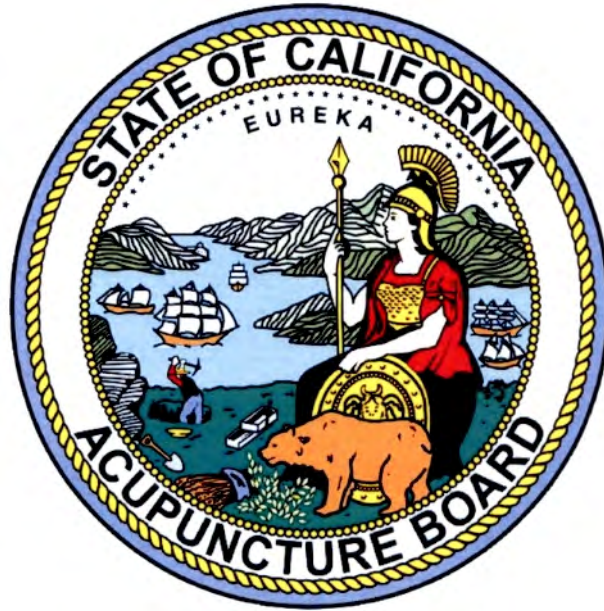


**Acupuncture Board Meeting
May 23, 2014**



**Hotel Whitcomb
San Francisco, CA**

**California Acupuncture Board
Board Meeting
May 23, 2014
Hotel Whitcomb Ballroom
San Francisco, CA**



Board Members

*Michael Shi, L.Ac – Chair
Kitman Chan – Vice-Chair
Hildegarde Aguinaldo, J.D.
Francisco Hsieh
Jeannie Kang, L.Ac
Jamie Zamora*

Legal Counsel

Spencer Walker

Staff

*Terri Thorfinnson, J.D. - Executive Officer
Tammy Graver – Board Liaison
Terry Sinkovich – Examination Coordinator
Kristine Brothers – Enforcement Coordinator
Ben Bodea – Education Coordinator
Marc Johnson – Policy Coordinator*

Agenda



NOTICE OF ACUPUNCTURE BOARD MEETING

May 23, 2014

HOTEL WHITCOMB
WHITCOMB BALLROOM
1231 MARKET STREET
SAN FRANCISCO, CA 94103

AGENDA

FULL BOARD MEETING - 9:00 a.m.

1. Call to Order and Establishment of a Quorum.
2. Opening Remarks.
3. Approval of Board Meeting Minutes for February 14, 2014.
4. Chair's Report.
5. Executive Officer's Report.
 - Staff Update
 - Budget Update
 - Exam: Occupational Analysis update
 - Enforcement: Data Report

Acupuncture Board Members

Michael Shi, L.Ac, Chair, Licensed Member
Kitman Chan, Vice Chair, Public Member
Hildegarde Aguinaldo, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Jamie Zamora, Public Member
Vacant, Licensed Member

CLOSED SESSION.

6. Pursuant to Government Code Section 11126(c)(1), the Board Will Meet in Closed Session to Discuss the California Acupuncture Licensing Examination (CALE) with the Office of Professional Exam Services (OPES) staff.

OPEN SESSION – Announcement Regarding Closed Session.

7. Exam Development Presentation by Office of Professional Examination Services (OPES), Chief, Heidi Lincer-Hill.
8. Review of National Exams Presentation by OPES staff.

9. Proposed regulatory change pursuant to Business and Professions Code section 138.
10. Accreditation Commission for Acupuncture & Oriental Medicine (ACAOM) Presentation
By Executive Director Mark McKenzie, L.Ac, MsOM, DiplOM.
11. SB 1246 (Lieu) Acupuncture Sunrise Bill.
12. Committees Updates.
 - Education Committee.
 - Enforcement Committee.
 - Examination Committee.
 - Executive Committee.
13. Regulatory Update.
 - Acupuncture Advertising Guidelines.
 - Continuing Education Ethics Requirement.
 - Consumer Protection Enforcement Initiative (CPEI).
 - Sponsored Free Health Care Events.
 - Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation.
 - Hygiene guidelines.
 - Prostitution Prevention regulation.
14. Requests Pursuant to B & P Code Section 4967.

Poongwon Peter Lee (license cancelled 9/26/13).
15. Future Agenda Items.
16. Public Comment on Items Not on the Agenda.

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

**THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE
ACUPUNCTURE BOARD'S WEBSITE AT
www.acupuncture.ca.gov**

Please Note: Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you need additional reasonable accommodations, please make your request no later than five (5) business days before this meeting. Please direct any questions regarding this meeting to the Board Liaison, Tammy Graver at (916) 515-5204; FAX (916) 928-2204

**#3 – Meeting Minutes for
February 14, 2014**



Draft
**California Acupuncture Board
Meeting Minutes
February 14, 2014**

**First Floor Hearing Room
1747 North Market Blvd., Sacramento, CA 95834**

Board Members Present

Michael Shi, L.Ac, Chair, Licensed Member
Kitman Chan, Vice Chair, Public Member
Jeannie Kang, L.Ac, Licensed Member
Jamie Zamora, Public Member
Hildegarde Aguinaldo, J.D., Public Member
Francisco Hsieh, Public Member

Board Legal Counsel Present

Spencer Walker

Staff Members Present

Terri Thorfinnson, J.D., Executive Officer
Tammy Graver, Board Liaison
Terry Sinkovich, Examination Coordinator
Ben Bodea, Education Coordinator
Kristine Brothers, Enforcement Coordinator
Marc Johnson, Policy and Regulatory Coordinator

- 1. Call to Order and Quorum established.**
- 2. Election of Officers for Chair and Vice Chair.** Michael Shi was re-elected Chair and Kitman Chan was re-elected Vice Chair.
- 3. Opening Remarks.** Michael Shi wished everyone Happy Chinese New Year.
- 4. Petition for Early Termination of Probation:**
Yihan Fang, AC 4603 (Case No. PETP-1A-2010-137).
- 5. Petition for Early Termination of Probation:**

CLOSED SESSION

6. Pursuant to Government Code Section 11126(c) (3) the Board convened in closed session to deliberate on the Petitions and take action on disciplinary matters.
7. Pursuant to Government Code Section 11126(a) (1) the Board met in closed session to conduct the annual evaluation of the Executive Officer.

OPEN SESSION – Announcement Regarding Closed Session

8. **Minutes for the May 23, 2013 and November 14, 2013** Board meetings were approved.
9. **Chair's Report.** Michael Shi reported on meeting with the Chinese delegation. Their mission was to get to know the status of TCM overseas. He explained that the Board had two Stakeholder meetings: one in Northern California and one in Southern California. TT prepared a presentation about workforce data which is on the Board's website. The discussion focused on the challenges facing the profession. It was also the kick-off for the Occupational Analysis.

Three of the four committees met last month. The new structure of committees is for the majority of the Board work to be completed in committees.

10. **Executive Officer's Report.** Katie Le was introduced as the newest Board staff. TT explained that the Governor's Budget had authority for three new Board staff. Those positions need to be approved by the Legislature in this legislative session. TT further explained the budget process. DCA Budget Chief, Taylor Shick was introduced to answer any specific budget questions. The question about where unspent money goes was answered. It was explained that it goes back into the Board's special fund. Other questions that were raised included: when the fiscal year ends, how budget projections are estimated, how the budget is created. All questions were answered.

There was a question about staffing temporary versus permanent staff, which TT explained the difference between the position types. Temporary staff does not need any authority to create, but it is limited to part-time at 1500 hours per year.

TT went on to explain that to date the Board has under-spent its budget approximately \$760,000 per year. This year the amount has decreased significantly due to increased staff and enforcement expenditures. Drawing attention to the enforcement line items in the budget, TT explained that every enforcement category has significantly increased across the board this year due to increased enforcement work. Even though our performance measures are still high, we are doing more enforcement work than in the past. Eventually, with more staff the budget may turn into a structural deficit in which we expend more than we take in as revenues. However, for now and years to come, the Board has a financial cushion to deal with that deficit. TS explained that while the Board has a reserve, it is unable to raise fees, but as the Board gets closer to spending down its reserves, DCA budget staff will work with the Board about shifting to fee increase proposals. We would look at what fees are at the statutory cap or what fees the Board can raise through regulations.

TT provided an update on the status of the occupational analysis. Phase one: the Stakeholder input process has drawn to a close. Now we are in phase two: the subject matter expert phase that involves interviews and subject matter expert workshops. After this phase the final phase involves surveying licensees and the final report. The next California Acupuncture Licensure Exam is February 20th in Long Beach, a new location for Southern California.

TT provided an update on the Sunset Review hearing that is set for March 17, 2014. She explained Committee will be reviewing. TT encouraged Stakeholders to attend the meeting, the Board will send out materials and hearing dates and times to the list serve as soon as we know more.

TT provided an update on the Strategic Plan 2013-2017. The staff met with SOLID training staff to create an Action Plan for the strategic plan. The Action Plan will be presented as a separate agenda item today, but an initial explanation of the role of the action plan was provided to demonstrate that the Board was on track with its strategic planning implementation. The purpose of the Action Plan is to provide more specifics on how each of the goals and objectives are to be accomplished, by whom and by a targeted completion date.

Kristine Brothers provided the enforcement report explaining enforcement data. In response to Board requests to see more long-term data, she created some annual charts of enforcement data. She showed a graph depicting aging cases but explained that the measure only included the investigation phase, not the subsequent disciplinary phase including DOJ and hearings. It was pointed out that few cases can skew the performance targets upwards to increased disciplinary days; whereas, more cases tend to lower disciplinary days. She answered questions from Board members. The most common question is why the intake number does not match the number of cases. The answer is that each category number are a point in time for that category and, typically, cases take more than a year to complete. Therefore, pending cases includes cases from last year's intake. It was also pointed out that there are an unusually high number of criminal charges and convictions. This is something that should be looked at by the Education Committee. MS confirmed that it would be reviewed by the Education Committee.

11. Committees Updates.

Education Committee. MS reported on the January 17, 2014 Committee meeting. All five Committee members were in attendance. The Committee reviewed two school approval application requests. The Phoenix Institute of Herbal Medicine and Acupuncture (PIHMA) was recommended for Board approval by the Committee. The New York Chiropractic College- Finger Lakes School Acupuncture and Oriental Medicine (NYCC-FLSAOM) application for school approval was reviewed and was recommended to the Board to deny the application due to deficiencies in clinical supervision that the school refused to correct.

The number of continuing education providers and the continuing education process was an issue referred by the Board to the Committee for consideration. The discussion focused on the fact that there are 800 plus CE providers serving 12,000 licensees. There was concern that the quality of these courses may not be very high. The Committee is continuing to discuss this issue.

Enforcement Committee. HA reported that the three members of the Committee were in attendance at the January 17, 2014 meeting. The Committee discussed the need for recommending legislative authority to create a standardized 801 reporting form. This was a recommendation from the Sunset Review Committee. TT explained that the need for Legislative authority is because the Board is not receiving many reports and anecdotal evidence indicates that there are more unreported settlements and actions that the Board does not receive. Having the authority to create a standardized form would require reports to be provided to the Board. The recommendation from the Committee was for the Board to approve seeking legislative authority to create a standardized 801 reporting form. This issue is to be discussed later as a separate agenda item. The remaining committee issues that were discussed and are agendized later included updating the hand hygiene regulation and the proposed prostitution prevention regulatory change.

Examination Committee. FH explained that the Committee discussed several issues. The first issue discussed was to place a cap on the number of times applicants can retake the California Acupuncture Licensure Exam (CALE). The Committee is continuing that discussion. The second issue discussed was the Herb List in the Exam Preparation Guide, which the Committee decided to leave to the Exam Subject Matter Experts. The third issue that the Committee discussed was the August 2012 exam results. The Committee reviewed the Investigation Report and the Independent Expert Report that concluded nothing was wrong with the exam. The Committee concluded that the Board has sufficiently addressed concerns raised about the exam results and that the matter was closed.

12. Assignment of Strategic Goals and Objectives to Board Committees:

- Goal 1 – Licensing
- Goal 2 – Enforcement
- Goal 3 – Education
- Goal 4 – Professional Qualifications
- Goal 5 – Outreach
- Goal 6 – Administration

MS went through each Goal and objective and assigned them to their respective committees to work on accomplishing the goals and objectives.

There was public comment that claimed that the Objective 5.4 does not need to be accomplished because there is no mandate for acupuncturists to go to electronic medical records under the Affordable Care Act. They offered to provide the Board a written document related to electronic medical records. Other comments included the fact that there was no mention of the accreditation and national exam issues in the strategic plan.

13. Final Decision on School Applications:

Phoenix Institute of Herbal Medicine and Acupuncture (PIHMA). Motion: Kitman Chan (KC) motioned to approve, Francisco Hsieh (FH) seconded. Board voted 6-0

New York Chiropractic College- Finger Lakes School Acupuncture and Oriental Medicine (NYCC-FLSAOM). Motion: KC motioned to deny school approval, seconded by FH. The

Board voted 6-0 to deny Board approval for the school. Like the Committee, the Board felt strongly about the school's non-compliance with clinical supervision standards, and that it is a threat to public safety and violated the Board's curriculum standards. Public comment from several speakers indicated that this was an unrealistic standard with which none of the schools were in compliance. The Board clarified that this is an existing regulation so there has been no regulatory change.

14. Standardized Malpractice form 801 proposed legislation.

Enforcement staff KB presented the need for seeking legislation. The problem is that the Board receives few reports. In Fiscal year 2012/13, the Board did not receive any reports. We believe there are settlements not being reported. The Sunset Review Committee recommended that the Board seek this authority. Approving the proposal to seek legislative authority for this form would resolve this issue and satisfy the Sunset Review Committee. There was further discussion about why the current law is not sufficient to require reporting. The fact that the Board receives few to no reports indicates the current statutory authority is not sufficient. JK motioned to seek legislative authority to create a standardized 801 reporting form, seconded by HA. Approved 6-0.

15. Proposed regulatory language for prostitution prevention.

This proposal would add a regulatory change to the condition of office regulatory section. It would prohibit sex in the office space and in effect create an administrative standard that would be violated by use of an acupuncture office for prostitution. Currently, prostitution is a crime that District Attorneys are not prosecuting so the Board has no disciplinary recourse against providers who use their license for prostitution. This would create an administrative action related to prostitution that would provide the Board the administrative authority to bring disciplinary actions against licensees who allow prostitution on the premises regardless of whether they were prosecuted for the crime or prostitution. This would prevent prostitution from spreading within the acupuncture profession. Board members all agreed with the proposed regulation. JK motioned to approve propose regulatory change, seconded by HA. Approved by Board 6-0. Motion to delegate authority to EO to commence the regulatory process and to make non-substantive changes by JK, seconded HA. Approved by Board 6-0.

16. Proposed update of hygiene regulations.

HA provided the explanation of why this regulatory change is needed and what it does exactly. The current regulations related to hand hygiene are outdated and non-compliant with health industry and public health standards. This change would bring our hand hygiene standard into compliance. The change would add the use of alcohol-based hand sanitizers. The Board member discussion reflected support and that the change is needed and uncontroversial. JK motion to approve proposed regulation and language, seconded by HA. Approved by Board 6-0. Motion to authorize EO to commence the regulatory process and make non-substantive changes by JK, seconded by HA. Board approved 6-0.

Public comment raised the concern not to put this in regulations, which are cumbersome, but to simply amend the Infectious Disease Guidelines instead, which are not in regulations and can be easily changed. In the discussion it was determined that the Infectious Disease Guidelines are not actionable and updating the regulation is the only way to make it an actionable standard and update current outdated standards in regulations.

17. Proposed regulatory change that sets limits on the number of times applicants can re-take the CALE. This is an issue of concern that MS assigned to the Exam Committee for further study.

18. Regulatory Update List.

- Acupuncture Advertising Guidelines
- Continuing Education Ethics Requirement
- Consumer Protection Enforcement Initiative (CPEI)
- Sponsored Free Health Care Events
- Uniform Standards Related to Substance Abuse and Recommended
- Guidelines for Disciplinary Orders and Conditions of Probation

TT explained that staffing shortage and meeting preparation was causing delays in completing regulatory packages. JK expressed concern that regulatory packages were not completed and particularly CPEI and SB 1441. She specifically requested that CPEI be completed by the next Board meeting. In setting priority next should be SB 1441 then Free Sponsored Health Events.

19. Requests Pursuant to B & P Code Section 4967.

Marlena Louisa Isidro (license cancelled 8/20/12) presented her request for a new license without having to retake the exam. JK moved to approve reinstatement, seconded by MS. Discussion included reinstatement should be allowed because then everyone would simply let their licenses lapse and come to the Board to request reinstatement. The answer was the statute allows the option.

Poongwon Peter Lee (license cancelled 9/26/13) No show. Tabled by Chair.

Future Agenda Items. None.

Public Comment on Items Not on the Agenda.

A comment requesting merged file of all materials. Reverse public comment and future agenda items on the agenda.

Adjournment.

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5 – Executive Officers Report

#5 – Executive Officer's Report

Budget Update

ACUPUNCTURE BOARD - 0108
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION
Mar-2014

FISCAL MONTH 9

OBJECT DESCRIPTION	FY 2012-13		FY 2013-14				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES 3/31/2013	BUDGET ACT 2013-14	CURRENT YEAR EXPENDITURES 3/31/2014	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	245,935	119,318	333,963	236,907	71%	317,916	16,047
Statutory Exempt (EO)	71,972	33,058	80,400	60,930	76%	81,030	(630)
Temp Help Reg (Seasonals)	19,113	5,451	19,000	38,746		50,170	(31,170)
BI 12-03 Blanket							0
Temp Help (Exam Proctors)							0
Board Member Per Diem	3,900	700	7,463	4,200	56%	5,000	2,463
Committee Members (DEC)							0
Overtime	210	210	5,000	396		500	4,500
Staff Benefits	119,403	56,933	226,020	124,635	55%	156,920	69,100
TOTALS, PERSONNEL SVC	460,533	215,670	671,846	465,814	69%	611,536	60,310
OPERATING EXPENSE AND EQUIPMENT							
General Expense	15,776	4,032	55,757	40,050	72%	45,000	10,757
Fingerprint Reports	4,170	1,568	20,045	1,663	8%	4,500	15,545
Minor Equipment	10,635		20,750	10,966	53%	20,750	0
Printing	4,207	1,266	15,331	9,049	59%	12,000	3,331
Communication	1,702	502	16,212	1,524	9%	2,000	14,212
Postage	25,015	8,564	28,773	27,316	95%	29,500	(727)
Insurance							0
Travel In State	29,076	12,048	30,141	24,344	81%	30,000	141
Travel, Out-of-State	224		0		0%	0	0
Training			1,129	273	24%	500	629
Facilities Operations	115,660	112,214	65,195	110,301	169%	121,500	(56,305)
Utilities			0			0	0
C & P Services - Interdept.			11,264		0%	0	11,264
C & P Services - External	440	20,436	965	0	0%	0	965
DEPARTMENTAL SERVICES:							0
Departmental Pro Rata	100,722	55,068	112,213	84,160	75%	112,213	0
Admin/Exec	70,073	39,018	81,848	61,386	75%	81,848	0
Interagency Services			650		0%	0	650
IA w/ OER	210,824	210,824	333,119	303,906	91%	303,906	29,213
DOI-ProRata Internal	3,083	1,560	2,621	1,966	75%	2,621	0
Public Affairs Office	3,826	2,210	3,683	2,762	75%	3,683	0
CCED	4,963	2,668	3,155	2,366	75%	3,155	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	138	36	2,604	307	12%	500	2,104
DP Maintenance & Supply	8,745		3,494	5,475	157%	7,500	(4,006)
Central Admin Svc-ProRata	114,637	57,319	108,549	81,412	75%	108,549	0
EXAM EXPENSES:							0
Exam Supplies							0
Exam Freight			25			0	25
Exam Site Rental							0
C/P Svcs-External Expert Administrative	307,220	296,720	286,772	355,075		355,075	(68,303)
C/P Svcs-External Expert Examiners	30,771	14,532	83,944	29,681		29,681	54,263
C/P Svcs-External Subject Matter				1,565		1,565	(1,565)
ENFORCEMENT:							0
Attorney General	79,735	33,638	379,123	139,867	37%	186,492	192,631
Office Admin Hearings	11,876	5,796	106,670	21,712	20%	23,524	83,146
Court Reporters	1,609	80		1,031		2,000	(2,000)
Evidence/Witness Fees	20,485	1,921	10,795	21,823	202%	25,000	(14,205)
DOI - Investigations	341,284	174,164	310,348	232,761	75%	310,348	0
Major Equipment			7,500	20,866	278%	20,866	(13,366)
Special Items of Expense							0
Other (Vehicle Operations)			2,650			0	2,650
TOTALS, OE&E	1,516,896	1,056,184	2,105,325	1,593,607	76%	1,844,276	261,049
TOTAL EXPENSE	1,977,429	1,271,854	2,777,171	2,059,421	145%	2,455,812	321,359
Sched. Reimb. - External/Private	(2,605)	(1,420)		(2,370)			0
Sched. Reimb. - Fingerprints	(2,744)	(2,107)	(22,000)	(1,470)	7%	(22,000)	0
Sched. Reimb. - Other			(1,000)			(1,000)	0
Unsched. Reimb. - Other	(37,299)	(17,003)		(17,745)			0
NET APPROPRIATION	1,934,781	1,251,324	2,754,171	2,037,836	74%	2,432,812	321,359
SURPLUS/(DEFICIT):							11.7%

0108 - Acupuncture Analysis of Fund Condition

Prepared 5/7/2014

(Dollars in Thousands)

**Note: \$5 Million Dollar General Fund Repayment Outstanding
W/approved BCP**

	ACTUAL 2012-2013	Budget Act CY 2013-2014	Gov Budget BY 2014-15	BY+1 2015-16	BY+2 2016-17
BEGINNING BALANCE	\$ 1,367	\$ 2,090	\$ 2,248	\$ 1,905	\$ 1,497
Prior Year Adjustment	\$ 37	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,404	\$ 2,090	\$ 2,248	\$ 1,905	\$ 1,497
REVENUES AND TRANSFERS					
Revenues					
125600 Other regulatory fees	\$ 46	\$ 42	\$ 45	\$ 45	\$ 45
125700 Other regulatory licenses and permits	\$ 848	\$ 817	\$ 980	\$ 980	\$ 980
125800 Renewal fees	\$ 1,721	\$ 1,723	\$ 1,867	\$ 1,867	\$ 1,867
125900 Delinquent fees	\$ 13	\$ 12	\$ 12	\$ 12	\$ 12
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
150300 Income from surplus money investments	\$ 5	\$ 6	\$ 6	\$ 4	\$ 3
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
Totals Revenues	\$ 2,637	\$ 2,604	\$ 2,914	\$ 2,912	\$ 2,911
Transfers from Other Funds					
Proposed GF 11-12 Loan Repayment					\$ 1,000
Transfers to Other Funds					
GF Loan per item 1110-011-0108 Budget Act of 2011					
Totals Revenues and Transfers	\$ 2,637	\$ 2,604	\$ 2,914	\$ 2,912	\$ 3,911
Totals Resources	\$ 4,041	\$ 4,694	\$ 5,162	\$ 4,817	\$ 5,408
EXPENDITURES					
Disbursements					
084C - SCO	\$ 2				
1110 - Program Expenditures (State Operations)	\$ 1,935	\$ 2,433	\$ 3,255	\$ 3,320	\$ 3,386
8880 - FISCAL	\$ 14	\$ 13	\$ 2		
Total Disbursements	\$ 1,951	\$ 2,446	\$ 3,257	\$ 3,320	\$ 3,386
FUND BALANCE					
Reserve for economic uncertainties	\$ 2,090	\$ 2,248	\$ 1,905	\$ 1,497	\$ 2,022
Months in Reserve	10.3	8.3	6.9	5.3	7.0

NOTES

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ONGOING
- B. ASSUME APPROPRIATION GROWTH OF 2% IN BY+1 AND ONGOING
- C. INTEREST ON FUND ESTIMATE AT 3%
- D. CY EXPENDITURES REFLECT EXPENDITURE PROJECTIONS (THROUGH FM9)

#5 – Executive Officer's Report

Enforcement: Data Report

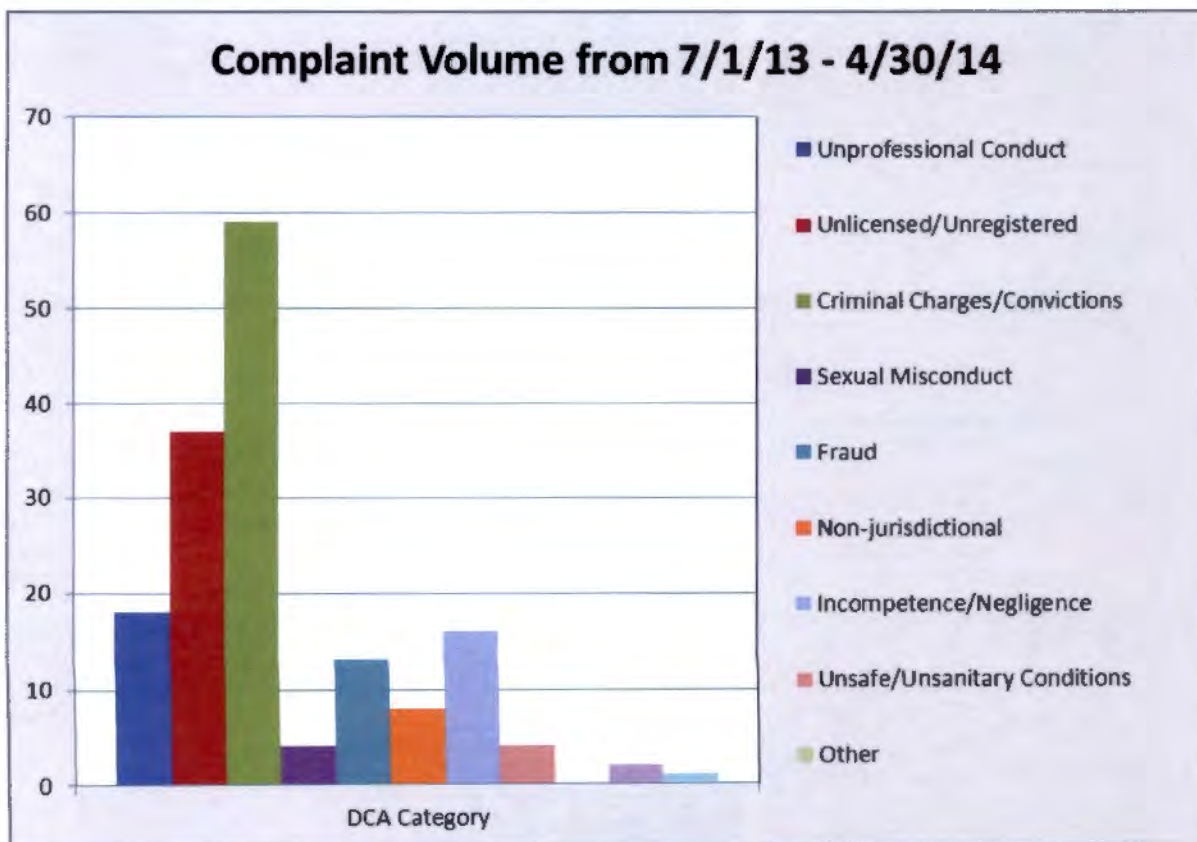


ACUPUNCTURE BOARD
 1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
 (916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

DATE	May 23, 2014
TO	All Board Members
FROM	Kristine Brothers Enforcement Coordinator
SUBJECT	Enforcement Update for July 1, 2013 to April 30, 2014

COMPLAINTS/CONVICTIONS & ARRESTS

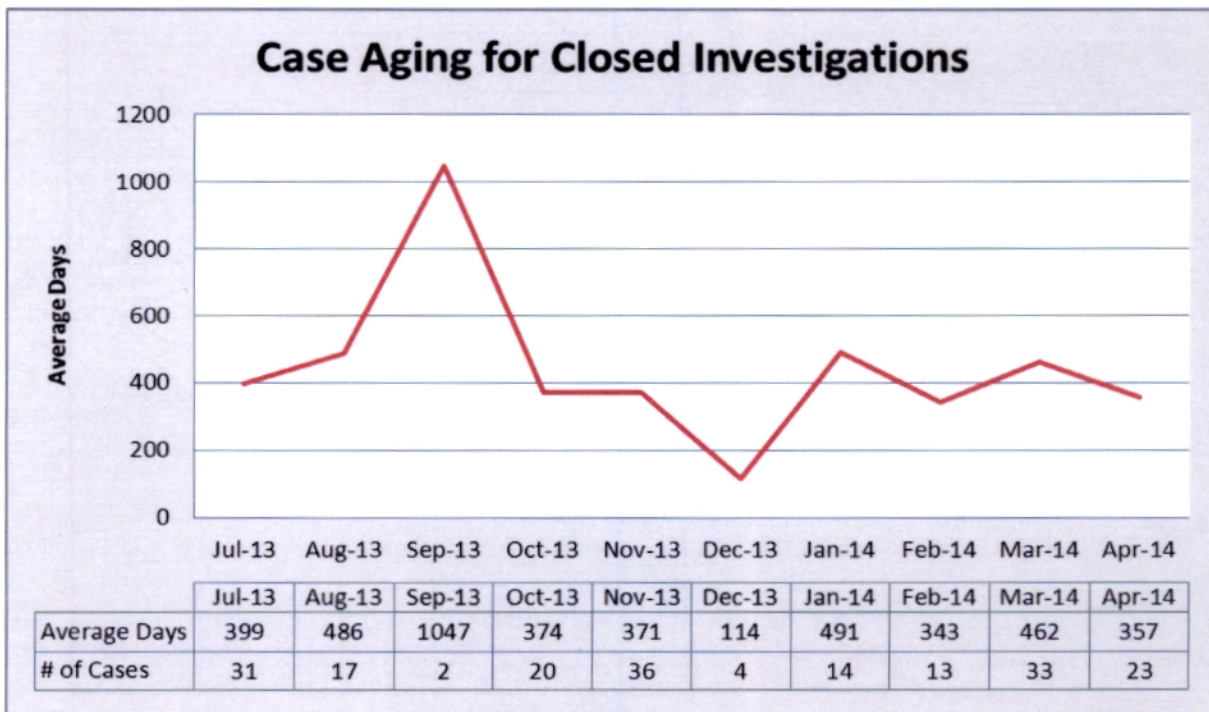
DCA Category	Received	Closed/Referred to Investigation
Unprofessional Conduct	18	18
Unlicensed/Unregistered	37	37
Criminal Charges/Convictions	59	59
Sexual Misconduct	4	4
Fraud	13	13
Non-jurisdictional	8	8
Incompetence/Negligence	16	17
Unsafe/Unsanitary Conditions	4	4
Other	0	0
Substance Abuse/Drug & Mental/Physical Impairment	2	2
Discipline by Another State Agency	1	1
Total	162	163
Average Intake Time: 9 days		



***INVESTIGATIONS**

DCA Category	Initiated	Pending	Closed
Unprofessional Conduct	18	35	22
Unlicensed/Unregistered	37	37	16
Criminal Charges/Convictions	54	32	114
Sexual Misconduct	4	9	9
Fraud	13	28	10
Non-jurisdictional	2	1	3
Incompetence/Negligence	16	24	13
Unsafe/Unsanitary Conditions	4	5	2
Other	0	0	0
Substance Abuse/Drug & Mental/Physical Impairment	2	1	3
Discipline by Another State Agency	1	0	1
Total	151	172	193
Average days		244	408

*Includes formal investigations conducted by DOI and desk investigations conducted by staff



DISCIPLINARY ACTIONS

Requested	16
Pending	21
Accusation/SOI Filed	10
Decisions	7
Revoked	2
Voluntary Surrender	0
Probation	5
License Denied	0
Public Reprimand	0
Avg. Overall Process Time	1049 days
Open Probation Cases	18

DCA Performance Measures:
Quarters 1 & 2

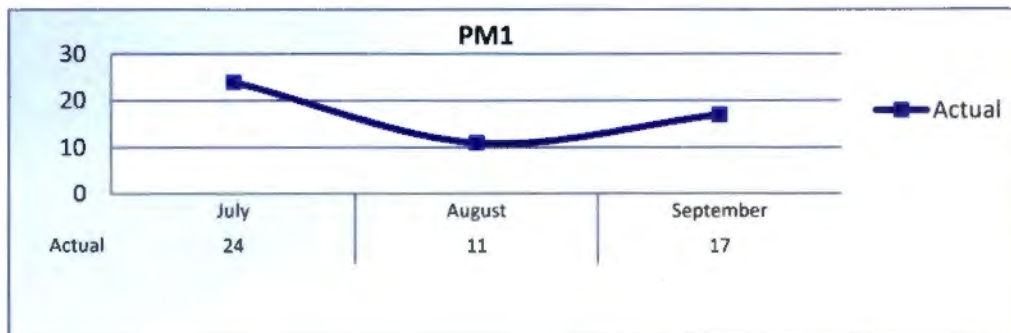
Performance Measures

Q1 Report (July - September 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

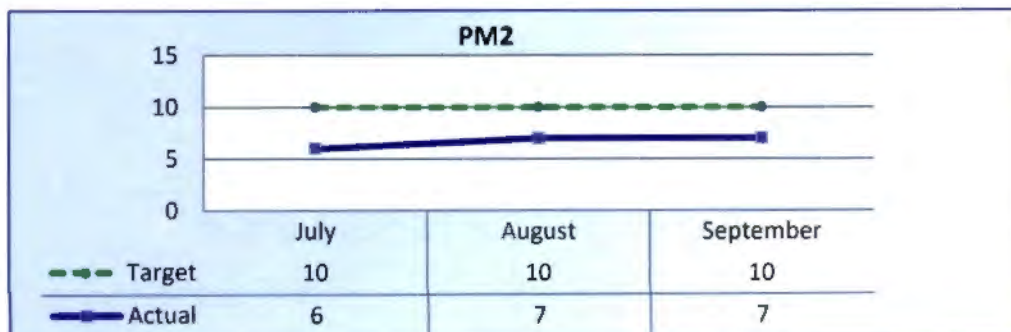


Total Received: 52 Monthly Average: 17

Complaints: 37 | Convictions: 15

PM2 | Intake

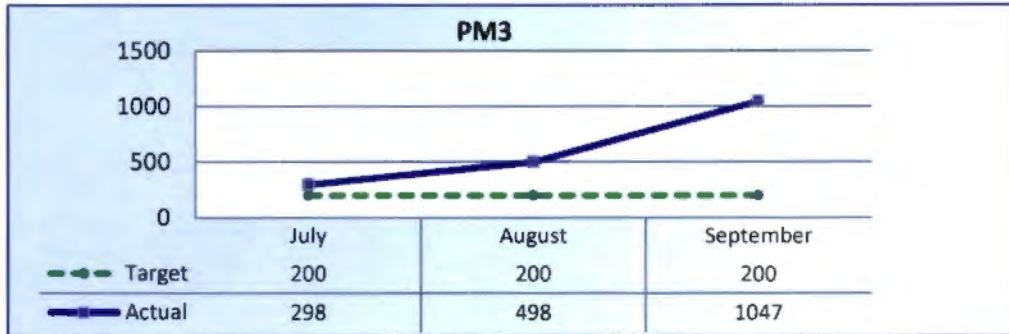
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 7 Days

PM3 | Intake & Investigation

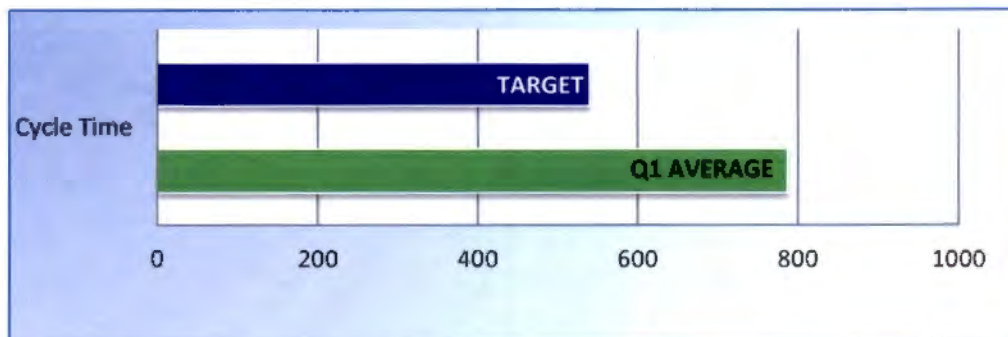
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 413 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 787 Days

PM7 | Probation Intake

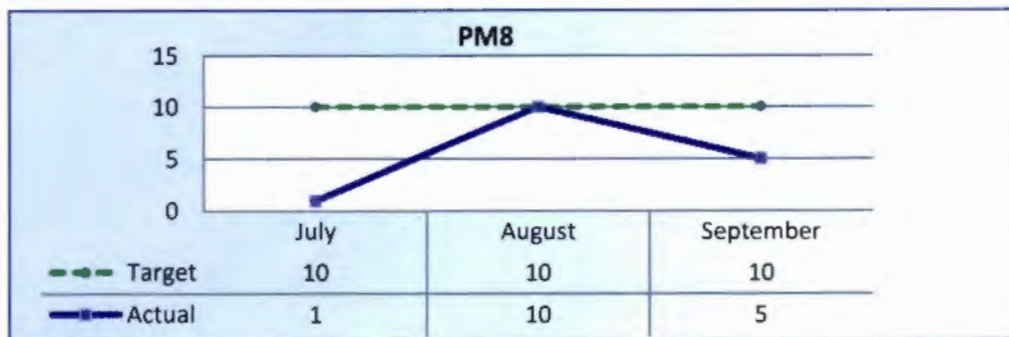
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 10 Days | Actual Average: N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 5 Days

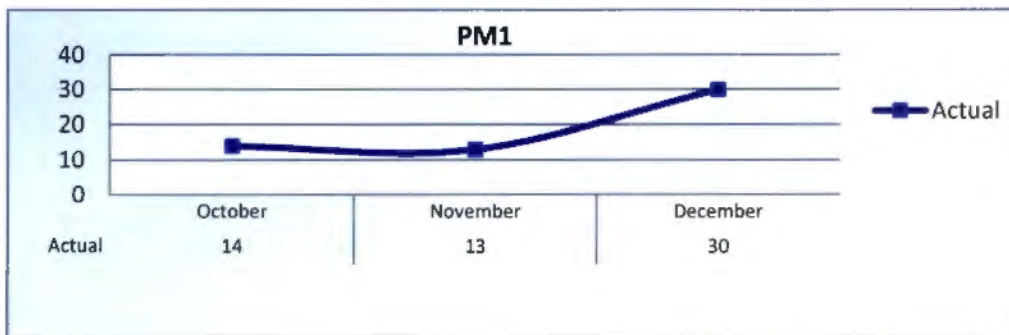
Performance Measures

Q2 Report (October - December 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

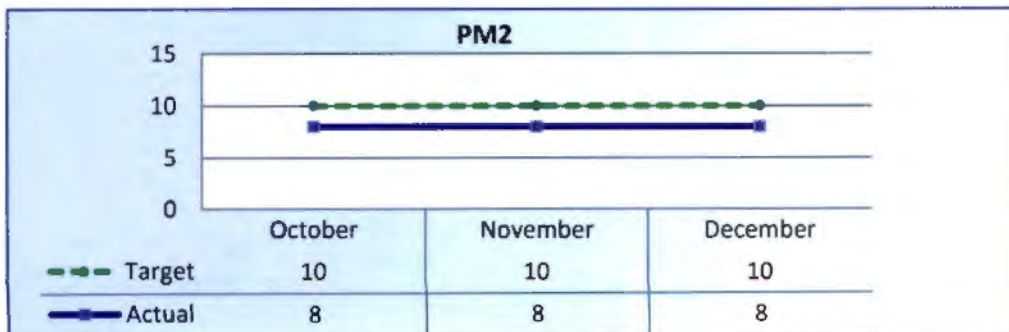


Total Received: 57 Monthly Average: 19

Complaints: 33 | Convictions: 24

PM2 | Intake

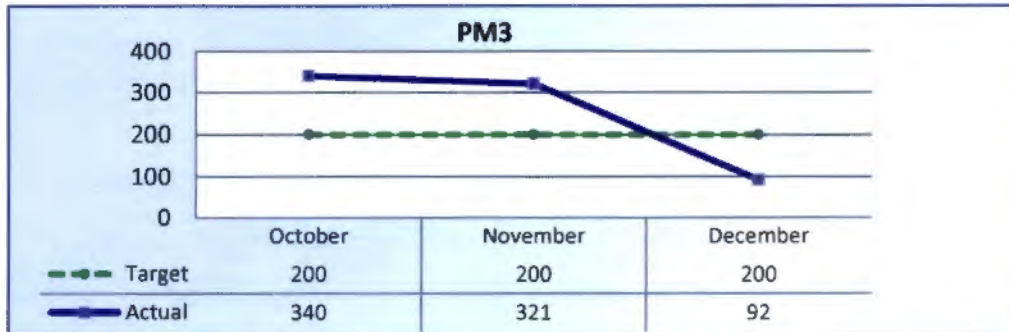
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 8 Days

PM3 | Intake & Investigation

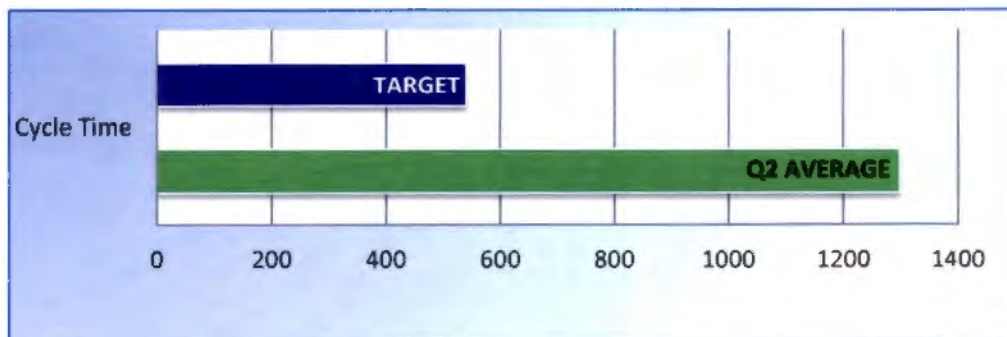
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 309 Days

PM4 | Formal Discipline

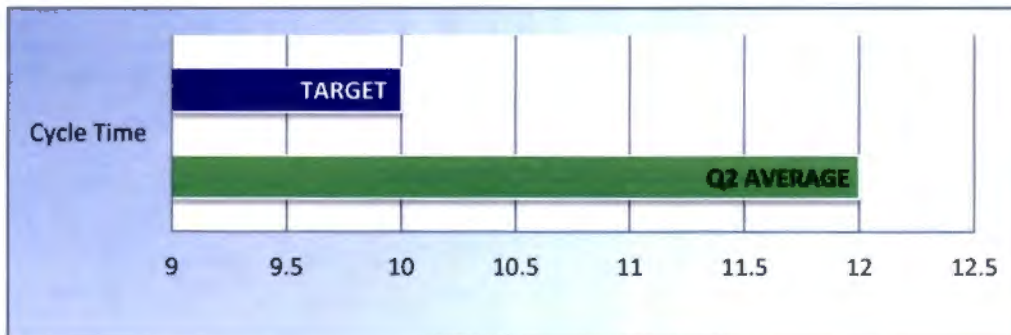
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 1298 Days

PM7 | Probation Intake

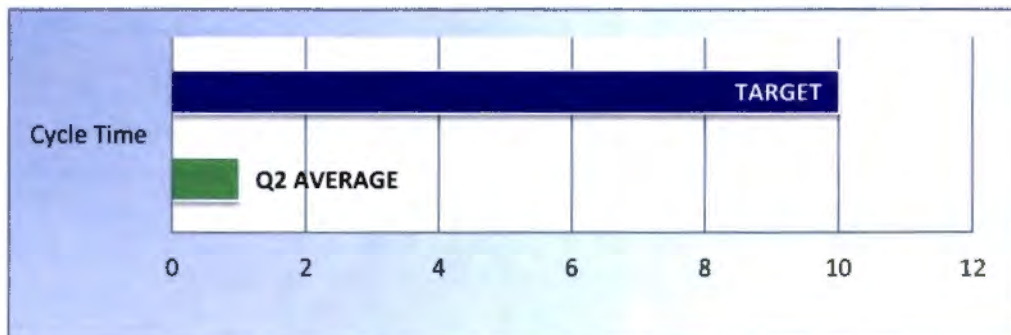
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 12 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 1 Day

**#7 – Exam Development
Presentation by OPES**

CALIFORNIA LAW REGARDING LICENSING EXAMS

I. Business and Professions Code Section 139:

(a) The legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy and sunset reviews of these boards, programs and bureaus.

II. DCA Licensure Examination Validation Policy

STANDARDS FOR REVIEW OF STATE AND NATIONAL EXAMINATIONS

All licensure examinations appropriated for use in California professions regulated by DCA should be validated according to accepted technical and professional standards, as described elsewhere in these provisions. At a minimum, the following factors must be considered in a review of state and national examination programs:

- Right to access information from all studies and reports from test vendors (local or national)
- Right of state agency to review recent examination
- Description of methodology used to establish content-related validity
- Occupational analysis report and frequency of updates
- Method to ensure standards are set for entry-level practice
- Examination outline and method to link to the occupational analysis
- Information about the sample of practitioners surveyed
- Item development process (experts used, editing methods, etc.)
- Sufficient size of item banks
- Pass-point setting methodology
- Examination security methods; examination administration processes
- Examination reliability
- Pass/fail ratio
- Statistical performance of examinations

California practice must be appropriately represented in an occupational analysis conducted on a national level in order for the results to be valid for examination development in California. If national examinations are used, the suitability of examination content for California practice must be determined by a review of the occupational analyses, including the demographics of the practitioners upon which it is based.

#9 – B & P Code Section 138
Notice to Consumers



DATE	May 23, 2014
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	Proposed Regulatory Language to Implement BPC 138

Issue:

BPC Section 138 requires all Boards to promulgate regulations that implement the requirements set forth in this provision. This provision requires all Boards to promulgate regulations that require all licensees to display a notice that they are licensed by the California Acupuncture Board and provide the Board's contact information.

Problem:

This section was signed into law in 1999 and the Board has not implemented it through promulgating regulations. This was an issue raised by the Sunset Review Committee in their 2012 Background Paper. The Board has, to date, not implemented this law.

Background:

BPC Section 138 Notice that Practitioner is licensed; Evaluation of licensing Examination reads as follows:

Every Board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require it licentiates, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, a statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

To date, the Board has not promulgated such regulations required by this statutory provision. The Acupuncture Board's Legal Counsel has determined that the Board is not exempt from the requirement to adopt regulations pursuant to BPC 138, and so the Board must promulgate regulations to implement this provision of law. This requirement and notice is in addition to the requirement that licensees must display their wall licenses at each practice location that offer services.

Discussion: The purpose of this provision is to provide consumers with notice that the practitioners are in fact licensed by a State Licensing Board and to provide them with specific Board contact

information. Providing consumers such information informs them that there is a licensing Board that they can contact if they want to make a complaint about a particular licensee.

In view of the fact that the Board is out of compliance with BPC 138 and it has promised the Sunset Review Committee that it would promulgate regulations to comply with this provision, the Board should review and approve proposed regulatory language.

Proposed Regulatory Language:

Add Section 1399.469.3 to Article 6 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

1399.469.3. Notice to Consumers of Licensure by the Acupuncture Board

(a) A licensed acupuncturist engaged in the practice of acupuncture shall provide notice to each patient of the fact that the acupuncturist is licensed and regulated by the California Acupuncture Board. This notice must be posted at each of the practice locations the licensee provides services. The notice shall include the following statement and information:

NOTICE TO CONSUMERS
Acupuncturists are licensed and regulated
by the California Acupuncture Board
(916) 515-5200
<http://www.acupuncture.ca.gov/>

(b) The notice required by this section shall be provided by prominently posting the notice in a conspicuous location accessible to public view on the premises where the acupuncturist provides the licensed services, in which case the notice shall be at least 48-point type font.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Section 138, Business and Professions Code.

Recommendation: Approve proposed or modified language and approve the commencement of the regulatory process.

11 – SB 1246 (Lieu)

Sunrise Bill

11 – SB 1246 (Lieu)

Acupuncture Sunrise Bill

Bill Language

AMENDED IN SENATE APRIL 23, 2014

SENATE BILL

No. 1246

Introduced by Senator Lieu
(Principal coauthor: Assembly Member Bonilla)

February 20, 2014

An act to amend Sections 4928 ~~and 4934 of~~ 4934, 4935, 4938, 4944, 4949, and 4970 of, to amend and repeal Section 4973 of, to amend, repeal, and add Section 4939 of, to add Section 4933.5 to, and to add and repeal Section 4927.5 of, the Business and Professions Code, relating to ~~the Acupuncture Board~~ acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as amended, Lieu. ~~The Acupuncture Board. Acupuncture.~~

Existing law, *the Acupuncture Licensure Act*, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board, within the Department of Consumer Affairs. Existing law authorizes the board, with the approval of the Director of Consumer Affairs, to employ personnel necessary to administer the Acupuncture Licensure Act, *including an executive officer who is exempt from civil service*. Existing law repeals these provisions on January 1, 2015.

This bill would *remove the repeal date with respect to the board's authority to employ personnel. The bill would also extend the operation of those provisions until January 1, 2019 the board and its authority to hire an executive officer exempt from civil service until January 1, 2017. The bill would require that the executive officer appointed on or after January 1, 2015, not have served as the executive officer of the board at any time prior to January 1, 2015.*

Existing law requires the board to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, as specified. Existing law requires the board to issue a license to practice acupuncture to a person who files an application, pays a fee, and among other requirements, completes an educational and training program approved by the board.

Commencing January 1, 2017, this bill would eliminate the requirement that the board approve schools and colleges offering education and training in the practice of acupuncture and would instead require that an approved school or college, for purposes of licensure, be accredited by the Accreditation Commission for Acupuncture and Oriental Medicine. The bill would make related conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4927.5 is added to the Business and
2 Professions Code, to read:

3 4927.5. (a) For purposes of this chapter, "approved
4 educational and training program" means a program approved
5 by the board pursuant to Section 4939.

6 (b) This section shall remain in effect only until January 1, 2017,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2017, deletes or extends that date.

9 SEC. 2. Section 4927.5 is added to the Business and Professions
10 Code, to read:

11 4927.5. (a) For purposes of this chapter, "approved
12 educational and training program" means a school or college
13 offering education and training in the practice of an acupuncturist
14 that meets both of the following requirements:

15 (1) Is accredited by the Accreditation Commission for
16 Acupuncture and Oriental Medicine.

17 (2) Within three years of initial accreditation under paragraph
18 (1), has received full institutional approval under Article 6
19 (commencing with Section 94885) of Chapter 8 of Part 59 of
20 Division 10 of Title 3 of the Education Code in the field of
21 traditional Asian medicine, or in the case of institutions located
22 outside of this state, approval by the appropriate governmental
23 educational authority using standards equivalent to those of Article

1 6 (commencing with Section 94885) of Chapter 8 of Part 59 of
2 Division 10 of Title 3 of the Education Code.

3 (b) This section shall become operative on January 1, 2017.

4 SECTION 1.

5 SEC. 3. Section 4928 of the Business and Professions Code is
6 amended to read:

7 4928. (a) The Acupuncture Board, which consists of seven
8 members, shall enforce and administer this chapter.

9 (b) This section shall remain in effect only until January 1, 2019,
10 2017, and as of that date is repealed, unless a later enacted statute,
11 that is enacted before January 1, 2019, 2017, deletes or extends
12 that date.

13 (c) Notwithstanding any other law, the repeal of this section
14 renders the board subject to review by the appropriate policy
15 committees of the Legislature.

16 SEC. 2. Section 4934 of the Business and Professions Code is
17 amended to read:

18 4934. (a) The board, by and with the approval of the director,
19 may employ personnel necessary for the administration of this
20 chapter. The board, by and with the approval of the director, may
21 appoint an executive officer who is exempt from the provisions
22 of the State Civil Service Act (Part 2 (commencing with Section
23 18500) of Division 5 of Title 2 of the Government Code).

24 (b) This section shall remain in effect only until January 1, 2019,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2019, deletes or extends that date.

27 SEC. 4. Section 4933.5 is added to the Business and Professions
28 Code, to read:

29 4933.5. The board, by and with the approval of the director,
30 may employ personnel necessary for the administration of this
31 chapter.

32 SEC. 5. Section 4934 of the Business and Professions Code is
33 amended to read:

34 4934. (a) The board, by and with the approval of the director,
35 may employ personnel necessary for the administration of this
36 chapter, and the board, by and with the approval of the director,
37 may appoint an executive officer who is exempt from the
38 provisions of the State Civil Service Act (Part 2 (commencing with
39 Section 18500) of Division 5 of Title 2 of the Government Code).
40 The executive officer appointed on or after January 1, 2015, shall

1 *not have served as the executive officer of the board at any time*
2 *prior to January 1, 2015.*

3 (b) This section shall remain in effect only until January 1, ~~2015~~
4 2017, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2015~~, 2017, deletes or extends
6 that date.

7 *SEC. 6. Section 4935 of the Business and Professions Code is*
8 *amended to read:*

9 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
10 less than one hundred dollars (\$100) and not more than two
11 thousand five hundred dollars (\$2,500), or by imprisonment in a
12 county jail not exceeding one year, or by both that fine and
13 imprisonment, for any person who does not hold a current and
14 valid license to practice acupuncture under this chapter or to hold
15 himself or herself out as practicing or engaging in the practice of
16 acupuncture.

17 (2) It is a misdemeanor, punishable by a fine of not less than
18 one hundred dollars (\$100) and not more than two thousand five
19 hundred dollars (\$2,500), or by imprisonment in a county jail not
20 exceeding one year, or by both that fine and imprisonment, for
21 any person to fraudulently buy, sell, or obtain a license to practice
22 acupuncture, or to violate the provisions of this chapter.

23 (b) Notwithstanding any other ~~provision of law~~, any person,
24 other than a physician and surgeon, a dentist, or a podiatrist, who
25 is not licensed under this article but is licensed under Division 2
26 (commencing with Section 500), who practices acupuncture
27 involving the application of a needle to the human body, performs
28 any acupuncture technique or method involving the application of
29 a needle to the human body, or directs, manages, or supervises
30 another person in performing acupuncture involving the application
31 of a needle to the human body is guilty of a misdemeanor.

32 (c) A person holds himself or herself out as engaging in the
33 practice of acupuncture by the use of any title or description of
34 services incorporating the words "acupuncture," "acupuncturist,"
35 "certified acupuncturist," "licensed acupuncturist," "Asian
36 medicine," "oriental medicine," or any combination of those words,
37 phrases, or abbreviations of those words or phrases, or by
38 representing that he or she is trained, experienced, or an expert in
39 the field of acupuncture, Asian medicine, or Chinese medicine.

1 (d) Subdivision (a) shall not prohibit a person from
2 administering acupuncture treatment as part of his or her
3 educational training if he or she:

4 (1) Is engaged in a course or tutorial program in acupuncture,
5 as provided in this chapter; or

6 (2) Is a graduate of ~~a school of acupuncture approved by the~~
7 ~~board~~ *an approved educational and training program* and
8 participating in a postgraduate review course that does not exceed
9 one year in duration at ~~a school approved by the board~~ *an approved*
10 *educational and training program.*

11 *SEC. 7. Section 4938 of the Business and Professions Code is*
12 *amended to read:*

13 4938. The board shall issue a license to practice acupuncture
14 to any person who makes an application and meets the following
15 requirements:

16 (a) Is at least 18 years of age.

17 (b) Furnishes satisfactory evidence of completion of one of the
18 following:

19 (1) ~~An approved educational and training program approved~~
20 ~~by the board pursuant to Section 4939 program.~~

21 (2) Satisfactory completion of a tutorial program in the practice
22 of an acupuncturist which is approved by the board.

23 (3) In the case of an applicant who has completed education
24 and training outside the United States and Canada, documented
25 educational training and clinical experience ~~which~~ *that* meets the
26 standards established pursuant to Sections 4939 and 4941.

27 (c) Passes a written examination administered by the board that
28 tests the applicant's ability, competency, and knowledge in the
29 practice of an acupuncturist. The written examination shall be
30 developed by the Office of Professional Examination Services of
31 the Department of Consumer Affairs.

32 (d) Is not subject to denial pursuant to Division 1.5 (commencing
33 with Section 475).

34 (e) Completes a clinical internship training program approved
35 by the board. The clinical internship training program shall not
36 exceed nine months in duration and shall be located in a clinic in
37 this state, which is ~~approved by the board pursuant to Section 4939~~
38 *an approved educational and training program.* The length of the
39 clinical internship shall depend upon the grades received in the
40 examination and the clinical training already satisfactorily

1 completed by the individual prior to taking the examination. On
2 and after January 1, 1987, individuals with 800 or more hours of
3 documented clinical training shall be deemed to have met this
4 requirement. The purpose of the clinical internship training
5 program shall be to ensure a minimum level of clinical competence.

6 Each applicant who qualifies for a license shall pay, as a
7 condition precedent to its issuance and in addition to other fees
8 required, the initial licensure fee.

9 *SEC. 8. Section 4939 of the Business and Professions Code is*
10 *amended to read:*

11 4939. (a) The board shall establish standards for the approval
12 of schools and colleges offering education and training in the
13 practice of an acupuncturist, including standards for the faculty in
14 those schools and colleges ~~and tutorial programs~~, completion of
15 which will satisfy the requirements of Section 4938.

16 (h) Standards for the approval of ~~training programs~~ *schools and*
17 *colleges described in subdivision (a)* shall include a minimum of
18 3,000 hours of study in curriculum pertaining to the practice of an
19 acupuncturist. This subdivision shall apply to all students entering
20 programs on or after January 1, 2005.

21 (c) Within three years of initial approval by the board, each
22 ~~program school or college~~ so approved by the board shall receive
23 full institutional approval under Article 6 (commencing with
24 Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3
25 of the Education Code in the field of traditional Asian medicine,
26 or in the case of institutions located outside of this state, approval
27 by the appropriate governmental educational authority using
28 standards equivalent to those of Article 6 (commencing with
29 Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3
30 of the Education Code, or the board's approval of the program
31 shall automatically lapse.

32 *(d) This section shall remain in effect only until January 1, 2017,*
33 *and as of that date is repealed, unless a later enacted statute, that*
34 *is enacted before January 1, 2017, deletes or extends that date.*

35 *SEC. 9. Section 4939 is added to the Business and Professions*
36 *Code, to read:*

37 4939. (a) The board shall establish standards for the approval
38 of educational training and clinical experience received outside
39 the United States and Canada.

40 (h) This section shall become operative on January 1, 2017.

1 *SEC. 10. Section 4944 of the Business and Professions Code*
2 *is amended to read:*

3 4944. (a) The board shall have the authority to investigate and
4 evaluate each and every applicant applying for a license to practice
5 acupuncture and to make the final determination of the admission
6 of the applicant to the examination, or for the issuance of a license,
7 in conformance with the provisions of this chapter.

8 (b) The board shall investigate and evaluate each school or
9 college applying for approval under Section 4939 and may utilize
10 and contract with consultants to evaluate those training programs.
11 *This subdivision shall become inoperative on January 1, 2017.*

12 (c) The board may delegate to the executive officer or other
13 official of the board its authority under this section in routine
14 matters.

15 *SEC. 11. Section 4949 of the Business and Professions Code*
16 *is amended to read:*

17 4949. The provisions of this chapter shall not prohibit an
18 acupuncturist from another state or country, who is not a licensed
19 acupuncturist in this state, who is the invited guest of a professional
20 acupuncture association or scientific acupuncture foundation, an
21 ~~acupuncture training program that is approved under Section 4939~~
22 *approved educational and training program*, or a continuing
23 education provider that is approved under Section 4945, solely
24 from engaging in professional education through lectures, clinics,
25 or demonstrations. The guest acupuncturist may engage in the
26 practice of acupuncture in conjunction with these lectures, clinics,
27 or demonstrations for a maximum of six months, but may not open
28 an office or appoint a place to meet patients or receive calls from
29 patients or otherwise engage in the practice of acupuncture.

30 *SEC. 12. Section 4970 of the Business and Professions Code*
31 *is amended to read:*

32 4970. The amount of fees prescribed for licensed acupuncturists
33 shall be those set forth in this section unless a lower fee is fixed
34 by the board in accordance with Section 4972:

35 (a) The application fee shall be seventy-five dollars (\$75).

36 (b) The examination and reexamination fees shall be the actual
37 cost to the Acupuncture Board for the development and writing
38 of, grading, and administering of each examination.

39 (c) The initial license fee shall be three hundred twenty-five
40 dollars (\$325), except that if the license will expire less than one

1 year after its issuance, then the initial license fee shall be an amount
2 equal to 50 percent of the initial license fee.

3 (d) The renewal fee shall be three hundred twenty-five dollars
4 (\$325) and in the event a lower fee is fixed by the board, shall be
5 an amount sufficient to support the functions of the board in the
6 administration of this chapter. The renewal fee shall be assessed
7 on an annual basis until January 1, 1996, and on and after that date
8 the board shall assess the renewal fee biennially.

9 (e) The delinquency fee shall be set in accordance with Section
10 163.5.

11 (f) The application fee for the approval of a school or college
12 under Section 4939 shall be three thousand dollars (\$3,000). *This*
13 *subdivision shall become inoperative on January 1, 2017.*

14 (g) The duplicate wall license fee is an amount equal to the cost
15 to the board for the issuance of the duplicate license.

16 (h) The duplicate renewal receipt fee is ten dollars (\$10).

17 (i) The endorsement fee is ten dollars (\$10).

18 (j) The fee for a duplicate license for an additional office
19 location as required under Section 4961 shall be fifteen dollars
20 (\$15).

21 *SEC. 13. Section 4973 of the Business and Professions Code*
22 *is amended to read:*

23 4973. (a) A fee for the inspection or reinspection of a school
24 or college of acupuncture for purposes of approval or continued
25 approval shall be charged at an amount to recover the direct costs
26 incurred by the board in conducting that inspection and evaluation
27 of the school or college.

28 (b) *This section shall remain in effect only until January 1, 2017,*
29 *and as of that date is repealed, unless a later enacted statute, that*
30 *is enacted before January 1, 2017, deletes or extends that date.*

11 – SB 1246 (Lieu)

Acupuncture Sunrise Bill

Committee Bill Analysis

**SENATE COMMITTEE ON BUSINESS, PROFESSIONS
AND ECONOMIC DEVELOPMENT
Senator Ted W. Lieu, Chair**

Bill No: SB 1246 Author: Lieu
As Amended: April 23, 2014 Fiscal: Yes

SUBJECT: The Acupuncture Board.

SUMMARY: Extends the sunset date for the California Acupuncture Board (CAB) until January 1, 2017; grants the CAB authority to employ personnel until January 1, 2017; specifies that any executive officer appointed on or after January 1, 2015 shall not have served as an executive officer for the CAB prior to January 1, 2015; requires educational and training programs to be accredited by the Accreditation Commission for Acupuncture and Oriental Medicine commencing January 1, 2017.

Existing law:

- 1) Provides for the licensure and regulation of the practice of acupuncture by the CAB within the Department of Consumer Affairs (DCA). (Business and Professions Code (BPC) § 4928 et seq.)
- 2) Establishes the CAB until January 1, 2015 and renders the CAB subject to review by the appropriate policy committees of the Legislature. (BPC § 4928)
- 3) Permits the CAB, with the approval of the Director of the DCA, to employ personnel and appoint an executive officer until January 1, 2015. (BPC § 4934)
- 4) Grants the CAB authority to establish standards for the approval of schools and colleges offering education and training in the practice of acupuncture, including standards for the faculty in those schools and colleges and tutorial programs. (BPC § 4939 et seq.)
- 5) Allows the CAB to charge a fee for the inspection or re-inspection of a school or college of acupuncture for purposes of approval and permits the CAB to recover the direct costs incurred by the CAB in conducting the inspection and evaluation of the school or college. (BPC § 4973)

This bill:

- 1) Extends the CAB until January 1, 2017.
- 2) Extends the CAB's authority, with the approval of the Director of the DCA, to employ personnel until January 1, 2017.

- 3) Specifies that the CAB, with the approval of the Director of the DCA, may appoint an executive officer on January 1, 2015.
- 4) Further specifies that the executive officer shall not have served as the executive officer of the CAB at any time prior to January 1, 2015.
- 5) Defines "approved educational and training programs" as a program approved by the CAB until January 1, 2017.
- 6) Repeals the CAB's authority to establish standards for the approved educational and training programs and charge fees for the approval of schools or colleges commencing January 1, 2017.
- 7) Requires that approved educational and training programs be accredited by the Accreditation Commission for Acupuncture and Oriental Medicine commencing January 1, 2017.

FISCAL EFFECT: Unknown. This bill has been keyed "fiscal" by Legislative Counsel.

COMMENTS:

1. **Purpose.** This bill is one of six "sunset review bills" authored by the Chair of this Committee. This bill provides for the CAB to be reviewed by the appropriate policy committees of the Legislature, and makes legislative changes regarding the CAB recommended in the Committee's Background Paper.
2. **Oversight Hearings and Sunset Review of Licensing Boards and Commission of DCA.** In 2014, the Senate Business and Professions Committee and the Assembly Business, Professions and Consumer Protection Committee (Committees) conducted joint oversight hearings to review 9 regulatory entities: Bureau of Automotive Repair; Bureau of Home Furnishings and Thermal Insulation; Bureau for Private Postsecondary Education (BPPE); California Massage Therapy Certification program; California Acupuncture Board; California Tax Preparers Program; Dental Hygiene Committee of California; Professional Fiduciaries Bureau; and Structural Pest Control Board. This Committee also reviewed the performance and effectiveness of the Community Interest Development Manager's Certification Program.

The Committees began their review of the aforementioned licensing agencies in March and conducted two days of hearings and then more recently held a hearing on the BPPE. This bill, and the accompanying sunset bills, are intended to implement legislative changes as recommended by staff of the Committee's which are reflected in the Background Papers prepared by Committee staff for each bureau and program reviewed for this year.
3. **Background. Review of the CAB, Issues Identified and Recommended Changes.** The following are some of the major issues pertaining to the CAB or areas of concern reviewed and discussed by the Committee during the review of the CAB, along with background information concerning each particular issue. Recommendations were made by Committee staff regarding the particular issues or problem areas which needed to be addressed.

a) **Issue: National Accreditation.**

Background. The CAB approves training programs at acupuncture schools and colleges, in particular their curriculum programs, to ensure they meet the standards adopted by the CAB. The school approval process requires review of the application, governance, program curriculum, catalogs, admission policies, student and faculty policies and procedures, and financial solvency. An on-site visit is also performed to review implementation of policies and procedures, facilities and clinical training. It is rare practice for health care licensing boards, under the DCA, to approve schools versus utilize a national accreditation organization to approve health care training programs.

The ACAOM is the nationally recognized accrediting agency for the field of acupuncture and oriental (Asian) medicine. While many other states defer to ACAOM accreditation as being a sufficient condition for applicants to take the licensing exam in their states, California does not accept accreditation by ACAOM, nor does it require graduation from an accredited school as a condition of being eligible to take the licensing exam. Instead, it conducts its own school approval process.

In 2004, the Little Hoover Commission (LHC) conducted a comprehensive comparative analysis of the school approval process of the ACAOM, to the school approval process of the CAB. The LHC's report concluded that the processes used by ACAOM appeared to be superior to the school approval process used by the CAB and could be used by the state to ensure the quality of education for potential licensees.

According to the Committee's 2014 Sunset Review Background Paper, because California performs its own school approvals, there are a number of consequences and problems. These include:

- 1) Students who are educated in accredited schools that are not approved by California receive only partial credit for their training. If they wish to gain licensure in California, they must complete a CAB approved training program.
- 2) The CAB is slow to approve applications for schools located outside of California due to budget constraints.
- 3) The CAB has recently begun conducting site visits. However, because of staff vacancies, this has been a slow process.

In the Committee's 2012 Sunset Review Background Paper to the CAB, the Committee wrote:

"...It should also be required that these acupuncture schools either have currently, or obtain within a reasonable time, accreditation from an accrediting agency recognized by the United States Department of Education. Especially since the accrediting process for these schools appears to be superior to that of the Board. At some time in the future, consideration could be given, based on the success of accreditation of these schools, to eliminating the Board's responsibility and need for approving acupuncture educational programs."

[The current language in this measure reflects this recommended change.]

b) **Issue: Continued Regulation by the CAB.**

Background: The health, safety and welfare of consumers are protected by a well-regulated acupuncture profession. According to a review of past Sunset Review Background Papers, it is evident that the current CAB members inherited a program with little to no infrastructure and no institutional knowledge was passed down from prior CAB staff. In recognition of this, Committee staff has reached out to the Executive Officer of the CAB in an effort to ensure that the Executive Officer communicates to the CAB and CAB staff the importance of addressing the concerns that were highlighted during the 2012 and prior Sunset Review Hearings. It appears as if several of these recommendations remain unaddressed; thus, in the Committee's 2014 Sunset Review Background Paper, the Committee directed the CAB to immediately focus its attention on addressing specific critical areas of deficiency and return to update the Committee's on the CAB's progress at the next Sunset Review Hearing in 2016.

Recommendation: The CAB should be continued with a two-year extension of its sunset date.

[The current language in this measure reflects this recommended change.]

4. **Current Related Legislation.** SB 1242 (Lieu, 2014) amends the Automotive Repair Act and updates the sunset provisions for the Bureau of Automotive Repair. (Status: *This bill will also be heard before the BP&ED Committee during today's hearing.*)

SB 1243 (Lieu, 2014) Extends until January 1, 2017, the term of the Veterinary Medical Board, which provides for the licensing and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board. The bill also extends the terms of the executive officer of the Veterinary Medical Board. This bill also extends to January 1, 2019, the law regulating the practice of common interest development managers, and the law establishing the California Tax Education Council, which provides for the Council to register and regulate tax preparers. This bill also subjects the board and organizations to be reviewed by the appropriate policy committees of the Legislature. (Status: *This bill will also be heard before the BP&ED Committee during today's hearing.*)

SB 1244 (Lieu, 2014) Extends until January 1, 2019 the term of the Structural Pest Control Board which provides for the licensing and regulation of individuals and business involved in the structural pest control industry in California. The bill also extends the term of the Board's executive officer and subjects the Board to be reviewed by the appropriate policy committees of the Legislature. (Status: *This bill will also be heard before the BP&ED Committee during today's hearing.*)

SB 1245 (Lieu, 2014) Extends until January 1, 2019 the term of the Dental Hygiene Committee of California which provides for the licensing and regulation of dental hygienists. The bill also extends the term of the Committee's executive officer and subjects the Committee to be reviewed by the appropriate policy committees of the Legislature. (Status: *This bill will also be heard before the BP&ED Committee during today's hearing.*)

SB 1247 (Lieu, 2014) Extends until January 1, 2019 the term of the California Private Postsecondary Education Act of 2009, which provides for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The bill also extends the term of the Student Tuition Recovery Fund under the administration of the bureau, and subjects the Bureau to review by the appropriate policy committees of the Legislature. (Status: *This bill will also be heard before the BP&ED Committee during today's hearing.*)

5. **Arguments in Support.** The Council of Colleges of Acupuncture and Oriental Medicine support the bill and write in their letter, "The Council has been the national membership association for acupuncture and Oriental colleges and programs in the U.S. since 1982. The mission of the Council is to advance acupuncture and oriental medicine by promoting educational excellence in the field. The current membership of the Council is 54 colleges, of which 26 are currently approved by the California Acupuncture Board through the board's independent school approval process. The Council's member colleges, all of which have been approved in accordance with ACAOM's national accreditation standards, believe that the quality of acupuncture education for students, patient safety, and consumer protection are best maintained by acupuncture educational institutions participating in an accreditation process with a USDE recognized accreditor such as ACAOM. Accreditation protects patients, students, and the profession by ensuring that graduates are well qualified as entry-level practitioners able to sit for licensing and certification exams."

The National Certification Commission for Acupuncture and Oriental Medicine points out in their letter that nationwide, every state with an acupuncture practice act requires ACAOM accredited education- the sole outlier is California.

Five Branches University supports the bill and writes in their letter, "Our university [is concerned] about the continuing failure of the CAB to address the useful recommendations of the Senate Committee...we would like to see a responsible Acupuncture Board in California that meets the same rigorous requirements of other health profession Boards [which] require accreditation of schools."

The California State Oriental Medicine Association is California's largest English-language professional association of licensed acupuncturists. CSOMA has represented acupuncture and Oriental medical providers across the state for more than two decades. CSOMA shared their support of the move to national accreditation instead of the CAB's school approval process in their letter, "...require applicants for licensure under the Acupuncture Board to graduate from a program that has achieved candidacy or accreditation by an accrediting agency recognized by the U.S. Department of Education as an authority for the equality of education and training in acupuncture and Oriental medicine."

The Southern California University of Health Sciences (SCUHS) writes, "SCUHS urges you to require the CAB to adopt CAB approved schools to be accredited by an accreditation agency recognized by the United States Department of Education. A USDE recognized accreditation agency will strengthen the oversight of acupuncture schools by a rigorous review process that includes a periodic and comprehensive self-study with peer review and a site visit process by highly qualified educators. In addition, accreditation process has well-articulated standards that examine all aspects of an institution from governance to faculty and

curriculum. By requiring accreditation of CAB approved schools, the student is protected as a consumer because the state is no longer approving unaccredited institutions. These unaccredited institutions do not have the same imperative to offer high quality programs. When a student graduates from a non-accredited but CAB-approved acupuncture program, the qualification that she or he has cannot be universally transferred to another state. In other words, graduates from CAB approved but non-accredited programs may not practice in states that require graduation from an accredited program.”

Both the Atlantic Institute of Oriental Medicine and the Southwest Acupuncture College also support the bill and write in their letters, “In spite of the clear language of these recommendations from the Committee, the CAB has not only failed to implement the recommendations, but has even refused to put the recommendations on any CAB meeting agenda...members of the [public] recently attended CAB committee meetings last Friday, April 18, 2014...At none of these meetings were the recommendations of the Senate Committee on the agenda, nor were the [members of the public] allowed to bring up the recommendations for consideration at these meetings.”

The Pacific College of Oriental Medicine and the National College of Natural Medicine supports the bill and writes, “It is clear that the CAB is not demonstrating interest in considering, let alone implementing, the Senate committee’s sunset review recommendations, and is pursuing its own agenda... this was evident at the April 18, 2014 meeting in a recommendation from the CAB [Executive Officer] that the budget of the board and the size of its staff be substantially increased so that the board itself will have the capacity to perform accreditation and examination functions that the board has for some time been unable to perform, but which are already being performed by [national testing and accreditation organizations] at a high level.”

The University of East-West Medicine also supports the bill and writes, “The failure of the CAB to consider the Senate committee’s recommendations reflects the unwillingness of the board to move forward with the sunset recommendations...Please take immediate and decisive action to mandate adherence by the CAB to your committee’s recommendations.”

Yo San University supports the bill and writes, “The Yo San University community of students, faculty, staff, alumni and clinic patients express deep concern regarding the continuing failure of the CAB to implement the Sunset Review recommendations of your Senate committee...The recommendations from the Committee were clearly articulate, and the CAB has not only failed to implement them, they have even refused to put the recommendations on the CAB meeting agenda.”

The American College of Traditional Chinese Medicine supports the bill and writes, “The purpose of this letter is to offer our continued strong support for the incorporation of accreditation by an accreditor recognized by the United States Department of Accreditation...We support the mission of the CAB to ‘protect, benefit and inform the people of California by exercising the licensing, regulatory and enforcement mandates of the Acupuncture Licensure Act.’ We feel that incorporation of accreditation...will strengthen the ability of the CAB to meet its mission.”

South Baylo University supports the bill and writes, “We express our concern about the implementation of the Sunset Review recommendations of this Senate committee by the

California Acupuncture Board... So far, the CAB has failed to implement the recommendations and did not put the recommendations on any of the CAB meeting agendas. Because the CAB has postponed considering the Senate committee's recommendations, which reflects the delay of the board to move forward with the sunset recommendations, South Baylo University asks that the committee closely follows up the adherence by the CAB to the committee's recommendations."

The Oregon College of Oriental Medicine writes, "Considering the CAB's demonstrated difficulty with approving schools and the significant amount of resources that it requires for the CAB to oversee this process, the CAB should act on recommendations made during prior Sunset Review Hearings and... require all schools of acupuncture to obtain accreditation from an agency approved by the U.S. Department of Education... Accreditation is a process for continuous improvement that is virtually universal in higher education. By California requiring accreditation, the state will ensure that all programs operating in the state or sending candidates to the state provide a high quality training program that protects patients and students."

SUPPORT AND OPPOSITION:

Support:

Atlantic Institute of Oriental Medicine
American College of Traditional Chinese Medicine
California State Oriental Medical Association
Council of colleges of Acupuncture and Oriental Medicine
Five Branches University
National Certification Commission for Acupuncture and Oriental Medicine
National College of Natural Medicine
Oregon College of Oriental Medicine
Pacific College of Oriental Medicine
South Baylo University
Southern California University of Health Sciences
Southwest Acupuncture College
University of East-West Medicine
Yo San University of Traditional Chinese Medicine
Over 60 licensed acupuncturists
Over 120 acupuncture students
2 individuals

Opposition:

2 licensed acupuncturists

Consultant: Le Ondra Clark, Ph.D.

11 – SB 1246 (Lieu)

Acupuncture Sunrise Bill

Staff Analysis



DATE	May 23, 2014
TO	Board Members
FROM	Terri Thorfinnson Executive Officer
SUBJECT	SB 1246 CAB Sunrise Legislation version as amended April 23, 2014

Legislative Analysis

SB 1246 is the sunrise bill that repeals the 2015 sunset of the Board and makes other significant policy and programmatic changes. The bill makes the following changes:

- Repeals the 2015 sunset date and extends the Board until January 1, 2017.
- Reconstitutes the Executive Officer position and specifically prohibits the appointment of an EO that has served prior to January 1, 2015.
- Eliminates the Board's authority to approve, monitor and enforce standards for acupuncture training programs including its curriculum requirements as of January 1, 2017.
- Requires all licensees to have graduated from a school that has been accredited by Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) as of January 1, 2017.
- Replaces the Board's school approval authority with ACAOM's accreditation oversight of school training programs.

Section 1 adds a new section 4927.5 to section 4927. This section does not become operative until January 1, 2017. The new section adds (a) that defines "approved educational and training program" to mean a program approved by the Board pursuant to Section 4939. A subsection (b) is added that repeals this new section effective January 1, 2017.

Impact: This amendment serves as a transition for repealing the Board's school and training program authority.

Section 2 adds new definitions and provisions related to "approved training programs" that become operative after January 1, 2017. The new subsection (a) redefines "approved training programs" to be training programs that are accredited by ACAOM. It further provides that training programs within three years of initial accreditation have full institutional approval by the state educational entity.

Impact: This amendment replaces the Board's school and training program authority with that of ACAOM by requiring all schools and training programs must be accredited by ACAOM after January 1, 2017.

Section 3 amends Section 4928 and repeals the sunset date of January 1, 2015 and extends it to January 1, 2017.

Impact: The Board is given two years before the next sunset review in 2017.

Section 4 creates a new section 4933.5 that provides the board with the authority to employ the necessary personnel to administer the Board.

Impact: This restores an existing personnel provision and provides the Board with hiring authority.

Section 5 amends 4934 (a) to prohibit the board from appointing an Executive officer (EO) who has been appointed prior to January 1, 2015. This amendment in effect terminates the appointment of the current EO and prohibits appointment of that executive officer or any other person who has served prior to January 1, 2015. The dates are amended in subsection (b) to replace the 2015 date with 2017, unless amended otherwise.

Impact: This section effectively terminates the current E.O. and prevents the Board from hiring any E.Os that have worked for the Board prior to 2015.

Section 6 amends Section 4935 (d) (2) to replace language referring to schools approved by the Board with language that simply states "approved educational and training program." The Board approved training program language is mentioned twice and both times is replaced by the new language that does not refer to the Board.

Impact: This amendment eliminates any language referring to Board approved schools and training programs.

Section 7 amends Section 4938 the statute that sets forth the licensing standards. Similar amendments as mentioned above are included. Board approved school references are replaced with "approved school and training programs," deleting the board approval requirement.

Impact: This amendment eliminates any language referring to Board approved schools or training programs.

Section 8 amends 4939 the statutory provision that authorizes the Board to set curriculum and training standards. Subsection (d) is added for the purpose of repealing the entire statutory provision effective January 1, 2017. A new 4939 subsection (a) is created, which provides the Board authority to set education and training and clinical training received outside the United States and Canada. This new section is not operative until January 1, 2017.

Impact: This amendment repeals all of the Board's authority to set training program and school standards as of 2017. In effect, it also repeals all regulations related to school approval, site visits, and curriculum standards. There are no standards specified to replace the Board's standards. The Board is given new authority to set standards for overseas applicants. Currently, all applicants are required to meet the same curriculum standards regardless of whether they are in-state, out-of-state or from overseas. Since the current curriculum standards would be abolished, the Board would have to create new standards through regulations. Until new standards are created, there would be no standards by which to assess overseas candidates.

Fiscal Analysis:

This proposed policy change is estimated to increase the number of exam and licensee applicants 300%. Currently, only graduates of California Board approved schools are eligible to sit for the exam. This bill eliminates that requirement and the Board's educational standards, so anyone graduating from an accredited school would be eligible to take the California licensing exam.

California has about 35% of total Acupuncture licenses issued in the country. Currently, there are approximately 60 ACAOM accredited schools, 32 of which are also Board approved. Beginning in 2017, more than 28 additional schools would produce graduates who would be eligible to apply for the California licensing exam. Currently, the Board receives approximately 900 + new exam applications per year the Board already processes. This number could triple to 2700 applications per year.

We estimate that the policy change will require six PYs additional staff to handle the increased exam and licensing workloads. We currently have two staff dedicated to exam applications. For any future workload increase, we anticipate needing three additional full time PY Staff Service Analyst (SSA/AGPA) level staff to process, review, and conduct curriculum verifications for the exam and licensing. Licensing would also see a large increase. We estimate three more positions would be needed to accommodate the additional workload. One full time Staff Service Analyst (SSA/AGPA) would be needed to assist in reviewing of background checks, solving licensing issues and reviewing the increased number of applications. Two full time Office Technicians (OT) would be needed to answer the increase in paperwork, filing and data entry into CAS/ATS, or breeze. They would need to be able to handle increased amounts of phone calls, emails and regular mail inquiries.

11 – SB 1246 (Lieu)

Acupuncture Sunrise Bill

CAB vs ACAOM

COMPARISON OF CURRICULUM HOURS: ACAOM VS CALIFORNIA

	CAB	ACAOM
Degree		MTOM
Total hours	3000	2625
Prerequisites	60	60
Bio sciences	350	510
History medicine, medical terminology		not incl
TCM	805	705
Chinese Medicine theory	incl	incl
Acupuncture	incl	incl
Botany/pharmacy	incl	incl
Orthopedics	incl	incl
Herbs	450	450
Clinical medicine (didactic Western medicine)	240	
Practice Management, ethics	45	90
Public health	40	
Professional dev (ldrshp, acad)	30	
Clerkships (rotations)	950	870
Case management (tied to rotations)	90	
SUM	3000	2625
% overall difference	+14.29%	
Subtotal bioscience	795	600
% diff	+32.50%	
Subtotal TCM	1255	960
% diff	+30.73%	
Subtotal didactic	2050	1755
% diff	+16.81%	
Subtotal clinical	950	870
% diff	+9.20%	

ACAOM and CAB require 60 hours of prerequisite coursework and both require 450 hours of herbs.

ACAOM requires more bio sciences than CAB (510 vs 350 hours). However, when other categories are considered, such as clinical Western medicine, practice management, public health, and professional development, the CAB standard is greater than ACAOM (795 hrs vs 600 hrs).

It is unclear what categories can be counted under Oriental Medicine or Mainstream (Western) Medicine since ACAOM and CAB follow different category schemes.

CAB has 14.3% more total hours. The CAB requirement for bioscience is 32.5% greater. Even the CAB requirement for TCM is 30.7% greater.

13 – Regulatory Update



CAB list of past and future regulations

Set out below are a list of past and future pending regulations. Please note this list may be incomplete and subject to change depending upon Legislative or Executive action.

Authority for regulatory changes is provided under California Business and Professions (B&P) code Chapter 12, Article 1, Code section 4933.

Pending regulations				
	Subject	B&P code sections referred	Date authorizing vote taken (vote)	Status
1	Department of Consumer Affairs – Consumer Protection Enforcement Initiative (CPEI). Amends regulations to strengthen board enforcement program pursuant to DCA's CPEI initiative (SB 1111)	Amends section 1399.405, 1399.419, 1399.469.1, 1399.468.2	8/19/2010 (5-0)	Filed with OAL 4/30/14. Publication of notice by 5/16/14. 45 day comment period to end 6/30/14. Public hearing scheduled for 6/30/14.
2	Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation (SB 1441)	adopt sections 1399.469	10/25/2013 (5-0)	Planned for OAL filing by June 10, 2014 with 45 day comment period to follow.
3	Sponsored Free Health-Care Events (AB 2699)	Add Article 7 and Sections 1399.480, 1400.1, 1400.2 and 1400.3	11/17/2011 (5-0)	Planned for OAL submission by late June 2014, with 45 day public comment period to follow.
4	Prostitution enforcement and condition of office	Amends section 1399.450(b)	2/14/2014 (6-0)	Planned for OAL submission by mid summer 2014, with 45 day public comment period to follow.
5	Advertising guidelines – display of license numbers in advertising	Adopt section 1399.455	2/19/2013 (5-0)	Planned for OAL submission by late summer 2014, with 45 day public comment period to follow
6	Continuing education ethics requirement – change of “medical ethics” to “professional ethics”	Adopt section 1399.482.2	11/15/2012 (5-0)	Planned for OAL submission by fall 2014, with 45 day public comment period to follow

7	Hand Hygiene requirements	Amends 1399.451 (a)	2/14/2014 (5-0)	Package under staff development. Planned for OAL submission by Fall 2014.
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Adopted Regulations

	Subject	B&P code sections referred	Date approved by Office of Administrative Law (effective one month later) with link to text of regulation
1	Educational Curriculum Requirements	amends Section 1399.415	Approved by OAL 10/5/04 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art2.shtml#1399415
2	Cite and Fine enforcement	amends Section 1399.465	Approved by OAL 4/17/06 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art6.shtml#1399465
3	Continuing education	amends Sections 1399.480 – 1399.489.1	Approved by OAL on 8/25/08 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art8.shtml#1399480
4	Retroactive fingerprinting requirements	adopts Sections 1399.419.1 and 1399.419.2	Approved by OAL 9/23/10 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art25.shtml#13994191

14 – B & P Code Section 4967

Poongwon Peter Lee



DATE	May 23, 2014
TO	All Board Members
FROM	Kristine Brothers Enforcement Coordinator
SUBJECT	Petition Pursuant to B&P § 4967 (b): Poongwon Peter Lee, AC 3860

The following is a request from Poongwon Peter Lee, a previously licensed acupuncturist whose license lapsed and permanently cancelled. Business and Professions Code (B&P) section 4967 provides conditions that one must comply with when seeking a new acupuncture license from the Board. B&P section 4967 states, 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, but that person may apply for and obtain a new license if he or she meets three requirements.

Mr. Lee has submitted a request to the Board to be issued a new license without having to take the exam. Mr. Lee was issued license AC 3860 on July 19, 1990. His license was cancelled on September 26, 2013 for failure to renew within three years from the date of expiration (March 31, 2010). Mr. Lee sent in the required renewal fee on time; however, he only submitted 38 continuing education hours. Mr. Lee's license could not be renewed due to insufficient CE. Therefore, Mr. Lee's license sat delinquent until it was cancelled.

Below are the conditions required by B&P 4967 and a status of Mr. Lee's compliance with each one.

- (a) B&P section 4967 (a) requires that an applicant be clear of any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475). Mr. Lee completed a live scan and he has received fingerprint clearance.
- (b) B&P section 4967(b) requires that an individual with a cancelled license take and pass the examination that is required for initial licensure. This is the requirement that Mr. Lee is requesting be waived based upon the evidence he is presenting that he is qualified to practice as an acupuncturist.
- (c) B&P section 4967(c) requires that an individual with a cancelled license pay all of the fees that would be required if an initial application for licensure was being made, as well as the examination fee. Mr. Lee has paid his examination fee. The initial license application fee will be collected if his request is granted.

Mr. Lee is also submitting continuing education units (CEU's) for your consideration. Mr. Lee has completed a total of 100 hours of Board approved continuing education. 24 of those CEU's were completed online.

Enclosures: 1.) Request to Board; 2.) Accolades; 3.) Letters of Recommendation; 4.) CEU Certificates

Enclosure 1:
Request to Board

From: Poongwon Peter Lee
Address: 30 Ave 6-30 Zona 11, Residencial 5, Guatemala, Guatemala.
Tel: (502)4911-9440

To: Acupuncture Board
1747 North Market Boulevard, Suite 180,
Sacramento, CA 95834
(916)515-5200

Re: Appealing for renewal of license (License No. AC 3860)

Dear members of the board;

My name is Poongwon Peter Lee, and I am writing this letter to appeal for renewal of my license.

First, I would like to take this opportunity to introduce myself to you. I am a minister anointed by The General Assembly of The Reformed Presbyterian Church in Korea as of October 12 2005. Starting July 11, 2009, I have been serving Indian friends in Guatemala with acupuncture service, as a missionary appointed by Young American Leaders Association (YALA); a US based missionary organization.

Since July 2009 my acupuncture service has been concentrated specifically to Indian friends in region of Santa Cruz Del Quiche where no civilized benefits or medical treatments are available.

Dear members of the board, I believe my acupuncture service in this region is the only, if not the final, medical benefits to those who desperately need medicines or medical service.

I am confident that my past and current service to this region has never negatively impacted the benefits and effects of acupuncture. And I am sure the image and understandings on acupuncture have been well received and experienced by numerous local people.

I am very regretful that I've missed timely fulfillment of the renewal requirements. However, I would like to ask your understandings that I do not have any intension of ceasing acupuncture service. I have dedicated my personal life drastically and passionately for the Indian friends in this region for past 4 years. During this past 4 years, I have lived and breathed in this very rough, busy and isolated environment to adjust to the culture, people, life style, and weather. Throughout the period, time has passed by quicker than I realized, and I've lost an opportunity to renew the license in a timely matter. But please consider that the delay in renewal is not due to my lack of interest in practice or intentional negligence, but was ironically due to my increased passion (more passionate than ever in my life) and dramatically increased service time for those who desperately need acupuncture service.

Please allow the renewal of my license this time, and I sincerely commit myself to fulfill the necessary renewal requirements on-going basis.

With all due respect, it's my sincere request for the board to allow me to continue to serve the Indian friends in Guatemala.

Thank you for reading this and God bless you,



Poongwon Peter Lee
License No. AC 3860
October 25, 2013

Enclosure 2:

Accolades

**CERTIFICATE
OF
RECOGNITION**

To: Poong Won Lee, OMD

*In honor of Your Outstanding Contribution and Participation
in the 1998 Family Health Fair Expo of the
Korean Health Education, Information & Research Center*

Assemblyman _____

46th

Assembly District

California State Legislature



California State Assembly

Certificate Of
Appreciation

PRESENTED TO:

Dr. Peter Poong Lee, OMD

IN HONOR OF:

*Being a service-minded individual & your tireless
work volunteering at the Koreatown Health Day*



Trike Davis

MEMBER OF THE ASSEMBLY
48th ASSEMBLY DISTRICT
CALIFORNIA STATE LEGISLATURE



대한항공 KOREAN AIR

서울특별시 중區 西小門洞 41-3, 中央郵遞局 私書函 854, 電話番號 (02)751-7114
C P O Box 864, Seoul, Korea Tel (02) 751-7114 Telefax (02) 755-5220 Telex "KALHO K27526" Cable Address "KOREANAIR"

Dear PUNG WEON, LEE

30, SEP. 1996

On behalf of Korean Air, I would like to express our deepest appreciation to you for your inflight medical services. I think that your professional and humanitarian medical services contribute to aviation safety and airline medical practices.

We have strived to develop quality inflight services as well as installing onboard medical kits and endeavor to raise the standard of various passenger services to the level worthy of the world's leading airlines.

We will take care of you as a member of our family during your trip with Korean Air and welcome any contribution you might have including comments for improvement, changes, or revisions. Thank you again for flying with Korean Air.

Sincerely yours,

Cho, Yang Ho
President & CEO
KOREAN AIR

Enclosure 3:
Letters of Recommendation



Young American Leaders Association

520 S. Lafayette Park Pl. #101, Los Angeles, CA 90057

Tel : (213)389-1773, Email : yala.mission.team@gmail.com, Website : www.yalamission.com

October 28th, 2013

From: Daniel C. Ji
Young American Leaders Association
2717 W. Olympic Blvd #203
Los Angeles, CA 90006
323.309.5823

To: Acupuncture Board
1747 North Market Boulevard, Suite 180,
Sacramento, CA 95834
(916)515-5200

Re: Renewal of License for Mr. Poongwon Peter Lee (AC3860, issued July 19, 1990)

Dear Officer,

My name is Daniel Ji, the president of Young American Leaders Association (YALA). YALA is a 501c US non-profit organization, established in 2001, with missions to help underprivileged people abroad. As I learned that Mr. Poongwon Peter Lee's Acupuncture license may be cancelled due to timely fulfillment of renewal requirements not done, I would like to provide you with third party information as to Mr. Poongwon Peter Lee's dedicated humanitarian acupuncture service, so hopefully Mr. Poongwon Peter Lee would get an opportunity to renew his license for the benefits of many of those who need him.

Mr. Poongwon Peter Lee is an appointed missionary by YALA since April 2009. Starting July 2009, he has provided acupuncture service diligently and tirelessly at small and remote local villages in Guatemala where no medical benefits are available. Mr. Lee's medical service has been a sacrificial service based on humanitarian mind at no monetary cost to those who receive his service. We strongly believe his acupuncture service made a positive influence and image of Oriental Medicine & Acupuncture to the local people. We also believe even a good image of USA has been established throughout his service.

We understand he made a significant mistake as to renewal of his US license. Even though he has been in many remote villages of a foreign county, we understand the renewal of license is a very important matter to be taken cared. However, we would like to sincerely ask you to re-consider cancelling of his license. Can you allow renewal of the license with other disciplinary actions such as paying penalty, etc.?

Attached are some evidence pertain to Mr. Lee's service in Guatemala.

Sincerely,

Dr. Daniel C. Ji Ed.D., Th.D.
President and Chairman of the Board
Young American Leaders Association
drdanielji@gmail.com

How beautiful are the feet of those who preach the gospel of peace, who bring good tidings of good things!

-Romans 10:15-







Enclosure 4:
CEU Certificates

From: Julia Son <juliason918@yahoo.com>
Sent: Tuesday, January 28, 2014 7:43 AM
To: Brothers, Kristine@DCA
Subject: Peter Poongwon Lee's CEU certificates

"In his heart a man plans his course, but the LORD determines his steps." Pr16:9

acuCEonline.com

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of

Name: POONGWON PETER LEE

Completion

License #: AC3860

Course Title: INSOMNIA

Continuing Education/Professional Development Units: 5



*Harry Wonho Cho, L.Ac, OMD
President, Woo Jae Society
CA Provider #908
NCCAOM Provider #953*

Date: 12/2/2013

Certificate of

Name: **PSONGWON PETER LEE**

Completion

License #: AC3860

Course Title: HYPERTHYROIDISM

Continuing Education/Professional Development Units: 7



Harry Wonho Cho, L.Ac, OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 12/2/2013

Certificate of

Name: ~~SONGWON~~ PETER LEE

Completion

License #: AC3860

Course Title: FEMALE INFERTILITY

Continuing Education/Professional Development Units: 7



Harry Wonho Cho, L.Ac. OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 12/2/2013

Woo Jae Acupuncture Society

1841 West Commonwealth Ave. Fullerton, CA 92833 (714) 676-5828

Certificate of

Name: **POONGWON PETER LEE**

Completion

License #: AC3860

Course Title: LIVER MERIDIAN

Continuing Education/Professional Development Units: 4



Harry Wonho Cho, L.Ac, OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 12/1/2013

Woo Jae Acupuncture Society

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of

Name: **SONGWON PETER LEE**

Completion

License #: AC3860

Course Title: LU, LI, ST MERIDIAN

Continuing Education/Professional Development Units:12



Harry Wonho Cho, L.Ac, OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 5/25-26/201

Woo Jae Acupuncture Society

1841 West Commonwealth Ave. Fullerton, CA 92833 (714) 676-5828

Certificate of

Name: PSONGWON PETER LEE

Completion

License #: AC3860

Course Title: SP, HT, SI MERIDIAN

Continuing Education/Professional Development Units:12



Harry Wonho Cho, L.Ac, OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 6/29-30/201

acuCEonline.com

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of

Name: POONGWON PETER LEE

Completion

License #: AC3860

Course Title: RHEUMATOID ARTHRITIS

Continuing Education/Professional Development Units: 5



Harry Wonho Cho, L.Ac, OMD

President, Woo Jae Society

CA Provider #908

NCCAOM Provider #953

Date: 12/2/2013

Woo Jae Acupuncture Society

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of Completion

Name: POONGWON PETER LEE

License #: AC3860

Course Title: AURICULAR ACU & COSMETIC ACU

Continuing Education/Professional Development Units:16



Harry Wonho Cho, L.Ac, OMD
President, Woo Jae Society
CA Provider #908
NCCAOM Provider #953

Date: 1/25-26/2014

Woo Jae Acupuncture Society

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of Completion

Name: POONGWON PETER LEE

License #: AC3860

Course Title: UB, KD, PC MERIDIAN

Continuing Education/Professional Development Units:12



Harry Wonho Cho, L.Ac, OMD
President, Woo Jae Society
CA Provider #908
NCCAOM Provider #953

Date: 7/27-28/2013

Woo Jae Acupuncture Society

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of Completion

Name: POONGWON PETER LEE

License #: AC3860

Course Title: SJ, GB, LV MERIDIAN

Continuing Education/Professional Development Units:12



Harry Wonho Cho, L.Ac, OMD
President, Woo Jae Society
CA Provider #908
NCCAOM Provider #953

Date: 8/24-25/13/2013

Woo Jae Acupuncture Society

1841 West Commonwealth Ave, Fullerton, CA 92833 (714) 676-5828

Certificate of Completion

Name: POONGWON PETER LEE

License #: AC3860

Course Title: SHANG HAN LUN PART I

Continuing Education/Professional Development Units:8



Harry Wonho Cho, L.Ac, OMD
President, Woo Jae Society
CA Provider #908
NCCAOM Provider #953

Date: 2/1/2014

End of 5-23-2014

Acupuncture

Board Packet