possible stigma in their professional community from having a license placed in a “delinquent” or “cancelled” status and can be relieved from the expense of renewal fees. The eligibility requirements for a retired license are as follows:

6. Adopt new paragraph (d)(1):

Purpose:

Introduces and specifies the requirements to include when submitting a completed application for a retired license to the Board.

Rationale:

Providing all required information to include when applying provides a simple and convenient capture for an applicant to determine what information needs to be provided to meet the Board's eligibility criteria. Listing all of the requirements for the application process is consistent with the Board's administrative practices and regulatory approach in addressing application requirements. This allows the Board to more easily determine whether all minimum criteria for issuance of a retired license are met.

7. Adopt new subparagraph (d)(1)(A):

Purpose:

Specifies that an application for retired license shall include their California acupuncture license number.

Rationale:

Disclosure of the applicant's license number is necessary for identification purposes and determining eligibility concerning their license status and history.

8. Adopt new subparagraph (d)(1)(B):

Purpose:

Specifies that an application for retired license shall include a licensee's first and last name.

Rationale:

Disclosure of the applicant's first and last name is necessary for identification purposes and determining eligibility concerning their license status and history.

9. Adopt new subparagraph (d)(1)(C):

Purpose:

Specifies that an application for retired license shall include a licensee's date of birth.

Rationale:

Disclosure of the applicant's date of birth is necessary for identification purposes and determining eligibility concerning their license status and history.

10. Adopt new subparagraph (d)(1)(D):

Purpose:

Specifies that an application for retired license shall include a licensee's contact information including, the applicant's address of record, phone number, and an email address (if any).

Rationale:

Disclosure of the applicant's current contact information is necessary for establishing a current and reliable means of communication concerning their application for retired license.

11. Adopt new subparagraph (d)(1)(E):

Purpose:

Specifies that an application for retired license shall include a statement regarding whether the applicant is engaged in any activity for which an acupuncture license is required.

Rationale:

BPC section 464 (b)(2) specifies that a board's regulation for implementation of a retired category shall require the holder of the retired license to not engage in any activity for which a license is required. To address this requirement, it is necessary for the applicant to provide a statement they are already compliant by not currently engaging in the practice of acupuncture. A licensee should already have their affairs in order in the cessation of practice prior to the application and issuance of a retired license.

12. Adopt new subparagraph (d)(1)(F):

Purpose:

Specifies that an application for retired license shall include a statement signed under penalty of perjury that the information provided on the application is true and correct.

Rationale:

Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications].) The Board relies upon applicants' self-reported information in evaluating applications.

The attestation made under penalty of perjury regarding an applicant's compliance with not engaging in an activity for which an acupuncture license is required can

assist in the enforcement by the Board. This supports consumer protection.

13. Adopt new paragraph (d)(2):

Purpose:

Establishes an eligibility requirement for a retired license for payment of the nonrefundable retired license application fee as established in the Board's fees regulation, CCR section 1399.460.

Rationale:

This paragraph requires the applicant to pay a fee as prescribed in CCR section 1399.460. The fee covers administrative costs for processing an application for retired license which is justified in the Fiscal Impact Assessment below. The State Administrative Manual (SAM) code section 9210 requires the recovery of full costs whenever departments provide services for others. These fees are necessary for the Board to recover its costs of processing these applications and to implement its responsibilities under BPC section 464(b)(4) to "establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license." This paragraph is also necessary to provide notice to the applicant that the required fee must be paid in order to be eligible for a retired license.

14. Adopt new paragraph (d)(3):

Purpose:

Requires the licensee to have either an active or inactive license status at the time of application.

Rationale:

The requirement to have an active or inactive license status for the issuance of a retired license at the time of application is a requirement of BPC section 464. BPC section 464 authorizes the Board to implement a system for retired category of licensure through regulation and requires the regulation to contain specified criteria listed in subsections (b)(1)-(1)(4). This definition implements, interprets, or makes specific the provisions of BPC 464(b)(1), which provides: "[a] retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons." This provision is therefore necessary because the Legislature determined that this provision should be included in the Board's regulation. In addition, the Board notes that all other license statuses are indicative of either an administrative action by the Board or a lapse in license status. For the reasons described above and below (subsections (a) and (d)(4)), only allowing a license in good standing to be placed in retired status fulfills the Board's consumer protection mandate. Specifying active or inactive allows a licensee who had gone inactive while in good standing to take advantage of the new license status opportunity.

15. Adopt new paragraph (d)(4):

Purpose:

Requires the licensee to not be on inactive status due to disciplinary reasons.

Rationale:

This paragraph prohibits eligibility for a retired license if the licensee was placed on inactive status by the Board for disciplinary reasons. As explained in (d)(3)'s rationale above, this provision is necessary because the Legislature determined that this provision should be included in the Board's regulation and would expressly require that the licensee "not have been placed on inactive status by the Board due to disciplinary reasons." The Board believes this is consistent with the Legislature's intent that a licensee who has demonstrated poor judgment by violating the laws and regulations governing the practice of acupuncture is not a candidate for a retired license.

16. Adopt new paragraph (d)(5):

Purpose:

Establishes the eligibility requirement for a retired license that a licensee not be actively engaged in the practice of acupuncture or in any activity that requires them to be licensed by the Board.

Rationale:

BPC section 464 authorizes the Board to implement a system for retired category of licensure through regulation and requires the regulation to contain specified criteria listed in subdivisions (b)(1)-(1)(4). This definition implements, interprets, or makes specific the provisions of BPC 464(b)(2), which provides: "[t]he holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation." The intent of this proposal is to implement this new category of retired license for those individuals who are truly retired and wish to no longer practice. The Board therefore has established criteria in this subdivision that makes it clear and provides notice to applicants that in order to obtain a retired license the applicant must "not be actively engaged in the practice of acupuncture or engaged in any activity that requires them to be licensed by the Board." In other words, the applicant must truly be retired to qualify for this retired license. Allowing licensees actively engaged in practice as an acupuncturist to be eligible and apply would conflict with the intent and purpose of BPC section 464(b)(2) and render it unduly burdensome for the Board to investigate and verify at some unknown later date. Including a requirement that the applicant not be actively engaged in the practice provides clear and consistent direction on the true purpose for the new license category and provides reasonable assurances to the Board that licensees know and understand their responsibilities when applying for this new license category.

17. Adopt new subsection (e):

Purpose:

Establishes requirements the holder of a retired license shall comply with once a retired license is issued.

Rationale:

Establishing requirements for holders of a retired license ensures they use the designation appropriately and ethically. These requirements prevent unlicensed practice, clarify how professional titles may be used, and protect the public from confusion or misrepresentation.

18. Adopt new paragraph (e)(1):

Purpose:

Specifies that a holder of a retired license shall not engage in any activity that would require an active license.

Rationale:

BPC section 464 authorizes the Board to implement a system for retired category of licensure through regulation and requires the regulation to contain specified criteria listed in subdivisions (b)(1)-(1)(4). This definition implements, interprets, or makes specific the provisions of BPC 464(b)(2), which provides: “[t]he holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required,” This provision is therefore necessary to implement the requirement that a holder of a required license shall not engage in any activity for which a license is required because the Legislature determined that this provision should be included in the Board’s regulation. The Board adds the word “active” before “license” to make it easier for the regulated community to understand when an activity would be prohibited. An active current license is required to practice acupuncture, as defined in BPC section 4927(c), pursuant to BPC section 4935.

19. Adopt new paragraph (e)(2):

Purpose:

Specifies the limitation of the acupuncturist professional title use after which they were issued a retired license designation.

Rationale:

The retired license designation signifies a career fulfilled but the holder is no longer licensed to practice the profession. A holder of a retired license is prohibited from practicing, so it is imperative that the retired licensee make clear that they are no longer a practicing acupuncturist when using their earned professional title. This prevents misleading the public that they are able to provide acupuncture.

20. Adopt new subsection (f):

Purpose:

This subsection would set forth the minimum eligibility requirements for a retired licensee to safely and competently return to active practice.

Rationale:

Under the provisions of BPC section 4967, a “person who fails to renew his or her license within three years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter.” In recognition of that limitation, the Board proposes to treat retired licenses as expired licenses for the purposes of setting criteria for restoring a license. This interpretation balances the need to allow retired licensees the option of returning to practice when they have currency of knowledge (within three (3) years after retiring) and have less stringent restoration criteria, with the need to protect the public from incompetent practitioners.

The eligibility requirements to restore a retired license are as follows:

21. Adopt new paragraph (f)(1):

Purpose:

Sets the first requirement to be eligible when seeking to return to active status from retired status within the first three (3) years, which is to submit a complete application to the Board containing specified information. Introduces the information to include when submitting a completed application for restoration for a retired license to the Board.

Rationale:

Providing all required information to include when applying provides a simple and convenient capture for an applicant to determine what information needs to be provided to meet the Board’s eligibility criteria. Listing all of the requirements for the application process is consistent with the Board’s administrative practices and regulatory approach in addressing application requirements. This allows the Board to more easily determine whether all minimum criteria for issuance of an active license are met.

22. Adopt new subparagraph (f)(1)(A):

Purpose:

Specifies that an application to restore retired license shall include their California acupuncture license number.

Rationale:

Disclosure of the applicant’s license number is necessary for identification purposes and determining eligibility concerning their license status and history.

23. Adopt new subparagraph (f)(1)(B):

Purpose:

Specifies that an application to restore a retired license shall include a licensee's first and last name.

Rationale:

Disclosure of the applicant's first and last name is necessary for identification purposes and determining eligibility concerning their license status and history.

24. Adopt new subparagraph (f)(1)(C):

Purpose:

Specifies that an application to restore a retired license shall include the applicant's contact information including, the applicant's address of record, phone number, and an email address (if any).

Rationale:

Disclosure of the applicant's current contact information is necessary for establishing a current and reliable means of communication concerning their application to restore a retired license. Collection of the applicant's address of record is to put applicants on notice that this information is the current publicly available address and address the Board will use to mail information. To ensure the ability of the Board to serve legal process (subpoenas and other legal documents), the Board requires the disclosure of a confidential street address if the mailing address used by the applicant is a P.O. Box.

25. Adopt new subparagraph (f)(1)(D):

Purpose:

Requires disclosure of convictions the applicant has been convicted of, or under investigation for, any violation of the law in this or any other state, the United States, or other country since retirement.

Rationale:

BPC section 464 (b)(5)(B) specifies the holder of a retired license shall, "certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure" in pursuit of restoring their license to active status. Requiring self-disclosure of a conviction, pending investigation, or violation of law in regulation during the application of an active license meets this mandate.

BPC section 4955 (b) authorizes the Board to deny a license based upon a criminal conviction, including, "conviction of a crime substantially related to the qualifications,

functions, or duties of an acupuncturist, the record of conviction or being conclusive evidence thereof.”

BPC section 4956 defines a conviction as:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, or duties of an acupuncturist is deemed to be a conviction within the meaning of this chapter. The board may order a license suspended or revoked, or may deny a license, or may impose probationary conditions upon a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

To conduct a full and complete review of the applicant’s criminal history and in order to help confirm whether the Board has cause to deny the license based upon the aforementioned authority in BPC section 4955, the Board must ask the question on the application. Asking the question helps ensure a complete review as, in the Board’s experience, some convictions that are self-reported are not always reported in the criminal offender record information provided by the Department of Justice.

To assist the Board in facilitating a more expedient review and investigation of the applicant’s qualifications, the Board requires the applicant to provide details regarding any conviction if the applicant answers this question in the affirmative. This includes certified true copies of the court or arrest records for each criminal offense. This information is necessary for the Board to determine whether further confirmation and investigation is required, and/or the conviction was substantially related to the practice of acupuncture as provided in BPC section 4955 (b) and the Board’s regulations at 16 CCR section 1399.469.4 (Board’s substantial relationship criteria).

In the Board’s experience, restoring a person to practice without a thorough review of the licensee’s background presents a substantial risk of harm to the public. Therefore, this additional criminal background question helps protect the public.

26. Adopt new subparagraph (f)(1)(E):

Purpose:

Requires applicant to disclose if they have not been subject to discipline against any other healthcare license they hold since retirement. Essentially, the required disclosure acts as an affirmation that any healthcare licenses they maintain have not been disciplined since they retired.

Rationale:

Once a license is retired, the Board may no longer be an interested party to receive notices of action from the National Practitioner Databank or other regulatory

agencies. If a retired license holder possesses other healthcare licenses, the only method for the Board to obtain information about the status of those other licenses is through self-disclosure. For consumer safety, the Board should be informed of other related discipline so additional investigation can be conducted to determine fitness for re-licensure.

In the Board's experience, restoring a person to practice without a thorough review of the licensee's background presents a substantial risk of harm to the public. Therefore, this additional discipline of other licenses question helps protect the public.

27. Adopt new subparagraph (f)(1)(F):

Purpose:

Requires applicants declare under penalty of perjury that the information provided in their application to restore a retired license is true and correct.

Rationale:

Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications].) The Board relies upon applicants' self-reported information in evaluating applications.

28. Adopt new paragraph (f)(2):

Purpose:

This proposal requires the payment of the biennial review fee for an acupuncturist as set forth in CCR 1399.460 as applicable.

Rationale:

This is necessary to implement the requirements for this regulation as set forth in BPC section 464(a)(5)(A), which requires payment of a fee set by regulation to restore to an active status. The "restoration fee" is proposed to be equivalent to that of the biennial renewal fee since it is similar workload involved in processing a regular license renewal. In addition, the renewal fee is the fee last due to the Board for continued licensure.

29. Adopt new paragraph (f)(3):

Purpose:

Requires the completion of 50 hours of continuing education within the last two years prior to the applicant seeking restoration of their license to active status. The continuing education shall be in compliance with CCR section 1399.489.

Rationale:

This is to conform with the requirements for renewal as set forth in BPC section 4966 and CCR section 1399.489. Setting minimum continuing education requirements for restoration of a retired license helps provide the Board and the public with some assurances of continuing competency before returning a licensee to active practice after being retired. The minimum continuing education requirements for restoration of a retired license is aligned with the biennial renewal continuing education minimum requirements for consistency. A delinquent license within three years of expiring is also required to complete 50 hours of continuing education for renewal.

30. Adopt new paragraph (f)(4):

Purpose:

This proposal requires an applicant to submit electronic fingerprints if a record does not exist in the Department of Justice's criminal offender identification database and would be provided at the request of the Board pursuant to the requirements set forth in BPC section 144.

Rationale:

Many retired licensees would have already been fingerprinted pursuant to BPC section 144 prior to being placed in a retired status. Those licenses would be subject to restoration per BPC 4966, which allows renewal of any license within three (3) years after expiration (similar status to those that would be retired since they are not renewable while in that status) and therefore the Board would still receive criminal record information (CORI) within three years after the license was placed in retired status (Penal Code section 11105.2 requires the Board to notify the Department of Justice when the license can no longer be reinstated).

However, in the event that the Board somehow did not have CORI notifications for the particular individual, and it was discovered upon filing this application, this proposal would require the individual to provide fingerprints as an "applicant" for restoration to active license in accordance with the requirements in BPC section 144 upon written request of the Board. This helps ensure compliance with section 144 that requires the Board to fingerprint every "applicant" and also to ensure that there are no grounds for denial of the application based upon criminal convictions (as discussed above) per BPC section 4955.

31. Adopt new subsection (g):

Purpose:

Requires the holder of a retired license to apply for a new license in accordance with BPC section 4967 if restoration of an active license is sought after three years of being in retired status.

Rationale:

BPC 4967 prohibits the Board from renewing, reissuing, restoring or reinstating a license to active status within three (3) years after its expiration. To resolve the possible ambiguity between the two statutes, the Board proposes to implement the requirements by treating the retired licensee applicant whose original license expired more than three (3) years prior to application for restoration as a new applicant according to the authority in BPC section 2647. This proposal would therefore allow a licensee who has been in retired status for more than five years to obtain an active license by applying for a new license in accordance with BPC section 4967 (which specifies the process for applying for a new license). This helps ensure consistency in treatment of all expired licensees, including those whose licenses have expired for reasons other than holding a retired license for more than three (3) years.

Amend CCR section 1399.460

32. Adopt subsection (n)

Purpose:

Establish the retired license application fee for acupuncturists at \$85.

Rationale:

The determination of the amount of these fees is reasonable to recover the Board's costs to process these applications and to set the fee (as explained in the Business Impact estimate) as supported by the comprehensive fiscal analysis in the Fiscal Impact Assessment, below. As explained above, these fees are necessary because the Legislature determined pursuant to the provisions in BPC section 464 that applicants must pay a fee to obtain a retired license or restore a license to active status.

Underlying Data

1. Assembly Floor Analysis of AB 2859, 8/24/16
2. August 15 – 16, 2019 Board Meeting Materials
3. August 15 – 16, 2019 Board Meeting Minutes, Agenda Item 21
4. Retired License Application Workload Chart – Office Technician and Associate Governmental Program Analyst

Business Impact:

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. This initial determination is based on the following facts:

This proposed regulation establishes placement of a license in a retired status for a licensee who is not actively engaged in the practice of acupuncture or any activity that requires them to be licensed by the Board. Since licensees can currently choose to go inactive or allow their licenses to lapse or cancel when they retire, there will be no effect on businesses when a licensee changes to retired status.

Licensees will have the option to apply for a retired license for a one-time fee of \$85. The Board anticipates demand for the new retired status license type to be greatest in the first two years of implementation as inactive and active licensees opt to retire and apply for the new status with lower demand annually thereafter.

The Board anticipates approximately 88 licensees (44 per year) will apply for the retired license status in the first two years of implementation and 15 licensees per year thereafter, which results in an economic impact of \$3,740 per year in the first two years of implementation, \$1,275 per year thereafter and up to \$17,680 over a ten-year period as follows:

California Board of Acupuncture Retired License Status - Economic Impact (Costs)													
Registration and License Type	Applicants Per Year	Fees	Years Ongoing										
			1	2	3	4	5	6	7	8	9	10	Total
Retired License Status (one-time registration)	Various	\$85	44	44	15	15	15	15	15	15	15	15	208
		Total Costs:	\$3,740	\$3,740	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$17,680

The Board does not have an estimate of the number of retired licensees that may opt to reactivate their license in the future, and therefore does not have an economic impact estimate at this time. The Board notes, while this proposal provides pathways for retired licensees to reactivate their license to active status, it does not anticipate this occurring often.

However, in the event an individual with a retired license opts to reactivate their license, the applicant would or may need to pay specified license and other fees based upon the number of years of retirement as follows:

Reactivate License Costs - Less than 3 Yrs		
Renewal License	CE (50 hours)	Fingerprint*
\$500	\$500 - \$1000	\$75

*If necessary

Reactivate License Costs - 3 or More Yrs			
Application	Initial License*	Exam	Fingerprint**
\$250	\$500	\$800	\$75

*Prorated per CCR 1399.460 (d)

**If necessary

Economic Impact Assessment:

The Board has determined that this regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California, create new business or eliminate existing businesses within the State of California, nor affect the expansion of businesses currently doing business within the State of California.

This proposed regulation affords already-retired licensees the opportunity to place a license in a retired status. Since licensees currently choose to go inactive or allow their licenses to lapse or cancel when they retire, there would be no effect on new business, existing businesses, or the expansion of businesses related to a change in license status.

This regulatory proposal will benefit the health and welfare of California residents because it will alleviate confusion regarding the status of a licensee who chooses to retire rather than abandon their license. It will also benefit acupuncturists who have been retired for less than three years and wish to return to practice by giving them a process to do so.

Currently, licensees who no longer wish to practice must either use the inactive status pursuant to CCR 1399.489.1 and pay the biennial renewal fee of \$500 or choose not to renew in inactive status, let their license expire into delinquent status, and cancel after three years. This process relieves the financial burden of having to remain in active status and provides easy access to return to active status if desired.

This regulatory proposal will not affect worker safety or the state's environment because this proposed regulation does not involve worker safety or environmental issues.

Fiscal Impact:

The Board estimates 88 licensees (44 per year) will apply for the retired license status in the first two years of implementation and 15 licensees per year thereafter.

Expenditures: The Board estimates costs ranging from \$1,275 to \$3,740 per year and up to \$17,680 over a ten-year period as follows:

California Board of Acupuncture													
Retired License Status - Fiscal Impact (Workload Costs)													
Registration and License Type	Applicants Per Year	Fees	Years Ongoing										
			1	2	3	4	5	6	7	8	9	10	Total
Retired License Status (one-time registration)	Various	\$85	44	44	15	15	15	15	15	15	15	15	208
Total Costs:			\$3,740	\$3,740	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$17,680

Revenues: The Board estimates revenues ranging from \$1,275 to \$3,740 per year and up to \$17,680 over a ten-year period as follows:

California Board of Acupuncture Retired License Status - Fiscal Impact (Revenues)												
Registration and License Type	Applicants Per Year	Fees	Years Ongoing									
			1	2	3	4	5	6	7	8	9	10
Retired License Status (one-time registration)	Various	\$85	44	44	15	15	15	15	15	15	15	15
Total Revenues:			\$3,740	\$3,740	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275	\$1,275
												208
												\$17,680

The Board does not have an estimate of the number of retired licensees that may opt to reactivate their license in the future, and therefore does not have a fiscal impact estimate at this time. The Board notes, while this proposal provides pathways for retired licensees to reactivate their license to active status, it does not anticipate this occurring often.

However, in the event an individual with a retired license opts to reactivate their license, the Board would incur workload costs and receive license fee revenues as follows:

- Less than three years – License Renewal (\$500)
 - Three or more years – Application (\$250), Exam (\$800), Initial License* (\$500)
- *Prorated per CCR 1399.460 (d)

Additionally, for any applicants requiring a fingerprint background check \$32 is passed onto the California Department of Justice and \$17 to the federal government.

The regulations do not result in costs or savings in federal funding to the state.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.