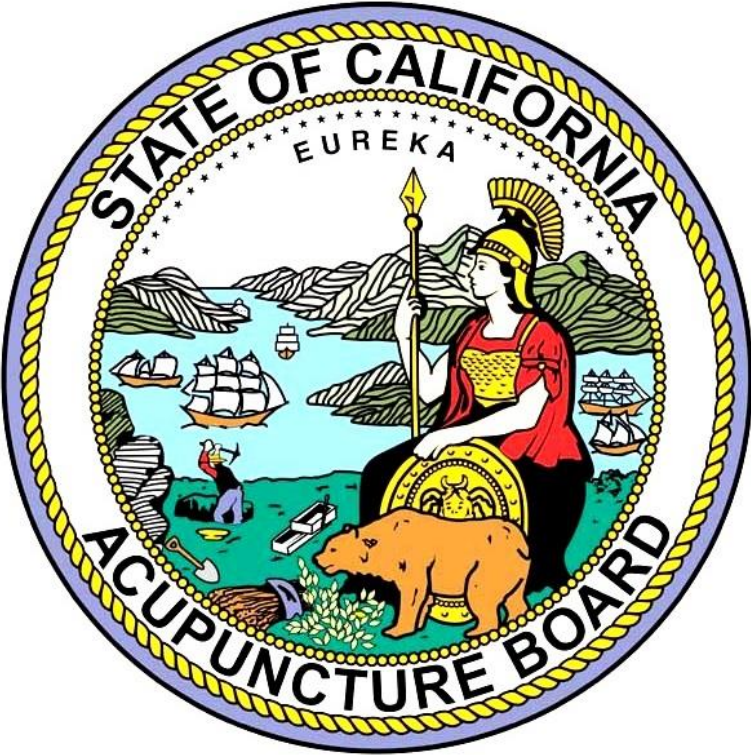


California Acupuncture Board Board Meeting



June 27, 2014



ACUPUNCTURE BOARD

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

NOTICE OF ACUPUNCTURE BOARD MEETING
June 27, 2014

Sacramento Location:

Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room
Sacramento, CA 95834

Los Angeles Teleconference Location:

Junipero Serra State Building
8th Floor Conference Room 8A
320 West Fourth Street
Los Angeles, CA 90013

~ ~

Hildegarde Aguinaldo
Jeannie Kang, L.Ac.
Jamie Zamora

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

AGENDA

FULL BOARD MEETING - 10:00 a.m.

OPEN SESSION

- 1. Call to Order and Establishment of a Quorum**
- 2. Discussion and Possible Action Regarding SB 1246 (Lieu) as Amended on June 15, 2014**
- 3. Public Comments on Items not on the Agenda**
- 4. Adjournment**

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

SB 1246

April 23, 2014

Version

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 (b) 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 (b) *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.*

CAB Analysis

SB 1246

April 23, 2014

Version

ACUPUNCTURE BOARD

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



DATE	June 13, 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 (EO) 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. Loss of this authority would effectively repeal all education curriculum standards in the regulations that were created under this authority.
- Eliminates all Board's authority to charge fees and receive reimbursement for direct cost of inspections and evaluations of training programs.
- Creates new authority for Board to set curriculum and clinical standards for applicants who receive their training outside the US and Canada.
- Requires all licensees to have graduated from a school that has been accredited by the 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 subsection (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 to 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 EO and prevents the Board from hiring any E.Os that have worked for the Board prior to 2015. This section is then repealed in 2017.

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 are 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 only. 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.

Section 9 amends section 4939 to add a new subsection (a) that provides the Board with new authority to set curriculum standards for education training and clinical experience received by applicants outside the United States and Canada. This new authority does not begin until 2017.

Impact: There would be no school oversight or standards by the Board. All graduates from ACAOM accredited schools would be eligible to take the CALE. In place of the repealed curriculum standards for U.S. based training programs, the Board is given new authority to set training and clinical standards for applicants receiving training outside the US and Canada. This is new authority for the Board to regulate. As mentioned above, foreign applicants must now comply with the same curriculum standards as those studying in the U.S. However, those standards are set to be repealed, so the Board would have to set new standards and promulgate regulations for these new standards. This would create a gap during which there would be no standards for the Board to use to evaluate foreign candidates because it cannot set standards without promulgating regulations for those standards. The other impact is that graduates from Canadian training programs will continue to be ineligible for licensure because they are excluded by the current law from being approved to take the CALE.

Section 10 amends Section 4944 to make subsection (b) inoperative after 2017. This subsection currently provides the Board with the authority to investigate and evaluate each school or college applying for approval under 4939.

Impact: This would repeal the Board's authority to investigate and evaluate all schools as of 2017. This is part of the complete repeal of all sections that related to the Board's authority to provide oversight and enforcement for all training programs. There are several sections that relate to Board authority over schools and this is one of them. There would be no school oversight or standards by the Board. All graduates from ACAOM accredited schools would be eligible to take the CALE.

Section 11 amends Section 4949 that references Board approved training programs to delete Board approved and replace the reference with "approved" training program. This is the section that regulates guest acupuncturists.

Impact: This deletes the reference to Board approved training programs and replaces it with “approved” training program. This only deletes the reference to Board approved; it does not impact the guest acupuncturist provision.

Section 12 amends Section 4970 to delete subsection (f), the section that provides the Board the authority to charge up to a \$3,000 fee for school approvals. This authority would be repealed as of 2017.

Impact: This amendment would eliminate the Board’s authority to charge a fee for school approval. The \$3000 is a statutory maximum. The Board’s current fee is only \$1,500 for school approval applications. If this authority were not restored, the Board would not be able to charge any fee for school oversight as it does now.

Section 13 amends Section 4973 that provides the Board with the authority to require schools to reimburse the Board for direct costs incurred by the Board for school inspection and evaluation. This section would be repealed in 2017.

Impact: This amendment repeals the authority for the Board to receive reimbursement for inspection and evaluation of training programs in 2017. This provision funded the site visits for both enforcement and approvals. This is part of the repeal of all authority for school oversight. Unless this is restored, the Board would not have the authority to be reimbursed for any evaluation or inspection of training programs after 2017. If the Board was to retain school oversight, it would need this reimbursement provision, otherwise, travel may be restricted.

Proposed Amendments:

The Board should be aware that without any amendments, the bill eliminates all authority for school oversight, approval and enforcement including fees and reimbursement of direct costs. If the Board wants to retain its oversight of training programs, it needs to have the current amendments removed and the statute restored to its original form because the current amendments are devastating to the Board’s authority over schools and curriculum. Simply adding 3000 hours into the bill will not stop the elimination of Board authority to regulate schools and set curriculum standards, inspect schools, charge fees, and be reimbursed.

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 2,700 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.

SB 1246

Memorandum

June 13, 2014

MEMORANDUM

DATE: June 13, 2014
TO: California Acupuncture Board (CAB)
CC: Senator Ted W. Lieu
FROM: Senate Business, Professions and Economic Development Committee
RE: **Senate Bill 1246**

The purpose of this memorandum is to inform you of the pending amendments to Senate Bill 1246. This bill is one of the Senate Business, Professions and Economic Development Committee's (BP&ED) annual sunset extension bills and is authored by Senator Ted Lieu. Once amendments are taken in the Assembly Business, Professions and Consumer Protection Committee (BP&CP), the bill will do the following:

- Extend the sunset date of the CAB until January 1, 2017.
- Permit the CAB, with approval of the director, to employ personnel.
- Permit the CAB, on or after January 1, 2015, and with the approval of the director, to appoint an Executive Officer who has not previously worked as an Executive Officer to the CAB.
- Authorize the CAB to establish standards for the acceptance of educational training and clinical experience received outside of the United States and Canada.
- Define "approved educational and training program" as a school or college offering education and training in the practice of an acupuncturist that meets the following requirements, commencing January 1, 2017:
 - Has been granted candidacy status or has been accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).
 - Has received approval from the Bureau of Private and Postsecondary Education (BPPE).
 - Offers curriculum that includes at least 3000 hours, of which at least 2050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction. Has submitted that curriculum to the CAB and has received board-approval of the curriculum.

- Authorize the CAB to establish standards for curriculum for approved educational and training programs.
- Authorize the CAB to, within 30 days, review the curriculum, determine whether the curriculum satisfies the requirements established by the CAB and notify the school or college, the ACAOM and the BPPE of whether the CAB has approved the curriculum.
- Specify that an individual who graduates in the first or second graduating classes of a school that has been granted candidacy status with the ACAOM shall be deemed to have completed an approved educational and training program.

Any questions regarding the content of the bill should be directed to the Senate BP&ED Committee.

SB 1246

June 15, 2014

Version

AMENDED IN ASSEMBLY JUNE 15, 2014

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, 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 acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as amended, Lieu. 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~~ *the* provisions *establishing the board and authority for it to employ personnel* 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 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,~~ *define an “approved educational and training program,”* for purposes of ~~licensure, be licensure as an acupuncturist, as a school or college that:~~ *(1) offers curriculum that has been submitted to and approved by the board and includes at least 3,000 hours of which at least 2,050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction; (2) is approved by the Bureau of Private Postsecondary Education; and (3) is accredited or granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine. The bill would require the board, within 30 days of receiving curriculum submitted by a school or collage pursuant to these provisions, to review the curriculum, determine whether the curriculum satisfies the board’s requirements, and notify the school or college, the Accreditation Commission for Acupuncture and Oriental Medicine, and Bureau of Private and Postsecondary Education of whether the board has approved the curriculum. The bill would also require the board to establish standards for the acceptance of educational training and clinical experience received outside the United States and Canada, and 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 educational
- 4 and training program” means a program approved by the board
- 5 pursuant to Section 4939.

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

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

6 4927.5. (a) For purposes of this chapter, “approved educational
7 and training program” means a school or college offering education
8 and training in the practice of an acupuncturist that meets ~~both~~ *all*
9 of the following requirements:

10 ~~(1) Is accredited by the Accreditation Commission for~~
11 ~~Acupuncture and Oriental Medicine.~~

12 ~~(2) Within three years of initial accreditation under paragraph~~
13 ~~(1), has~~

14 *(1) Offers curriculum that includes at least 3,000 hours of which*
15 *at least 2,050 hours are didactic and laboratory training, and at*
16 *least 950 hours are supervised clinical instruction. Has submitted*
17 *that curriculum to the board, and has received board-approval of*
18 *the curriculum.*

19 *(2) Has received full institutional approval under Article 6*
20 *(commencing with Section 94885) of Chapter 8 of Part 59 of*
21 *Division 10 of Title 3 of the Education Code in the field of*
22 *traditional Asian medicine, or in the case of institutions located*
23 *outside of this state, approval by the appropriate governmental*
24 *educational authority using standards equivalent to those of Article*
25 *6 (commencing with Section 94885) of Chapter 8 of Part 59 of*
26 *Division 10 of Title 3 of the Education Code.*

27 *(3) Is accredited or has been granted candidacy status by the*
28 *Accreditation Commission for Acupuncture and Oriental Medicine.*

29 *(b) Within 30 days after receiving curriculum pursuant to*
30 *paragraph (1), the board shall review the curriculum, determine*
31 *whether the curriculum satisfies the requirements established by*
32 *the board, and notify the school or college, the Accreditation*
33 *Commission for Acupuncture and Oriental Medicine, and Bureau*
34 *of Private and Postsecondary Education of whether the board has*
35 *approved the curriculum.*

36 ~~(b)~~

37 *(c) This section shall become operative on January 1, 2017.*

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

1 4928. (a) The Acupuncture Board, which consists of seven
2 members, shall enforce and administer this chapter.

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

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

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

11 4933.5. The board, by and with the approval of the director,
12 may employ personnel necessary for the administration of this
13 chapter.

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

16 4934. (a) The board, by and with the approval of the director,
17 may appoint an executive officer who is exempt from the State
18 Civil Service Act (Part 2 (commencing with Section 18500) of
19 Division 5 of Title 2 of the Government Code). The executive
20 officer appointed on or after January 1, 2015, shall not have served
21 as the executive officer of the board at any time prior to January
22 1, 2015.

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

26 SEC. 6. Section 4935 of the Business and Professions Code is
27 amended to read:

28 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
29 less than one hundred dollars (\$100) and not more than two
30 thousand five hundred dollars (\$2,500), or by imprisonment in a
31 county jail not exceeding one year, or by both that fine and
32 imprisonment, for any person who does not hold a current and
33 valid license to practice acupuncture under this chapter or to hold
34 himself or herself out as practicing or engaging in the practice of
35 acupuncture.

36 (2) It is a misdemeanor, punishable by a fine of not less than
37 one hundred dollars (\$100) and not more than two thousand five
38 hundred dollars (\$2,500), or by imprisonment in a county jail not
39 exceeding one year, or by both that fine and imprisonment, for

1 any person to fraudulently buy, sell, or obtain a license to practice
2 acupuncture, or to violate the provisions of this chapter.

3 (b) Notwithstanding any other law, any person, other than a
4 physician and surgeon, a dentist, or a podiatrist, who is not licensed
5 under this article but is licensed under Division 2 (commencing
6 with Section 500), who practices acupuncture involving the
7 application of a needle to the human body, performs any
8 acupuncture technique or method involving the application of a
9 needle to the human body, or directs, manages, or supervises
10 another person in performing acupuncture involving the application
11 of a needle to the human body is guilty of a misdemeanor.

12 (c) A person holds himself or herself out as engaging in the
13 practice of acupuncture by the use of any title or description of
14 services incorporating the words “acupuncture,” “acupuncturist,”
15 “certified acupuncturist,” “licensed acupuncturist,” “Asian
16 medicine,” “oriental medicine,” or any combination of those words,
17 phrases, or abbreviations of those words or phrases, or by
18 representing that he or she is trained, experienced, or an expert in
19 the field of acupuncture, Asian medicine, or Chinese medicine.

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

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

25 (2) Is a graduate of an approved educational and training
26 program and participating in a postgraduate review course that
27 does not exceed one year in duration at an approved educational
28 and training program.

29 SEC. 7. Section 4938 of the Business and Professions Code is
30 amended to read:

31 4938. The board shall issue a license to practice acupuncture
32 to any person who makes an application and meets the following
33 requirements:

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

35 (b) Furnishes satisfactory evidence of completion of one of the
36 following:

37 (1) An approved educational and training program. *An individual*
38 *who graduates in the first or second graduating class of a school*
39 *or college that has been granted candidacy status by the*
40 *Accreditation Commission for Acupuncture and Oriental Medicine*

1 *shall be deemed to have completed an approved educational and*
2 *training program.*

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

5 (3) In the case of an applicant who has completed education
6 and training outside the United States and Canada, documented
7 educational training and clinical experience that meets the standards
8 established pursuant to Sections 4939 and 4941.

9 (c) Passes a written examination administered by the board that
10 tests the applicant's ability, competency, and knowledge in the
11 practice of an acupuncturist. The written examination shall be
12 developed by the Office of Professional Examination Services of
13 the Department of Consumer Affairs.

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

16 (e) Completes a clinical internship training program approved
17 by the board. The clinical internship training program shall not
18 exceed nine months in duration and shall be located in a clinic in
19 this state, which is an approved educational and training program.
20 The length of the clinical internship shall depend upon the grades
21 received in the examination and the clinical training already
22 satisfactorily completed by the individual prior to taking the
23 examination. On and after January 1, 1987, individuals with 800
24 or more hours of documented clinical training shall be deemed to
25 have met this requirement. The purpose of the clinical internship
26 training program shall be to ensure a minimum level of clinical
27 competence.

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

31 SEC. 8. Section 4939 of the Business and Professions Code is
32 amended to read:

33 4939. (a) The board shall establish standards for the approval
34 of schools and colleges offering education and training in the
35 practice of an acupuncturist, including standards for the faculty in
36 those schools and colleges, completion of which will satisfy the
37 requirements of Section 4938.

38 (b) Standards for the approval of schools and colleges described
39 in subdivision (a) shall include a minimum of 3,000 hours of study
40 in curriculum pertaining to the practice of an acupuncturist. This

1 subdivision shall apply to all students entering programs on or
2 after January 1, 2005.

3 (c) Within three years of initial approval by the board, each
4 school or college so approved by the board shall receive full
5 institutional approval under Article 6 (commencing with Section
6 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the
7 Education Code in the field of traditional Asian medicine, or in
8 the case of institutions located outside of this state, approval by
9 the appropriate governmental educational authority using standards
10 equivalent to those of Article 6 (commencing with Section 94885)
11 of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education
12 Code, or the board's approval of the program shall automatically
13 lapse.

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

17 SEC. 9. Section 4939 is added to the Business and Professions
18 Code, to read:

19 4939. (a) The board shall establish standards for the ~~approval~~
20 *acceptance* of educational training and clinical experience received
21 outside the United States and Canada.

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

23 SEC. 10. Section 4944 of the Business and Professions Code
24 is amended to read:

25 4944. (a) The board shall have the authority to investigate and
26 evaluate each and every applicant applying for a license to practice
27 acupuncture and to make the final determination of the admission
28 of the applicant to the examination, or for the issuance of a license,
29 in conformance with the provisions of this chapter.

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

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

37 SEC. 11. Section 4949 of the Business and Professions Code
38 is amended to read:

39 4949. The provisions of this chapter shall not prohibit an
40 acupuncturist from another state or country, who is not a licensed

1 acupuncturist in this state, who is the invited guest of a professional
2 acupuncture association or scientific acupuncture foundation, an
3 approved educational and training program, or a continuing
4 education provider that is approved under Section 4945, solely
5 from engaging in professional education through lectures, clinics,
6 or demonstrations. The guest acupuncturist may engage in the
7 practice of acupuncture in conjunction with these lectures, clinics,
8 or demonstrations for a maximum of six months, but may not open
9 an office or appoint a place to meet patients or receive calls from
10 patients or otherwise engage in the practice of acupuncture.

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

13 4970. The amount of fees prescribed for licensed acupuncturists
14 shall be those set forth in this section unless a lower fee is fixed
15 by the board in accordance with Section 4972:

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

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

20 (c) The initial license fee shall be three hundred twenty-five
21 dollars (\$325), except that if the license will expire less than one
22 year after its issuance, then the initial license fee shall be an amount
23 equal to 50 percent of the initial license fee.

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

30 (e) The delinquency fee shall be set in accordance with Section
31 163.5.

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

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

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

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

1 (j) The fee for a duplicate license for an additional office
2 location as required under Section 4961 shall be fifteen dollars
3 (\$15).

4 SEC. 13. Section 4973 of the Business and Professions Code
5 is amended to read:

6 4973. (a) A fee for the inspection or reinspection of a school
7 or college of acupuncture for purposes of approval or continued
8 approval shall be charged at an amount to recover the direct costs
9 incurred by the board in conducting that inspection and evaluation
10 of the school or college.

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

CAB Analysis

SB 1246

June 15, 2014

Version

ACUPUNCTURE BOARD

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



DATE	June 27, 2014
TO	Acupuncture Board Members
FROM	Executive Officer
SUBJECT	CAB Bill Analysis of June 15, 2014 version of SB 1246 Lieu

Legislative Analysis

SB 1246 is the Acupuncture Board's Sunrise bill that repeals the 2015 sunset date of the Board and makes other significant policy and programmatic changes.

The bill makes the following new and existing changes:

- Repeals the 2015 sunset date and extends the Board until January 1, 2017.
- Terminates the current Executive Officer and specifically prohibits the appointment of an Executive Officer (EO) that has served prior to January 1, 2015.
- Restores the Board's authority to approve curriculum, but unclear by what process.
- Eliminates the Board's current school approval process--specifically eliminating the following: the Board's inspection authority that is critical to clinical training requirements compliance, application fee to reimburse the Board for staff time, reimbursement from schools for direct costs, monitoring and annual reports from schools and the ongoing enforcement authority to ensure compliance with Board curriculum standards after January 1, 2017.

- Eliminates Board authority for training program and school inspections, direct cost reimbursement and school approval application fees.
- Restores Board authority to set curriculum and clinical standards.
- Adds as a condition of licensure that all licensees graduate from an accredited and BPPE approved school.
- Adds that the Board is required to review and notify to Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) and Bureau of Private and Post Secondary Education (BPPE) if school meets curriculum requirements.
- Defines what “approved training program” is after January 1, 2017 that includes the Board conducting a paper review and determining whether schools meet Board curriculum standards. However, this review does not include an inspection. It is unknown whether the review would be approved by staff or the Board.

Specifically, by section, this bill makes the following changes:

Section 1: This section amends a newly created section BPC 4927.5 which is a code section of “Definitions.” This new section BPC 4927.5 (a) creates a new section that is intended to replace the school approval provisions of 4939. This subsection is repealed January 1, 2017. After January 1, 2017 a new school approval provision is created that is set forth in section 2 below. This section was unchanged by the June 15th amendments.

Section 2: This section located in the “Definition” section BPC 4927.5. This section amends the new school approval section that becomes operative after January 1, 2017. It defines what constitutes an “approved training program.”

- The first change is to replace the word “both” with “all” so that provisions related to the Board are added in addition to ACAOM and Bureau of Private and BPPE provisions related to school approval.
- The second change is to add the provision that requires a curriculum standard of 3,000 hours requiring that at least 2,050 hours must be didactic and laboratory training, and at least 950 hours are supervised clinical instruction. This is the provision intended to restore the Board’s authority to set curriculum standards. The provision also includes that schools must submit their curriculum standards to the Board and receive Board approval of the curriculum. This provision restores a modified school approval authority to the Board. This modified authority does not include any inspection authority, fee or cost reimbursement nor enforcement authority.
- The third change relates to more specifically defining ACAOM status. The provision requires the school to be accredited or been granted candidacy status by ACAOM. Under this accreditation section, a subsection is added that requires the Board to review the curriculum (based on the Board standards cited in (1) and determine within 30 days whether the curriculum satisfies the Board’s curriculum standards and then notify both ACAOM and BPPE of the determination. The location of this Board review and approval of the curriculum suggests that when schools in California apply for accreditation that they include a Board compliance review as part of the accreditation process.

Section 3: This section amends BPC 4928 to extend the Board sunrise to January 1, 2017.

Section 4: There is no change to this section from the April 23rd version of the bill. This section creates BPC 4933.5 code section and adds existing hiring authority language to this new section.

Section 5: There is no change to this section from the April 23rd version of the bill. This provision terminates the current EO and prohibits the Board from appointing an EO who has worked for the Board prior to January 1, 2015. This provision is repealed as of January 1, 2017.

Section 6: This section remains unchanged from the April 23rd version of the bill. This section amends BPC 4935 to eliminate the Board's authority to charge a fee for school approval after January 1, 2017. After 2017, the Board would be required to review schools seeking Board approval but without any fiscal reimbursement for the significant workload. Currently, the Board has authority to charge schools up to \$3,000 per application, but only charges \$1,500.

Section 7: This section amends BPC 4938, the licensing provision of the Acupuncture Act. This provision further defines that as a condition of licensure all applicants must have graduated from a school accredited by ACAOM. A new amendment is added to define eligible students are one's who are in the first or second graduating class of a school that has been granted candidacy status by ACAOM. Otherwise, it would allow all graduates from an accredited school to be eligible for licensure without the requirement that they graduate from a school whose training program has been approved by the Board under the revised approval post 2017.

Section 8: This section amends 4939 to repeal the Board's authority to set standards and approve training programs and schools after January 1, 2017 unless it is extended. The Board

retains its current authority to approve training programs and schools until January 1, 2017.

Section 9: This section amends the post January 1, 2017--4939 Board authority to establish “acceptance” of educational training and clinical experience received outside the US and Canada. This is the new 4939 section that takes effect upon the repeal of the current Board authority to establish training standards for school approval. The shift from "approval" to "acceptance" suggests a lesser standard than approval.

This would be a good time to consider changing the language that includes Canada so Canadians can apply as foreign graduates. Currently, there is no path for Canadian acupuncture graduates to apply for CA licensure because they are unable to graduate from Board approved schools and they are not considered “foreign” for purposes of our licensure requirements.

Section 10: This keeps the April 23rd amendments to 4944 to repeal subsection (b) that provides the Board’s current authority to inspect schools. The Board’s inspection authority is repealed after January 1, 2017.

Section 11: This section repeals the word “board” from “approved training program” in the guest acupuncture provision. This section is unchanged from April 23rd.

Section 12: This section repeals the Board’s authority to charge a school approval application fee that is intended to cover all costs related to school approval and enforcement. This section is unchanged from the April 23rd version. This is the provision that financially funded inspection that is needed to evaluate clinical training compliance and ongoing enforcement compliance with Board curriculum standards.

Section 13: This section repeals the Board's authority to charge schools as reimbursement for direct costs of inspection and evaluation. This is unchanged from the April 23rd version. This is the provision that financially funded inspection that is needed to evaluate clinical training compliance and ongoing enforcement compliance with Board curriculum standards.

Impact of June 15, 2014 amendments

The June 15th amendments restore some authority but the majority of the Board's authority for school oversight and enforcement and the EO provision are still repealed.

The amendments restore the Board's authority to set standards and verify curriculum compliance with those standards for new schools seeking Board approval status. However, it does not allow for approval of clinical standards because the inspection authority for schools is repealed. Without inspection authority, the Board is unable to evaluate clinics and clinical training compliance with the Board's standards. In addition, without inspection authority, the Board is unable to monitor and enforce ongoing compliance with clinical training standards. The inspection authority for both school approvals and enforcement is needed to protect public safety and ensure competency of licensees.

The school approval workload remains but without any reimbursement for that workload because the fee is repealed. So, the Board will retain a significant school approval workload without any revenue to pay for that workload.

The EO provision effectively terminates the current EO and prohibits the Board from hiring the current EO or anyone who has worked for the Board prior to 2015.

Here are the achievements of the current EO:

- Successful in obtaining 3 full time staff to address workload deficiencies in Education, Enforcement and Licensing. This restored the Board staffing levels to the 2001 levels.
- Applied for additional staff and facilities expansion to house the additional staff. Applied for additional staff to bring the Board's staffing levels to meet the ongoing workload needs of the Board.
- Addressed the regulatory backlog by creating a dedicated full time regulatory staff position. The result is CPEI, SB 1441 and Sponsored Free Health events are being implemented.
- Addressed deficiencies in the Board governance structure by ensuring all Board meetings are webcast, all agenda items have policy memos so Board members are informed and can make informed decisions.
- Trained Exam, Enforcement, Education, Regulatory staff to write policy memos and bill analysis to support Board member decision-making.
- Increased administrative support staff to address Board meeting and travel logistics and general Board administration.
- Addressed the overwhelming call workload by shifting calls to DCA call center. This resulted in both increased staff productivity and increased customer service.
- Redesigned the Board's website with staff.
- Increased the Boards enforcement efforts.
- Increased Continuing Education (CE) audits to 5%-8%. With additional staff requested, the Board will be able audit courses and CE providers.
- Instituted the creation of staff training manuals for each staff position to facilitate training of new staff and to strengthen succession planning.

- Oversaw the creation of a new 5 year Strategic Plan.
- Created position, nurturing, team oriented work environment that has resulted in 100% staff retention.
- Worked with staff to learn ATS and CAS data base systems and create training materials for them. There were no training materials for either of these complex data base systems.
- Created project team in charge of training, monitoring and updates DCA call center staff on Acupuncture issues. Worked with staff to create training manual for the DCA call center.
- Updated the California Acupuncture Licensing Exam (CALE) Occupational Analysis.
- Wrote BCP to fund formal review of national certification exam pursuant to BPC 139 and made arrangements with the Office of Professional Exam Services to conduct the review of the national certification exam.
- Worked with CPSHR and OPES to increase exam security and follow-up on potential cheating allegations.
- Re-engineered school approval and enforcement site visits to include a subject matter expert on the site visiting team and an exit report that is used as the basis of Board decisions on applications and enforcement visits.
- Increased the number of subject matter experts for Enforcement and Education.
- Updated hand hygiene standards through proposing update to the Board, which resulted in a Board approved regulatory package.
- Addressed rampant prostitution within acupuncture profession by creating a prostitution prevention regulatory package that gives the Board authority to discipline licensees who allow prostitution or sexual relations in their offices.
- Secured Board approval of a regulatory package to increase ethics course requirements for continuing education.
- Secured Board approval of a regulatory package to prevent illegal use of acupuncture licenses by requiring licensees include their license number in all advertising.

- Created project team to update regulations and forms.
- Created protocol for use of EO and Chair electronic signature.
- Updated Board administrative manual
- Prepared sunset review report 2013 and the 2013 Annual Report.
- Replaced all old office equipment including copiers, fax, computers, printers, monitors, recorder, conference phone that resulted in increased staff productivity.
- Created project team to work with OIS on creating a drop box capability to facilitate document sharing with Board members with an eye to cutting down on copying and mailing costs of Board packet materials for meetings.
- Conducted overall evaluation and assessment of workload and resources that resulted in BCPs and reclassification of staff and the creation of two permanent intermittent staff positions for administrative support.
- Seeking Special Investigator position to improve the Board's enforcement. With this position, the Board can go into the field and investigate unlicensed activity. Thus far the staffing levels do not allow for pro-active enforcement, just reactive enforcement of complaints and criminal actions.

SB 1246
Position Letter



ACUPUNCTURE BOARD

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

June 20, 2014

The Honorable Susan Bonilla, Chair
Assembly Business, Professions and Consumer Protection Committee
State Capitol, Room 4140
Sacramento, CA 95814

VIA FAX AND EMAIL

Re: SB 1246 (Lieu) Acupuncture -- as amended April 23, 2014
POSITION: SUPPORT IF AMENDED

Dear Assembly Member Bonilla,

The California Acupuncture Board (Board) would support SB 1246 if it is amended.

The timing of the June 15th amendments did not allow for the Board to take a position on the most recent version of the bill. Pursuant to the Bagley-Keene Open Meeting Act, the soonest the Board can meet to review the June 15th amendments is June 27th. The Board is deferring going on record with specific concerns until they are able to review and evaluate the latest amendments.

Thank you for your consideration of our position and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Shi".

Michael Shi
Board Chair

CC: Members, Assembly Business, Professions and Consumer Protection committee
Sen. Ted Lieu, Chair, Senate Business, Professions and Consumer Protection committee
Senate Business, Professions and Consumer Protection committee staff
Governor Jerry Brown