

California Acupuncture Board
Specific Language of Proposed Changes – SB 1441
Uniform Standards Related to Substance-Abusing Licensees and Disciplinary
Guidelines and Conditions of Probation

[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.]

Amend section 1399.469 to read as follows:

1399.469. Disciplinary Guidelines and Uniform Standards Related to Substance Abuse.

- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Acupuncture Board shall ~~consider~~ comply with the disciplinary guidelines entitled "Department of Consumer Affairs, Acupuncture Board 'Disciplinary Guidelines' 1996" and "Conditions of Probation" [September 2015], which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Acupuncture Board in its sole discretion determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.
- (b) ~~If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for the purposes of section 315 of the Business and Professions Code. If the licensee does not rebut that presumption, in addition to any and all relevant terms and conditions contained in the "Acupuncture Board Disciplinary Guidelines and Conditions of Probation" [September 2015], the Board's Uniform Standards Related to Substance-Abusing Licensees shall apply and the substance-abusing conditions shall be used in the order as written. Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection. Neither the Board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Board's Uniform Standards Related to Substance-Abusing Licensees in cases involving substance-abusing licensees. If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the terms and conditions contained in the document entitled "Uniform Standards Related to Substance-Abusing Licensees (September 2016)", which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.~~

(c) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board's guidelines referenced in subsection (a) in any order that the Board determines would provide greater public protection.

NOTE: Authority cited: Sections ~~315, 315.2, 315.4~~ 4928.1 and 4933, Business and Professions Code; and Sections 11400.20 and ~~11400.21~~, Government Code.
Reference: Sections 11400.20, ~~11400.21~~ and 11425.50(e), Government Code; Sections 315, 315.2, 315.4, 4955, 4955.2, 4960.5, Business and Professions Code.