

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.7.

ACUPUNCTURE BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Standards of Practice for Telehealth Services

NOTICE IS HEREBY GIVEN that the Acupuncture Board (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than by Monday, August 18, 2025**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Authority: Sections 2290.5 and 4933, Business and Professions Code (BPC)

Reference: BPC Sections 686, 2290.5, 4927, 4937 and 4955

Pursuant to the authority vested by BPC section(s) 2290.5 and 4933, and to implement, interpret, or make specific BPC section(s) 686, 2290.5, 4927, 4937 and 4955, the Board is considering adopting section(s) 1399.452.1 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing law at BPC sections 686 and 2290.5 authorize health care providers who are individuals licensed under Division 2 of the Code to provide telehealth. Although these sections authorize licensees of the Board to provide acupuncture services via

telehealth, they do not provide any specific guidelines for the provision of services in this manner. In an effort to provide further guidelines and requirements specific to the delivery of acupuncture services provided via telehealth, a proposed telehealth regulation has been developed deemed necessary for clarity. BPC section 2290.5 establishes definitions related to the practice of telehealth, sets patient consent standards required prior to the delivery of health care services via telehealth, sets confidentiality standards, and enforces health care provider's compliance with scope and other existing practice act laws and regulations.

The regulatory proposal will establish standards for licensees to follow when acupuncture services are provided via telehealth. The proposal defines what acupuncture services include when delivered via telehealth, the appropriate standard for services provided at the discretion of licensees pursuant to BPC section 4937. Referencing BPC section 4937 clearly points to modalities included within an acupuncturist's scope of practice.

The proposal also identifies who is permitted to deliver acupuncture through telehealth. The proposal sets factors and criteria to take under consideration in determining what modalities and services are appropriate to offer via telehealth. The proposal identifies what shall be identified for patient consent and the requirements to follow when obtaining patient consent. The proposal also emphasizes the law by specifying that a violation of the regulatory standards constitutes unprofessional conduct.

Anticipated Benefits of Proposal

The Board anticipates that this regulatory proposal will help ensure that acupuncturists, as health care providers, have standards in place when implementing telehealth into their practice. These changes are intended to better protect California consumers by providing transparency of a telehealth setting to the consumer.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The regulations do not result in a fiscal impact to the state. The regulations are intended to clarify existing law and are not anticipated to result in additional workload or costs.

The Board estimates up to 45 percent of licensees are currently providing telehealth services pursuant to current law and receives a minimal number (0-5) complaints related to telehealth per year. The Board does not anticipate an increase in complaints or enforcement-related workload costs related resulting from the proposed regulations.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None.

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None.

BUSINESS IMPACT ESTIMATES

The proposed regulation will impact those licensed by the Board (and any business that they own or that employs) if they choose to provide services via telehealth. It clarifies what the law requires of them when they offer telehealth services.

If there are licensees currently providing telehealth services, the new standards which require that electronic data be transmitted securely may require a change in the telehealth medium they are currently using. Therefore, there may be additional costs associated with coming into compliance with this new standard.

In the event a licensee opts to provided telehealth services, start-up and ongoing maintenance costs are anticipated to be minimal and considered part of normal business operations.

Licensees will be required to take reasonable steps to ensure electronic data is transmitted securely and HIPAA-compliant. To be HIPAA-compliant, a telehealth platform must include all, but not limited to, encryption, access control, audit controls,

data integrity, Business Associate Agreements, privacy protections, breach notification agreements, and compliance with all other HIPAA requirements.

The Board has identified the following areas of compliance costs:

- Telephone, email, text services – None. Assumes licensee has current services.
- Video – less than \$100 per month or \$1,200 per year.
- Scheduling, video, record maintenance and billing services – \$300 per month or \$3,600 per year.

The Board does not have an estimate of the number of licensees that may opt to provide telehealth services or otherwise need to come into compliance with the proposed regulations. As a result, the Board does not have an estimate of the total economic impact at this time.

The Board has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business

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RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS:

Impact on Jobs / Businesses

This regulatory proposal will not create or eliminate any jobs because offering telehealth is an optional mode of delivering acupuncture services and will not require startup costs that all licensees will be forced to implement. No new businesses will be created or existing businesses eliminated as a result of this proposal because offering telehealth is an optional mode of delivering acupuncture services and will not require startup costs that all licensees will be forced to implement. This optional mode of communication shouldn't have a bearing on the creation or elimination of business.

This proposal will not affect the expansion of businesses currently doing business within the State of California because the proposed regulatory action clarifies the existing ability of a licensee to deliver acupuncture via telehealth. Since telehealth is an optional mode of delivering acupuncture services, it will not require startup costs that all licensees will be forced to implement.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents: these regulations will benefit the health and welfare of consumers by providing increased clarity regarding requirements for a licensee to practice telehealth. Consumers will benefit from requirements that protect their confidentiality and promote transparency. This regulatory proposal does not affect worker safety because it does not involve worker safety. This regulatory proposal benefits the State's environment because it may reduce transportation related emissions.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations may affect small businesses. Although small businesses owned by licensees of the Board may be impacted, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 N. Market Blvd., Ste. N-219, Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at https://www.acupuncture.ca.gov/about_us/relevant.shtml or upon request from the Board, at 1625 N. Market Blvd., Ste. N-219, Sacramento, CA 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kristine Brothers
Policy Coordinator

Address: Acupuncture Board
1625 N. Market Blvd., Ste. N-219
Sacramento, CA 95834

Telephone No.: 916-515-5200
Fax No.: 916-928-2204
E-Mail Address: AcuPolicy@dca.ca.gov

The backup contact person is:

Name: Marisa Ochoa
Central Services Manager

Address: Acupuncture Board
1625 N. Market Blvd., Ste. N-219
Sacramento, CA 95834

Telephone No.: 916-515-5200
Fax No.: 916-928-2204
E-Mail Address: AcuPolicy@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text ,if any, can be accessed through the Board's website at https://www.acupuncture.ca.gov/about_us/relevant.shtml