TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
Division 13.7
Article 5

DEPARTMENT OF CONSUMER AFFAIRS

Acupuncture Board

Final Statement of Reasons

Subject Matter of Proposed Regulations Standards of Practice for Telehealth Services

Section(s) Affected Adopt Section 1399.452.1 of Title 16 of the California Code of Regulations (CCR)

Updated Information

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The Acupuncture Board (Board) mailed the rulemaking package notice and sent out the notice via email listserv on July 3, 2025. The Office of Administrative Law (OAL) officially noticed the package on July 4, 2025, and the 45-day comment period was through August 18, 2025. The Board received 14 comments during the public comment period. The Board received five requests for public hearing; however, because no requests were received timely within the 15 days prior to the close of the written comment period, no hearing was held on the matter. The Board considered these comments at the November 6, 2025, Board Meeting, rejected the action(s) requested in the comments, accepted in part amendment suggested by comment #4, provided the responses to the comments (as indicated in the meeting materials), and approved the proposed modified text for a 15-day public comment period, delegating any non-substantive or technical changes to the Executive Officer.

The Board noticed the modified text on December 5, 2025, and the 15-day comment period was through December 22, 2025. The Board received one comment during the 15-day comment period. The Board considered this comment at the March 26, 2026, Board Meeting, rejected the action requested in the comment, approved the response to the comment (as indicated in the meeting materials), authorized the Executive Officer to make any technical or non-substantive changes to the proposed regulations, and directed staff to take all steps necessary to complete the rulemaking process.

The approved modified language is as follows:

Modified Text

On its own motion, the Board made changes to the noticed proposed regulations as described below.

Amend Section 1399.452.1, Standards of Practice for Telehealth Services

In response to comment #4, the Board modified the proposed text to remove the word, “acupuncture” and instead use the term “all” services. Additionally, the phrase “listed in” is removed and replaced with “authorized by” section 4937 of the Business and Professions Code (BPC). Instead of having “acupuncture services” in parenthesis in reference to all services within BPC section 4937, the parentheses are removed and prefaced by stating “referred to as” “acupuncture services.”

Considering the definition of acupuncture in BPC section 4927(d), the Board agrees with comment #4 that the phrase 'acupuncture services' in the first line lacks clarity. It is the intent of the proposed language to permit an acupuncturist to provide *all* services authorized by an acupuncturist’s scope of practice which are all modalities and services authorized by the entirety of BPC section 4937. The decision to retain the reference of “acupuncture services” is based on its consistency with how the profession refers to acupuncture throughout the Acupuncture Licensure Act. In addition, acupuncture is traditionally used to refer to all the services a licensed acupuncturist is authorized to perform or prescribe.

The following non-substantive modifications were made after the comment period per the Board’s authorization for the Executive Officer to make any non-substantive grammatical and/or technical changes:

In the first sentence, strike “Business and Professions” before “Code” as Code is already defined. Move Subsection (g) to Subsection (b) and amend to reference the following provisions of the Acupuncture Licensure Act: BPC sections 4927, 4935, and 4937. Add “A licensee shall not offer any acupuncture services via telehealth involving a needle or that otherwise requires a physical presence” in Subsection (b). This change provides a non-substantive restatement of those cited laws and provides the only legally tenable interpretation.

Each of the acupuncture techniques cited in BPC section 4927 (d) *require* the involvement of needles, specifically the application of needles, to be legally defined as acupuncture.

1. Electroacupuncture is the use of an electrical stimulation device attached to needles applied to the body.
2. Cupping would only be considered acupuncture when needles are inserted with the cups to further stimulate. This is why cupping without needles is allowed for other health professionals or as a basic supportive acupuncture service when

provided by acupuncture assistants (see BPC section 4927 (f)(1), (g)(1), and (g)(2)).

3. Moxibustion would only be considered acupuncture when the moxa is applied to the top of needles. This is why moxibustion without needles is allowed as a basic supportive acupuncture service when provided by acupuncture assistants (see BPC section 4927 (f)(1), (g)(1), and (g)(2)).
4. Further, BPC section 4927 (g)(2) states basic supportive acupuncture services (when provided by an unlicensed acupuncture assistant) does not include needle insertion.

BPC section 4935 (b) works concurrently with BPC section 4927(d) to further define that acupuncture are only techniques or methods involving the application of a needle to the human body. Therefore, all of the techniques that require an acupuncture license (which are defined in BPC section 4927(d)) are addressed by BPC section 4935(b). In other words, the language in BPC section 4935(b) which makes it a misdemeanor for any person to practice acupuncture or direct someone else to perform acupuncture involving the insertion of a needle, can only be interpreted in one legally defensible way: physical presence is required.

Additionally, acupuncturists already have authority to provide telehealth services under BPC section 2290.5. That section authorizes any individual licensed under Division 2 of the BPC to offer telehealth services, provided the licensee obtains the patient's informed consent. Section 2290.5 also makes clear that it does not alter existing professional responsibility standards.

Because acupuncturists are licensed under Division 2, they may offer telehealth services so long as they continue to meet all applicable professional standards. Those standards include the requirement that acupuncturists competently deliver services to the public. (BPC section 4955.2.) If an acupuncturist were to provide services through telehealth that are unsafe or ineffective when delivered remotely, that conduct would constitute unprofessional practice, and the Board would have authority to pursue disciplinary action.

Further, the additional amendments make it so no addition of a separate list of prohibited treatments within the proposed regulation is necessary.

Meeting Minutes

The record is updated to reflect the March 26, 2026, meeting minutes erroneously summarized there were two 15-day public comment periods, which was a typographical error. The transcript of the Board meeting reads, "We went ahead and provided a second comment period for fifteen days to address the comment we accepted at the previous Board meeting." There was only one 45-day comment period and one 15-day comment period.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Anticipated Benefits

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.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board as part of public comments received or at the Board's meetings would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. All recommendations provided during this rulemaking were considered by the Board and rejected or accepted as discussed herein.

Objections or Recommendations/Responses

45-Day Public Comment Period

The following recommendations and/or objections were made regarding the proposed action:

A. Requests for Public Hearing

Written Comments: 3, 8, 9, 10, and 14

Comment	Name	Date Received
3	Ann-Marie Trione	8/11/25
8	Jeannette Schreiber	8/12/25
9	Prajna Paramita Choudhury	8/12/25
10	Christine Grisham	8/13/25
14	Bonney Lynch	8/18/25

Summary of Comments:

Comments requested a public hearing – some are licensees or members of the public, with one commenter realizing the deadline for hearing had passed and supplementing their written comment.

Response to Comments:

The Notice of Proposed Regulatory Action indicated that “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 5:00 p.m. on Monday, August 18, 2025,” and that a request for a public hearing must be received “no later than 15 days prior to the close of the written comment period,” which would have been August 3, 2025. All requests were received after August 3, 2025; therefore, no hearing was held on this matter because no request was received timely.

B. Requests for Detailed Scope of Practice

Written Comments: 1, 3, 4, 7, 11, and 13

Comment	Name	Date Received
1	Dr. Elizabeth Selandia, OMD, Lac.	7/3/25
3	Ann-Marie Trione	8/11/25
4	Alicia Masiulis	8/12/25
7	Iyashi Wellness	8/12/25
11	Dr. Shabnam Pourhassani	8/13/25
13	Dr. Karina Menali, DACM, DOM, L.Ac.	8/17/25

Summary of Comments:

The comments broadly support the use of telehealth within the acupuncture profession but urge the Board to ensure that the regulations are clear, realistic, and aligned with actual clinical practice. They emphasize that telehealth should focus on non-physical services such as consultations, interpreting laboratory testing, herbal medicine, lifestyle and nutrition counseling, and guided self-care techniques like acupressure. There is consensus that physical treatments (e.g., needling, pulse diagnosis) must be explicitly excluded from telehealth.

The comments advocate for expanding the recognized scope of telehealth to include safe, teachable modalities like suction (as opposed to fire) cupping, Gua Sha, and Tui Na, provided proper instruction is given.

Response to Comments:

The Board has reviewed and considered the comments and declines to make any amendments to the proposed text based thereon.

In development and discussion of the proposed regulation, it was the Board’s decision to not be prescriptive in delineating what acupuncture services are allowed, and which services are prohibited. The Board also chose to not specify diagnostic procedures an acupuncturist shall or shall not use via telehealth for the same reasons. The proposed regulation permits an acupuncturist to provide services listed in BPC section 4937 via telehealth, which is an acupuncturist’s scope of practice.

Further, subsection (g) explicitly states a licensee shall comply with all other provisions of the Acupuncture Licensure Act and standards of care in this state when providing telehealth services. This means an acupuncturist would adhere to the same standards of practice via telehealth that is required of in-person treatment.

With the Board's current approach, the proposal provides factors for a licensee to consider in determining what acupuncture services are appropriate and safe for telehealth delivery. Subsection (b) sets forth five different factors for a licensee to consider. Specifically, paragraph (4) of subsection (b) states in part the licensee shall determine that delivery of acupuncture services via telehealth is appropriate after considering the nature of the acupuncture services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth. Allowing licensees to determine the services they can provide based on qualifying standards reflects the professionalism associated with licensure, while also ensuring consumer protection. It also provides flexibility for the licensee to tailor the services provided based on their ability and the needs of the patient.

Additional reasoning is provided to the Board's response above to address concerns regarding the regulation not explicitly excluding physical treatments (e.g. needling, electroacupuncture, cupping) from telehealth because other provisions within the Acupuncture Licensure Act (BPC §§ 4927, 4935, and 4937) already address acupuncture services involving a needle that otherwise requires a physical presence, and therefore, cannot be provided via telehealth. BPC § 4927 (d) defines the practice of acupuncture to include electroacupuncture, cupping, and moxibustion, all of which involve the use of needles to constitute the practice of acupuncture. BPC § 4935 makes it a misdemeanor for any person who does not hold a current and valid license to practice acupuncture. Section 4935 (b) specifies that any person who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor. BPC § 4937 states that an acupuncture license authorizes the practice of acupuncture. The laws referenced in subsection (b) of the proposed regulation address commenters' requests to call out the kinds of acupuncture treatments that are not suitable or allowed via telehealth.

Additionally, the Board is taking the same approach as other Department of Consumer Affairs boards to not cite every treatment allowed and prohibited within its telehealth regulation. Other boards also broadly refer to all services permitted by the healing arts license along with a set of factors for the licensee to consider in determining the kinds of services to provide via telehealth.

C. Opposition of License Disclosure

Written Comment: 7

Comment	Name	Date Received
7	Iyashi Wellness	8/12/25

Summary of Comment:

Comment #7 opposes the requirement to state full name and license number at the start of each telehealth session, arguing it is unnecessary and sets a negative tone. They emphasize that telehealth has been vital for their practice and patients, especially during the pandemic.

Response to Comment:

The Board has considered the comment opposing the requirement for licensees to provide their name and license number at the start of telehealth services and declines to amend the proposed text based thereon. Pursuant to BPC section 4928.2, protecting the public is the Acupuncture Board's highest priority in its licensing, regulatory, and disciplinary functions. Requiring licensees to disclose their name and license number at the start of a telehealth visit serves the public interest by ensuring transparency. Under BPC section 4961, licensees must display their acupuncture wall license, including their name and license number, at their place of practice. Providing this information orally during a telehealth visit ensures patients receive the same essential information, despite not being physically present, and fulfills the intent of the display requirement.

D. Concerns for Penalty on Unlicensed Telehealth and Cost Compliance Estimate

Written Comments: 2 and 11

Comment	Name	Date Received
2	Angela Laurino	7/3/25
11	Dr. Shabnam Pourhassani	8/13/25

Summary of Comments:

Comment #2 opposes the proposed telehealth regulation, citing it as another burdensome requirement that adds cost and complexity without improving the profession. She criticizes the Board for not supporting acupuncturists and instead imposing more hoops to jump through. She contrasts the high standards expected of acupuncturists with the lack of enforcement against unlicensed holistic practitioners. She calls for the Board to focus on protecting the profession (e.g., by targeting illegal dry needling) rather than adding more regulations.

Comments #2 and #11 raise concern about the estimated range of compliance costs included in the Notice, suggesting the actual costs could be even higher.

Additionally, Comment #11 clarifies that only licensed acupuncturists can provide telehealth services and requests the Board impose penalties for unlicensed individuals offering such services.

Response to Comments:

The Board has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

In accordance with BPC section 4928.2, the protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. While the Board acknowledges and respects the professional concerns raised, it is important to emphasize that the Board's statutory role is to protect the public and not to advance or promote the acupuncture profession.

The commenters' concerns with the estimated HIPAA (Health Insurance Portability and Accountability Act of 1996) compliance costs doesn't directly address the proposed language, therefore, the Board declines to make any amendments to the proposed text.

As stated in the Initial Statement of Reasons (ISOR) (pages 2-3) and Notice of Proposed Action (NOPA), the proposed regulation is intended to provide clear uniform standards for those who voluntarily choose to offer acupuncture services via telehealth. It does not impose a mandate on any licensee to provide telehealth services. If a licensee opts to not offer telehealth, there are no compliance obligations or costs.

If a licensee chooses to provide acupuncture services via telehealth, the proposal requires them to take reasonable steps to ensure electronic data is transmitted securely and be HIPPA-compliant. These requirements can be met through basic, widely available tools such as email or text messaging, provided appropriate security measures like encryption and access controls are used.

As outlined in the ISOR (at page 9) and 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 identified the following areas of compliance costs:

• Telephone, email, text services – No cost. It assumes the 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. secure communication can be achieved through existing means such as encrypted email or secure text messaging.

The decision to adopt a platform is discretionary and dependent on individual practice needs. The estimated compliance costs do not include the expense of maintaining office space for confidentiality. Since in-person practice does not require maintaining a dedicated office, securing office space is not considered a necessary cost when offering acupuncture services remotely. Moreover, the choice to practice acupuncture via telehealth all remains voluntary.

The concern raised by comment #11 regarding a clear fine or penalty for anyone other than a licensed acupuncturist who provides telehealth services is addressed in other sections of the Acupuncture Licensure Act. Providing acupuncture services regardless of it being in-person or via telehealth is considered the practice of acupuncture. Unlicensed practice of acupuncture is covered by BPC section 4935. This statute sets the unlawful practice of acupuncture as a misdemeanor, punishable by a fine of $100 to $2,500. Therefore, it would be duplicative and unnecessary for the proposed regulation

to also address the unlawful practice of acupuncture via telehealth.

E. Support for the Proposed Telehealth Regulation

Written Comments: 5, 6, and 12

Comment	Name	Date Received
5	Deannie Janowitz	8/12/25
6	Jonathan Breslow	8/12/25
12	Irwin Tjiong	8/14/25

Summary of Comments:

The three comments collectively highlight varying perspectives on the use of telehealth in acupuncture practice. Comments #5 and #12 support telehealth, emphasizing its value in expanding access to Traditional Chinese Medicine (TCM) services, improving patient safety, increasing clinic revenue, and offering flexibility for patients averse to needles. They advocate for ensuring telehealth is covered as robustly as in-person services. Comment #6 additionally provides technical reassurance about HIPAA-compliant telehealth tools like Zoom.

Response to Comments:

The Board appreciates the support of these commenters. The comments do not suggest any changes to the proposed text, and no revisions were made.

The following recommendation/objection was accepted in part, and the proposed action was modified as follows to accommodate it:

F. Alternative Term and Lack of Clarity

Written Comment: 4

Comment	Name	Date Received
4	Alicia Masiulis	8/12/25

Summary of Comment:

Comment #4 recommends updating regulatory language to reflect the full legal scope of practice and to avoid confusion (e.g., using “health care services” instead of “acupuncture services”).

Response to Comment:

The Board has reviewed and considered this comment and as a result makes changes to the proposed language as follows. In consideration of the definition of acupuncture set forth in BPC section 4927(d), the Board agrees “acupuncture services” as used in the first line lacks clarity. It is the intent of the proposed language to permit an acupuncturist to provide *all* services authorized by an acupuncturist’s scope of practice which are all modalities and services set forth in BPC section 4937.

Therefore, the Board amends the proposed language to read as, “A licensee is permitted to provide all ~~acupuncture~~ services ~~listed in~~ authorized by section 4937 of the

Business and Professions Code ~~(~~referred to as "acupuncture services"~~)~~ …" Retaining the reference of "acupuncture services" is consistent with how the profession is referred to throughout the Acupuncture Licensure Act. In addition, acupuncture is traditionally used to refer to all the services a licensed acupuncturist is authorized to perform or prescribe.

15-Day Modified Text Public Comment Period

The following comment was made regarding the modified text proposal:

Comment	Name	Date Received
1	Dr. Elizabeth Selandia, OMD, Lac.	12/5/25

Summary of Comment:

The commenter states that the revised telehealth proposal does not improve upon the earlier version and argues that most acupuncture services cannot be delivered via telehealth. They assert that telehealth is limited to activities such as consultations regarding scheduling and emergencies, guidance on self-care, demonstrations of acupressure or exercises, and prescribing herbal or dietary supplements. The commenter emphasizes that hands-on treatments, including acupuncture, moxibustion, cupping, electrostimulation, massage, and acupressure cannot be performed remotely and therefore should not be billable under telehealth. The commenter expresses strong opposition to the proposed regulation and believes it would negatively impact practitioners.

Response to Comment:

The Board has reviewed and considered the comments and declines to make any amendments to the proposed text based thereon.

As stated in the Initial Statement of Reasons at page 2, the Board's intention for the proposed regulation is not to set out a separate narrow list of each acupuncture service that is appropriate or not appropriate for a telehealth setting. The intended approach is to allow an acupuncturist to determine, from all the services listed in an acupuncturist's scope of practice (BPC section 4937), what is appropriate to offer in a telehealth setting.

The proposal instead provides factors for a licensee to consider in determining what acupuncture services are appropriate and safe for telehealth delivery. Subsection (b) sets forth five different factors for a licensee to consider. Specifically, paragraph (4) of subsection (b) states in part the licensee shall determine that delivery of acupuncture services via telehealth is appropriate after considering the nature of the acupuncture services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth. Allowing licensees to determine the services they can provide based on qualifying standards reflects the professionalism associated with licensure, while also ensuring consumer protection. It also provides flexibility for the licensee to tailor the services provided based on their ability and the needs of the patient.

With respect to the commenter's statements about what services can or cannot be billed under telehealth, the Board notes that billing issues fall outside the scope of this regulatory proposal. The modified text addresses services authorized by Business and Professions Code section 4937 and does not address billing, reimbursement, or coding practices, and Business and Professions Code section 4937 does not govern billing requirements. Because the regulation is limited to clarifying permissible telehealth practice for licensed acupuncturists, not payment or insurance matters, the commenter's billing-related concerns are not directly relevant to the proposed changes.

For these reasons, no modifications to the regulatory text are being made in response to this comment.