

California Acupuncture Board Meeting

October 26, 2023



Board Members

John Harabedian, Esq., President
Dr. Yong Ping Chen, L.Ac., Ph.D, Vice President
Hyun "Francisco" Kim, M.S., L.Ac.
Dr. Shu Dong Li, Ph.D
Dr. Amy Matecki, M.D., L.Ac.
Ruben Osorio



Agenda

1625 North Market Blvd., Suite N-219
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



**CALIFORNIA ACUPUNCTURE BOARD
FULL BOARD MEETING NOTICE AND AGENDA**

Thursday and Friday October 26 and 27, 2023

Day One

Thursday, October 26, 2023

9:00 a.m. to 5:00 p.m. or upon completion of business

Physical Address:

1747 North Market Boulevard
Suite 186
Sacramento, CA 95834

Remote Access:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m01211d2a121ec78478a03741f54b587d>

If joining using the link above

Webinar number: 2492 261 3506

Webinar password: CAB10262023

If joining by phone

+1-415-655-0001 US Toll

Access code: 249 226 13506

Passcode: 22210262

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA.

Members of the Board

John Harabedian, Esq., President
Dr. Yong Ping Chen, L.Ac., Ph.D, Vice President
Dr. Amy Matecki, M.D., L.Ac.
Hyun "Francisco" Kim, M.S., L.Ac.
Dr. Shu Dong Li, Ph.D
Ruben Osorio

- 1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, President)**
- 2. President's Remarks (Harabedian)**
- 3. Review and Possible Approval of Board Meeting Minutes for April 7, 2023 (Harabedian)**

4. Review and Possible Approval of Board Meeting Minutes for June 23, 2023 (Harabedian)

5. Executive Management Report

- (A) Strategic Plan Announcement
- (B) Budget Update
- (C) Licensing Report Q4 2022-23
- (D) Licensing Report Q1 2023-24
- (E) Enforcement Report Q4 2022-23
- (F) Enforcement Report Q1 2023-24

6. Legislative Report (Brothers)

(A) 2023-24 Bills of Interest to the Board

a) Bills the Board Currently Has a Support Position On (Update)

- i) [AB 1264](#) (Berman) Acupuncture
- ii) [SB 544](#) (Laird) Bagley-Keene Open Meeting Act: teleconferencing

c) Bills the Board Currently Has a Watch Position On (Update)

- i) [AB 883](#) (Mathis) Business licenses: United States Department of Defense SkillBridge program
- ii) [AB 996](#) (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy
- iii) [AB 1028](#) (McKinnor) Reporting of crimes: mandated reporters
- iv) [AB 1707](#) (Pacheco) Health professionals and facilities: adverse actions based on another state's law
- v) [SB 259](#) (Seyarto) Reports submitted to legislative committees
- vi) [SB 345](#) (Skinner) Health care services: legally protected health care activities
- vii) [SB 372](#) (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes
- viii) [SB 802](#) (Roth) Licensing boards: disqualification from licensure: criminal conviction

7. Regulatory Report (Brothers)

- (A) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure (Title 16 CCR section 1399.469)
- (B) Align Curriculum Standards and Approval Related Regulations with Statute (Title 16 CCR sections 1399.415, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439)
- (C) Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service (Adopt Text to Add Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 419 in Title 16 of the CCR)

- (D) Application for Retired Status; Retired Status (Title 16 CCR section 1399.419.3)
- (E) Continuing Education: Law and Ethics Requirement (Title 16 CCR sections 1399.483, 1399.489)
- (F) Standards of Practice for Telehealth Services (Title 16 CCR section 1399.452.1)
- (G) Hand Hygiene Requirements (Title 16 CCR section 1399.451)

8. Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Establish Section 1399.452.1 in Title 16 of the California Code of Regulations: Telehealth Services (Brothers)

9. Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (Brothers)

10. CLOSED SESSION

Pursuant to Government Code Section 11126 (e) (1), the Board will meet in Closed Session to confer with and receive advice from legal counsel and deliberate regarding the following matter:

A.F. Rothschild Fund v. Harabedian, et al.; San Mateo County Superior Court, Case No. 23-CIV-00708

11. Return to OPEN SESSION

12. Committee Assignments (Harabedian)

13. Setting 2024 Board Meeting Calendar (Bodea)

14. Public Comments for Items Not on the Agenda (Harabedian)

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)

15. Future Agenda Items (Harabedian)

16. Adjournment (Harabedian)

Day Two
Friday, October 27, 2023
In-Person Meeting Only
No Remote Access

Location:

1747 North Market Boulevard
Emerald Room
Suite 184
Sacramento, CA 95834

1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, President)

2. President's Remarks (Harabedian)

3. Public Comments for Items Not on the Agenda (Harabedian)

The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)

4. Strategic Planning Session (facilitated by SOLID)

5. Future Agenda Items (Harabedian)

6. Adjournment (Harabedian)

Informational Notes:

Discussion and action may be taken on any item on the full board meeting agenda. The agenda, as well as any available Board meeting minutes and materials, can be found on the California Acupuncture Board website: www.acupuncture.ca.gov.

The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting at: <https://thedcapage.wordpress.com/webcasts/>.

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please follow the log-in instruction listed above or attend at a noticed location.

Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time

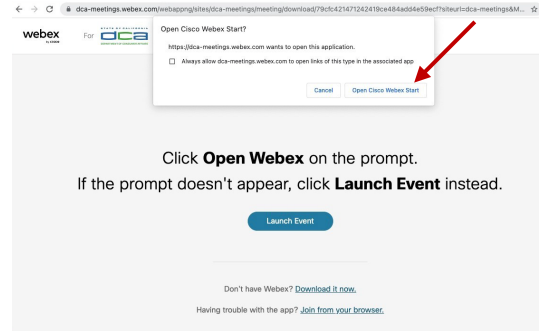
among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

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 are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact the Board at (916) 515-5200; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

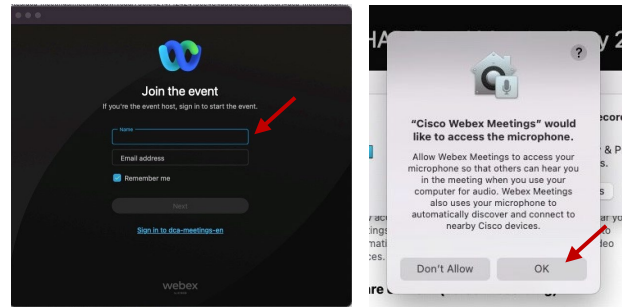
Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

If joining using the meeting link

- 1 Click on the meeting link. This can be found in the meeting notice you received.
- 2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



- 3 Enter your name and email address*. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.

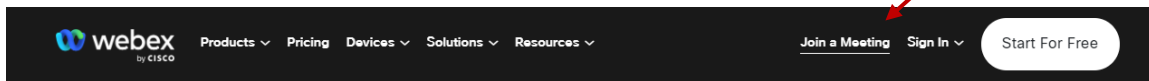


* Members of the public are not obligated to provide their name or personal information and may provide a unique identifier such as their initials or another alternative, and a fictitious email address like in the following sample format: XXXXX@mailinator.com.

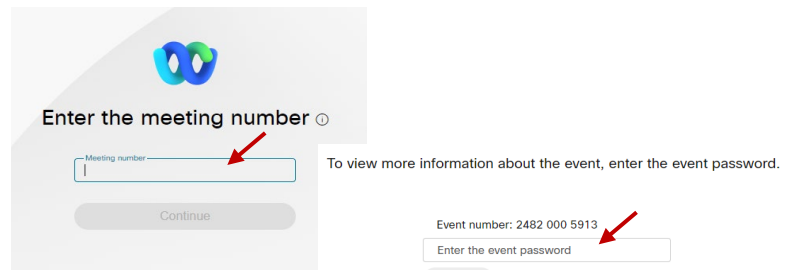
OR

If joining from Webex.com

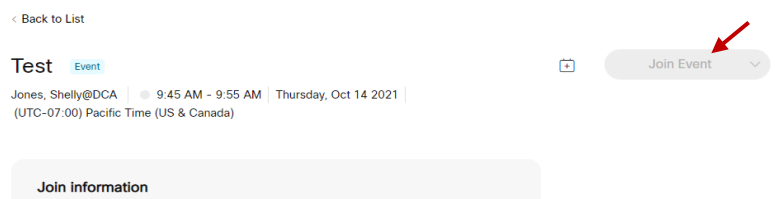
- 1 Click on "Join a Meeting" at the top of the Webex window.



- 2 Enter the meeting/event number and click "Continue". Enter the event password and click "OK". This can be found in the meeting notice you received.



- 3 The meeting information will be displayed. Click "Join Event".



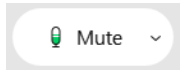
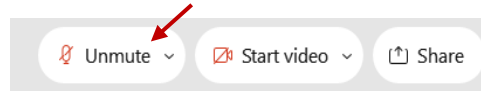
OR

Connect via telephone*:

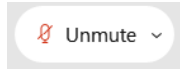
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

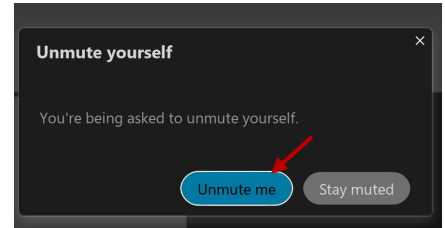


Green microphone = Unmuted: People in the meeting can hear you.



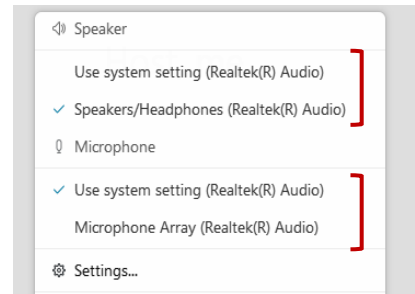
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".



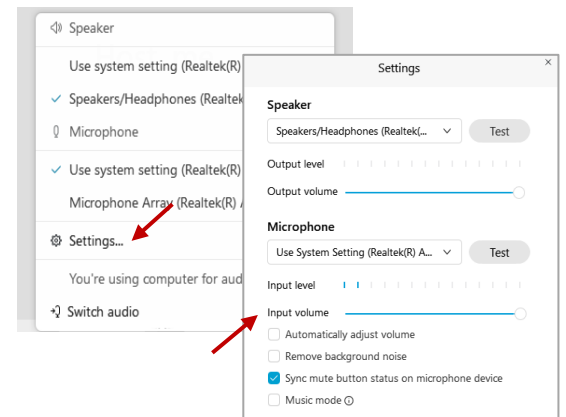
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

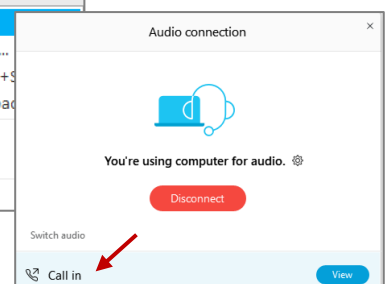
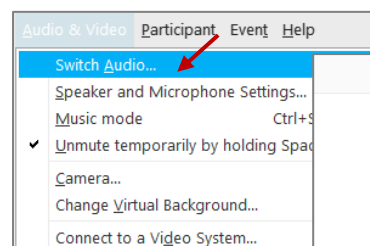
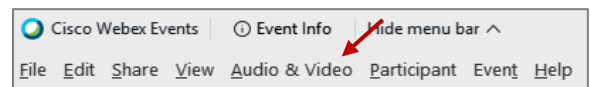
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



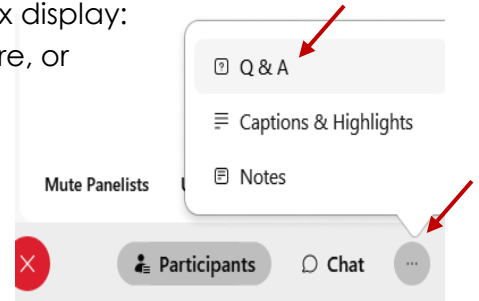
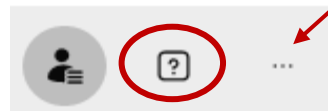
The question-and-answer (Q&A) and hand raise features are utilized for public comments.

NOTE: This feature is not accessible to those joining the meeting via telephone.

Q&A Feature

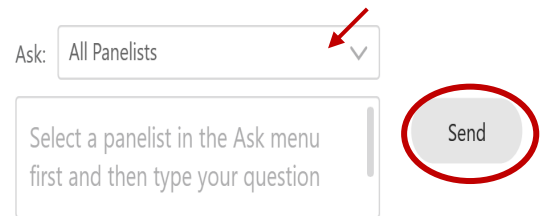
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



OR

Hand Raise Feature

- 1
- Hovering over your own name.
 - Clicking the hand icon that appears next to your name.
 - Repeat this process to lower your hand.

If connected via telephone:

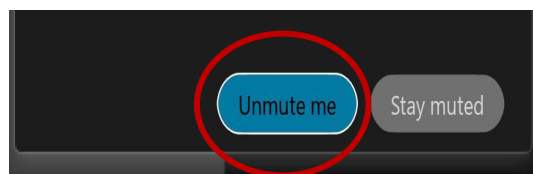
- Utilize the raise hand feature by pressing *3 to raise your hand.
- Repeat this process to lower your hand.

Unmuting Your Microphone



The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

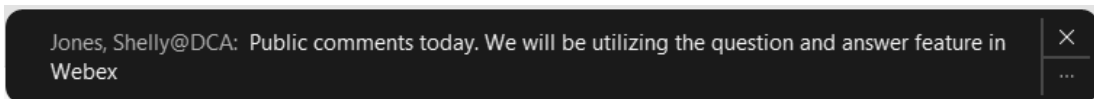


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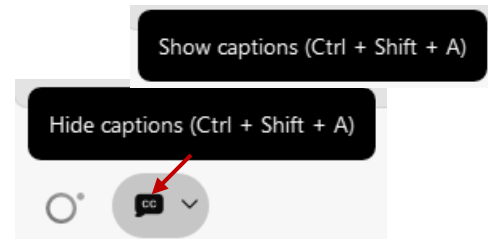
If connected via telephone:

- Press *3 to unmute your microphone.

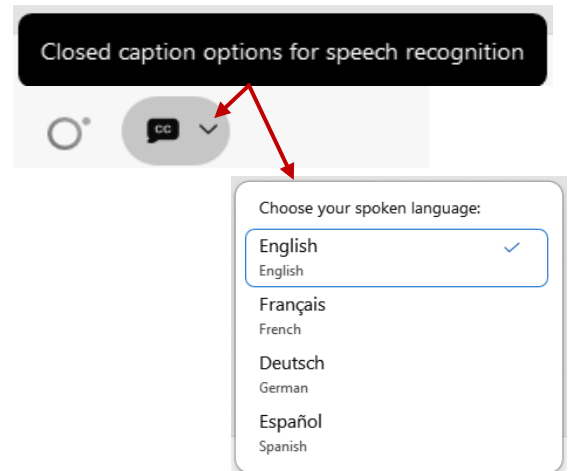
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



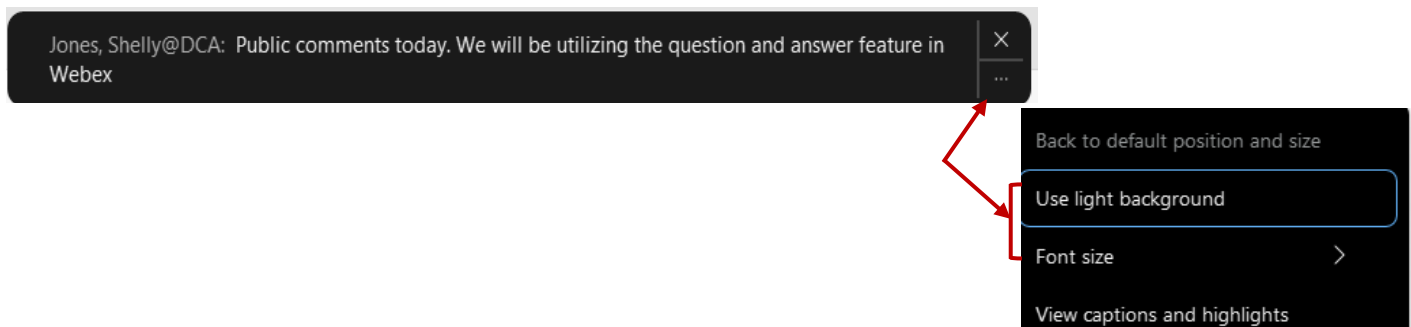
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.





**3 -April 2023
Minutes**



BOARD MEETING MINUTES April 7, 2023

LOCATION:

Web Ex Teleconference

Staff Present

Benjamin Bodea, Executive Officer
Ryan Marcroft, Legal Counsel
Kayla Watson, Legal Counsel
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager

Members of the Board

John Harabedian, Esq. President
Ruben Osorio, Vice President
Dr. Yong Ping Chen, Ph.D., L.Ac.
Hyun “Francisco” Kim, M.S., L.Ac.
Shu Dong Li, Ph.D.
Dr. Amy Matecki, M.D., L.Ac.

Item 1 – Call to Order, Roll Call, and Establishment of Quorum

Meeting commenced at 9:10 a.m.

Roll call taken. All members present except Board Member Li. Quorum established.

Item 2 – President’s Remarks

President Harabedian welcomed members, staff, and the public to the meeting.

Item 3 – Approval of Minutes

Board members reviewed the minutes from the December 2022 meeting. The moderator noted that Board Member Li joined the meeting.

MOTION

Board Member Matecki motioned to approve the December 2022 meeting minutes.
Board Member Chen seconded it.

No public comment.

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

Item 4 - Executive Management Report

(A) Strategic Plan Announcement

Sarah Irani and Ann Fisher, from SOLID, introduced themselves as facilitators for the upcoming Strategic Plan and provided the Board an overview of the process.

(B) Budget Update

Based on estimations from the seventh fiscal month, the Acupuncture Board's (Board) funds are in good condition with a healthy reserve. Executive Officer Benjamin Bodea (E.O. Bodea) stated that the Board's reserves will be peaking this year at 12.7 months in reserve and then anticipated to start declining.

(C) Staffing Update

The Board has filled the vacancy for the second Enforcement Analyst position as well as the licensing Office Technician position. The Board may also look to reclassify the Special Investigator position to support additional technical services. Lastly, the Board welcomed a new legal counsel, Kayla Watson.

(D) Business Modernization (BizMod) Update

The Board continues to work with the DCA's Office of Information Services Software vendor, inLumon, and other DCA boards to develop and refine the Connect licensing management system. The Board is now working through the continuing education module and will be moving on to the enforcement module in the fall of 2023.

(E) Licensing Report Q1 FY 2022-23

Mr. Herdt reviewed the data for Licensing, Continuing Education, Tutorial, training programs, and exam results.

Board Member Kim inquired about any trends in the exam applications and licensing renewal data for a one-year period. Mr. Herdt responded that staff will look to gather data to identify any trends.

Board Member Chen asked if retakers of the California Acupuncture Licensing Examination can still pass despite multiple attempts. Mr. Herdt responded that the Board does not have hard data on the subject but that applicants may retest as often as they like if they don't pass.

(F) Enforcement Report Q1 FY 2022-22

E.O. Bodea reviewed the complaints/convictions and investigations data for quarter two of 2022-23 Fiscal Year (October 1 – December 31, 2022).

Board Member Chen remarked that mail votes for enforcement cases are becoming more frequent and that staff and the Attorney General's Office are doing a good job.

Item 5 - Legislative Report – Reviewed bills with positions taken, or new bills

Policy Coordinator Kristine Brothers (Brothers) discussed AB 1264, the Sunset Review bill but that there were no amendments introduced yet and no position to take now. The Board then heard and discussed AB 1751, Opioid prescriptions, and SB 544, teleconference meetings.

AB 1751 – Staff recommended a Support position.

The Board discussed centered on how beneficial this bill would be to patients in managing pain. It was also discussed further that the bill increases awareness and access to nonpharmacological treatments such as acupuncture.

Public Comment

A public comment stated that this is a great bill for the profession and the consumer. That he supports and hopes that the Board members will also support the bill.

MOTION

Board Member Chen moved that the Acupuncture Board take a Support position with respect to AB 1751 [Gibson] as introduced on February 17, 2023, for the reasons discussed by members and as reflected in the staff memo.

Board Member Kim seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

SB 544 – Staff recommended a Support position.

The Board discussed the benefits of meeting in person versus remotely and that ultimately, they would like to have an option to meet, both, in-person and remotely

Public Comment

A public comment stated that remote meetings are not nearly as effective as meeting in person and that public participation has been down the last three years.

MOTION

Board Member Matecki moved that the Acupuncture Board take a Support position with respect to SB 544 [Laird] as amended on March 20, 2023, for the reasons discussed by members and as reflected in the staff memo.

Board Member Li seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

Brothers provided the staff recommendation that the Board take a watch position on

the following bills: AB 883, AB 996, AB 1028, AB 1707, SB 259, SB 345, SB 372, and SB 802 as provided in the staff memo and for the reasons reflected in the legislative report and/or discussed by members and staff.

Public Comment

A public comment was made about AB 1264. E.O. Bodea responded that it doesn't address the practice or the scope of acupuncture, but rather the continued regulation of the profession by the Acupuncture Board.

MOTION

Board President Harabedian moved that the Acupuncture Board take a Watch position with respect to AB 883, AB 996, AB 1028, AB 1707, SB 259, SB 345, SB 372, and SB 802, for the reasons reflected in the staff memo.

Board Member Li seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion passes

The Board recessed from 11:20 a.m.-11:35 a.m.

Roll Call taken at 11:35 a.m.

Members Present

6 Present: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 Quorum

Item 6 – Regulatory Report

Brothers summarized the status of each regulatory package the Board has in progress.

Item 7 – Discussion and Possible Approval of 2023 Background Paper for the Sunset Report

Board President Harabedian started off by thanking Board Members Osorio and Matecki, staff, and E.O. Bodea for a fruitful Sunset Hearing.

E.O. Bodea opened on the item, which is the Board's official response to questions

raised by the Joint Business and Professions Committees as a result of the Board's 2023 Sunset Review. EO Bodea conducted the review issue by issue.

For Issue Number 5, Board Member Kim asked if the Board has enough to initiate the auditing, to which E.O. Bodea responded by saying it is contingent on the staff workload and that this is being tracked closely.

For Issue Number 8, Board Member Kim asked if there is any position or comment from schools. EO Bodea responded by stating that he hasn't heard anything from schools specifically on this matter and is not aware of any formal position from the schools. Board Member Chen commented that it would be good for acupuncture students to be utilized in certain acupuncture functions.

Public Comment

A public comment stated that despite the fee increases, the quality of the wall and pocket licenses are poor with the pocket license prone to tearing and quick deterioration making it not look like an authentic license.

Another public comment echoed the first commenter's sentiment on the wall and pocket license. They added that students can be utilized for assistance in private clinics. The commenter also brought up CE Provider fees and CE audits.

MOTION

Board Member Matecki motioned to approve the responses to the background paper with the technical and grammatical changes noted and submit to the Joint Business and Professions Committees as a formal response.

Board Member Chen seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 motion passes

Item 8 – Announcement of Election of Officers at Next Board Meeting

E.O. Bodea announced that the election will be taking place at the next board meeting. Board Member Matecki thanked the current Board President Harabedian and Board Vice President Osorio. She also sends her appreciation to E.O. Bodea for his leadership.

Public Comment

A public comment acknowledged Board President Harabedian and the Board Vice-President Osorio for the work that they've done.

A public comment congratulated both the Board and staff for their excellent work.

Item 9 – Public Comments for Items Not on the Agenda

First commenter expressed concern about a trend around the country where medical doctors are passing legislation to take away acupuncturists and other health care providers from calling themselves doctors or using the title Dr. in front of their name.

Second commenter brought up the topic of tutorial programs that are allowed in the profession and that the Board should look at the standards that affect tutorial programs and its commercialization.

Third commenter raised the issue of Acupotomy.

E.O. Bodea stated that the tutorial program has been brought up as an item to look into and recommends it as an upcoming strategic plan item. The Board is hoping to have the summary and review of the stakeholder meeting on the curriculum of the training programs at a future board meeting.

E.O. Bodea clarified that Acupotomy is a special type of acupuncture which involves a scalpel function to the existing acupuncture needle.

Board Member Kim commented that he had a chance to attend a program relating to human dissection anatomy in Korea last February, and he found a very limited use of the .5-millimeter scalpel. The scalpel is used to break out muscle fascia or other tissue that has been fused.

Item 10 – Future Agenda Items

Board Member Kim would like to have more discussion on issues relating to Sunset Review, licensing, and education. The discussions can be made prior to a formal board meeting.

Board Member Chen wishes to revisit the minimum competency of license applicants.

Board Member Matecki brought up the issue of entry level in the profession and acupuncturist's degrees. She also wants to address the accessibility of the Clean Needle Technique certification and educational competence of license applicants.

A public comment was made about education and financial opportunities of practitioners.

Item 11 – Closed Session

The Board convened to a closed session to evaluate the performance of the Executive Officer.

Item 12 – Adjournment

President Harabedian adjourned the meeting at 1:53 p.m.



**4 -June
2023
Minutes**



BOARD MEETING MINUTES June 23, 2023

LOCATION:

Web Ex Teleconference

Staff Present

Benjamin Bodea, Executive Officer
Ryan Marcroft, Legal Counsel
Kayla Watson, Legal Counsel
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager

Members of the Board

John Harabedian, Esq. President
Ruben Osorio, Vice President
Dr. Yong Ping Chen, Ph.D., L.Ac.
Hyun “Francisco” Kim, M.S., L.Ac.
Shu Dong Li, Ph.D.
Dr. Amy Matecki, M.D., L.Ac.

Item 1 – Call to Order, Roll Call, and Establishment of Quorum

Meeting commenced at 9:04 a.m.

Roll call taken. All members present. Quorum established.

Item 2 – President’s Remarks

Board President John Harabedian (Harabedian) welcomed members, staff, and the public to the meeting.

Item 3 – Approval of Minutes

The Board tabled the approval of the April 7, 2023, Board Meeting Minutes to the next board meeting.

Item 4 - Executive Management Report

(A) Strategic Plan Announcement

Executive Officer Benjamin Bodea (E.O. Bodea) announced that the Acupuncture Board (Board) is working with Department of Consumer Affairs (DCA) on the translations of the Strategic Plan Environmental Survey into Chinese, Korean, and Spanish.

(B) Budget Update

Sarah Hinkle from the Budget Office presented the Board's fund condition and current year expenditures. The Budget Office does not have any concerns with the Board's funds and will continue to monitor the Board's budget. Additionally, the Board is spending well within its authorized budget.

Board Member Kim inquired about the suggested month-in-reserve by the Sunset Review Committee. E.O. Bodea replied that according to the Budget Office, four to six months is a healthy reserve, and the Board is in the good fiscal shape.

(C) Licensing Report Q3 FY 2022-23

Licensing Manager Jay Herdt (Herdt) declared that the Board met the requirements of AB 107 which allows for military spouses who are licensed in another state to become licensed in California temporarily for a one-year period.

The Business Modernization project completed adding a Continuing Education search tool on the Board's website that is accessible to external users and shopping cart feature was introduced to allow providers to pay for multiple course applications in one transaction rather than having to pay for each individually.

Mr. Herdt next reviewed the data for Licensing, Continuing Education, Tutorial, Training Programs, and Exam results.

Board Member Chen inquired about wall licenses, wanting to know if more licensees have resumed their practice or if licensees have started new business. E.O. Bodea responded that since the new wall license is a new requirement, it is still lagging behind the licensees. However, the Board will continue its outreach to encourage licensees to be compliant with the wall license requirement.

(D) Enforcement Report Q3 FY 2022-23

E.O. Bodea reviewed the complaints/convictions and investigations data for quarter three of 2022-23 Fiscal Year (January 1 – March 31, 2023).

Board Member Chen asked what is behind the improving enforcement statistics. E.O. Bodea responded that the vacancies for the two enforcement analyst positions have been filled and the analysts have started moving the cases forward.

Public Comment

A public comment was made questioning the long process times of closing a case, particularly to one case where the criminal case was previously dismissed. E.O. Bodea responded that the Covid-19 pandemic and staffing issues affected processing times of cases. He added that criminal cases and administrative cases differ on the type of actions a person can be accountable for.

A public comment was made asking if the number of tutorial program students increased in the past few years. E.O. Bodea stated that there isn't much change on the number of tutorial programs based on previous years. Historically, it hovers between 40-50 participants.

Item 5 - Legislative Report – Reviewed bills with positions taken and new bills

Policy Coordinator Kristine Brothers (Brothers) discussed the 2023 legislative session calendar. Thereafter, she discussed AB 1264, the Board's Sunset Review Bill. The bill

extends the Board's authority to regulate the profession of acupuncture for an additional four years to January 1, 2028. The bill also establishes the definitions and criteria for supervising acupuncturists and acupuncture assistants. It would also allow students who meet the specified criteria to perform needle removal, among other specified supportive acupuncture procedures, in a setting unaffiliated with their education.

Additionally, under the statutory provisions related to the wall license this bill would delete the requirement that an acupuncturist to be responsible for Asian massage services at their place of practice. This is a technical cleanup item since Asian massage is already included under BPC section 4937, and all acupuncturists are responsible for the services provided by them and their businesses. The Board could potentially receive an increase in complaints due to the pre-licensed practitioners now permitted to carry out treatments. However, in fiscal year 2021-2022, the Board received complaints on less than one percent of the population of active licensees. Given that, a small rise in complaints can occur since acupuncture assistants increases the population of individuals who can conduct treatments.

Board Member Chen advised that the language to be used to define an acupuncture assistant should be easy for the consumer to understand.

Public Comment

Two public comments were made inquiring if there is a training that can be provided for existing medical staff and if the acupuncture assistant position is a completely different role from existing medical assistants or nurses. The commenter also wanted to know the educational requirements or the certification requirements to become an acupuncture assistant.

A third public comment was made asking if a certificate is needed for someone to be an acupuncture assistant and if upon termination of the program, the function of an acupuncture assistant automatically terminates.

A fourth public comment was made pointing out that it is not legal for medical doctors to direct a nurse to handle a needle. The commenter also suggested that the acupuncture assistant should have training.

E.O. Bodea directed the public and the board members to the link that will take them directly to the bill language. It was explained that the acupuncture assistant should be enrolled in an approved educational and training program and having completed at least a minimum of 700 hours of clinical practice. At 700 hours, acupuncture students would have completed their Clean Needle Technique course.

AB 1264 – Staff recommended a Support position.

MOTION

Board Member Chen moved that the Acupuncture Board take a Support position with respect to AB 1264 [Berman] as introduced on February 16, 2023, for the reasons discussed.

Board Member Kim seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

E.O. Bodea added an additional item for the Board to address for this bill, to ask the B&P Committee for complaint driven site inspections authority. Presently, the Board does not have site-inspection authority to go into an acupuncture clinic beyond the public area of the clinic or the authority to view medical files without the licensee's approval.

Board Member Matecki stated that she is supporting the Sunset Bill.

Board Member Kim asked if the Medical Board has similar site-inspection authority. Policy Coordinator Brothers stated that staff looked at the Board of Optometry, Veterinary Medical Board, Respiratory Therapy Board, and Physical Therapy Board. E.O. Bodea further clarified that investigators would not be looking to observe treatments.

MOTION

Board Member Matecki moved that the Acupuncture Board take a Support position to direct the Executive Officer to work with the Business and Professions Committee to address the Strategic Plan item on attaining site-inspection authority for it and its designee, for the reasons discussed by members.

Board Member Osorio seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0

Motion Passes

AB 765 – Staff recommended a No Position.

Policy Coordinator Brothers stated that this is a bill regarding medical specialty titles, designations for physicians and surgeons. This bill was brought up at the last board meeting by the public. However, since then, the bill is dead for 2023. The Board previously had a watch recommendation, but given that the bill is dead, staff recommend that no position be taken at this time.

Public Comment

A public comment was made asking if the bill pertains to medical doctors being able to perform acupuncture.

Board President Harabedian reminded the public that comments that are outside the purview of the item being discussed should be reserved for public comment for items

not on the agenda.

Item 6 – Regulatory Report

Policy Coordinator Brothers started off by pointing out that there has been a slight change in the look and presentation of the Regulatory Report. Staff wanted to mirror the DCA Regulation Unit's snapshot of the rulemaking process and capture all of the phases. Brothers proceeded to summarize the status of each regulatory package the Board has in progress.

The Board recessed from 10:35 a.m.-10:50 a.m.

Roll Call taken at 10:50 a.m.

Members Present

5 Present: Harabedian, Osorio, Chen, Li, Matecki

Quorum Established

Member Kim had connectivity issues. He thereafter rejoined the meeting at 11:07 a.m.

Public Comment

A public comment was made regarding the education and training approval by the Board versus approving schools, how it affects the profession and the regulation of the profession.

E.O. Bodea responded by stating that this is addressing changes that happened back in 2016 and 2017, where the Board no longer became the approver of training programs, but of the curriculum. For educational and training programs, they require three approvals to be considered approved. He underlined what Policy Coordinator Brothers noted in Item B of the regulatory report, that this is going to be just more cleanup on what was not addressed when the Board did the regulatory item around 2018.

Item 7 – Discussion and Possible Action to Amend Sections 1399.483, 1399.489, and 1399.489.1 in Title 16 of the California Code of Regulations: Continuing Education: Law and Ethics Requirement

Policy Coordinator Brothers briefed that the item is regarding proposed language the Board already approved and was submitted to the regulatory unit for initial review. Edits were recommended and it is being brought to the Board for consideration.

For Section 1399.480, subsection (a)(4), staff is proposing a new definition of half hour. It is defined to be at least twenty-five minutes of participation in the context of Continuing Education (CE). This is necessary for clarity since an hour is already established as being at least fifty minutes of participation in the Board's regulation under the same section. Additionally, staff is updating category 1 CE hours required to restore a license to active when a licensee has been inactive for less than a year under Section 1399.489.1.

For Section 1399.483, subsection (e), the additional requirement that all courses in law and ethics include a self-assessment by the licensee is being removed after determining that the inclusion was only to align with the requirement under subsection (d)(2) for independent and home-study coursework. Existing language requires self-assessment based on the delivery method of CE, not the subject matter.

For Section 1399.489, subsection (a), the proposed amendments clarify that all licensees on active status shall complete fifty hours of CE every two years as a condition of renewal. The previous language added a retired license status as an exception to this requirement. However, this presented an authority issue since the Board currently does not have a retired license designation and regulation.

For Section 1399.489, subsection (c), this is a new subsection creating the requirement of four hours of CE in law ethics to be taken for every two-year renewal period. This subsection has been reworded to better align with the existing requirement under subsection (a) and to provide more clarity that the four hours is required as a condition of renewal.

Policy Coordinator Brothers pointed out that staff is proposing to add a 0.5- or one-half hour to the twenty-two hours of category 1 CE that is required of licensees restoring their license to active status when their license has been inactive for less than a year. This amendment is to address the .5 that is missing from the calculation that previously identified the minimum category 1 CE, and so 22.5 hours is truly half of 45 hours. Currently, it states twenty-two hours. It is missing 0.5 hours, therefore making the correction for consistency and to provide further clarity.

Public Comment

A public comment was made inquiring if the additional four hours is separate from the fifty hours required to renew an acupuncture license.

E.O. Bodea answered that the four hours would be part of the fifty hours but that four hours must be in laws and ethics.

A second public comment was made asking what would be included in the law and ethics course.

E.O. Bodea responded that the Board wanted to leave it open because the profession should be establishing ethical standards. The Board should then be supporting and enforcing them.

Board Member Chen made a comment that the implementation of the mandatory four hours of law and ethics was noteworthy and inquired what the standard content should be in the course.

Policy Coordinator Brothers responded by stating that there are no new standards or requirements for providers. It is only requiring licensees to take law and ethics every two years for their license renewal.

MOTION

Board Member Chen motioned to rescind the Board's March 2021 order to initiate a rulemaking for this proposal and instead authorize a rulemaking using the proposed language with all the changes to Division 13.7, Article 8, Sections 1399.480, 1399.483, 1399.489, and 1399.489.1. The Board authorizes initiation and possible adoption of new text as follows:

Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

If no adverse comments are received during the 45-day comment period and no hearing is requested,

Amend Sections 1399.480, 1399.483, 1399.489, and 1399.489.1 of Article 8 of Division 13.7 of Title 16 of CCR as noticed.

And authorize the Executive Officer to take all steps necessary to complete the rulemaking.

Board Member Osorio seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 motion passes

Item 8 – Review and Discussion of Stakeholder Survey on Approved Curriculum Requirements

Education Coordinator Sarah Rankin (Rankin) discussed the May 20, 2022, Public Stakeholder Acupuncture Training Curriculum Meeting as well as the results of the survey that was sent out to stakeholders.

Board Member Chen pointed out that it would have been interesting if the survey had a comment section to better reflect the sentiments of the stakeholders. Specifically, the school's opinion under what circumstances they think something is sufficient or insufficient. Having more detail would be helpful. She also remarked that the Board should not put too much focus on the number or percentage of stakeholders who believe the curriculum is sufficient. Rather, focus should be placed on the percentage of stakeholders who found the curriculum to be insufficient and dig deeper into why.

E.O. Bodea commented that the 3,000 hours has been in place for almost fifteen years and has offered a satisfactory level of public protection. He added that although the survey respondents are anonymous, stakeholders are welcome to submit their comments to the Board.

Board Member Kim stated that perhaps the Board should look into the gainful employment rate of acupuncturists in the state and their contribution to the medical system in terms of patient care.

E.O. Bodea expressed that the Board would like to hear from professional associations

on gainful employment. It is not the Board's role to have gainful employment rather, it is the role for the industry to establish. He added that the Board is a regulator and it is up to the acupuncture industry to represent itself and identify where it can be in the health care system. Lastly, the Board exists to make sure that it enforces entry level competency standards.

Public Comment

The first public comment stated that acupuncture practitioners, based on the required 3,000 hours, does not have enough education. The curriculum competency fifteen years ago, when the required 3,000 hours was approved, is much different from today.

The second public comment inquired how many practitioners and how many schools responded to the survey.

Education Coordinator Rankin answered there were seventy responses to the survey online. She added that four organizations and one individual submitted their responses directly to the Board. The Board was not able to determine how many practitioners or schools responded to the survey since it was answered anonymously.

The third public comment agreed with the sentiment made by the second public commenter. The third public commenter also stated that the industry has entered the integrative medicine era. With this, there should be more subjects interconnecting the East and West and more integrated subjects.

A follow-up comment was made by the first public commenter. They mentioned that the previous speaker mentioned a very important term, integrative medicine. At the time the curriculum was determined for the Board, integrative medicine wasn't around. They reiterated that more education is necessary.

The fourth public commenter recommended that residency program, reference of training models, and additional training may be used to supplement the present program.

Board Member Kim suggested a regular subcommittee meeting to talk about regulations, scope of practice, and any items discussed on the agenda to get more insight from experts who are practicing.

Board Member Matecki voiced that she appreciated the public and the stakeholders who have supported the Board for the past few years. She encourages the leaders in their respective sectors to participate in coming up with future surveys. She adds that the Board is here to listen to the opinions of all stakeholders.

Of the 70 respondents who answered the survey, Board Member Chen wanted clarification on how many were licensees and how many were schools. E.O. Bodea responded by stating that the Board could not track how many were licensees and schools since the survey did not ask who the respondent was representing, whether it was an individual or a school. Board Member Chen then stated that considering the Covid-19 pandemic, the survey was a great effort by the Board to better protect the public.

E.O. Bodea made a point to let board members and the public know that the stakeholder survey meeting is available to view online at the Board's website. He then added that several schools did participate and shared their comments during that session.

Item 9 – Discussion on Agendizing Professional Updates

E.O. Bodea discussed the request of professional associations that they be provided an agenda item during board meetings for their professional updates. He explained the Board should not provide professional associations more time than the public and that they are equal stakeholders in the process. He suggested that professional associations send the Board their professional updates, such that it can be shared with board members, as opposed to taking up more time than the public would be allotted. Board members can review the updates, then the professional associations can comment on the issue that is being raised.

Public Comment

A public comment was made asking if the Board will mandate schools to include pediatrics in the curriculum.

Another public comment was made voicing that they respectfully disagree with the Board's position not to provide professional associations more time than the public. The commenter, who belongs in an association, stated that they are representing hundreds of people.

The last public commenter shared that their program includes pediatrics.

Board President Harabedian made a point of order addressing the first and last commenter. He reminded them that the comments do not relate to the present topic. He also expressed that he wouldn't be opposed to the idea of having one meeting of the year where the Board gets a series of presentations from associations in the profession.

Item 10 – Discussion and Possible Action Regarding the Acupuncture Board's Executive Officer Salary Increase

Board President Harabedian remarked that the Board took up E.O. Bodea's performance review for the year. As part of the review, the board members proposed to recommend a pay increase for E.O. Bodea of the amount left for him to meet the maximum in his pay scale. The board members believe it is more than justified based on his performance and has proven to be deserving.

MOTION

Board President Harabedian motioned to give a pay increase to Executive Officer Bodea that will take him to the top of his pay scale.

Board Member Osorio seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 motion passes

Public Comment

A public comment was made saying E.O. Bodea has clearly demonstrated his leadership and his ability to be a team leader. Also mentioned was his ability to understand the concepts to build a bridge between the public, the profession, and the legislature.

A second public comment stated that E.O. Bodea is an extraordinary person who has served both the Board, the government, as well as the profession, very professionally. They wanted to express his gratitude for the leadership E.O. Bodea offered the profession.

A third public comment was made affirming that E.O. Bodea is supportive of their school's and association's work, ideas, and suggestions.

A fourth public comment was made wanting to echo all the previous comments and laud the professionalism and responsiveness of E.O. Bodea and the staff of the Board. They added that the Board is professional, collegial, and responsive to the stakeholders' needs.

Item 11 – Election of Officers

E.O. Bodea explained the process of electing the two officer positions, the president and vice-president positions.

Board Member Chen nominated Board President Harabedian to be reelected as president. Harabedian thereafter accepted. E.O. Bodea asked for additional nominations and none were offered.

Board Member Osorio nominated Board Member Chen to serve as vice-president. Chen afterward accepted. E.O. Bodea asked for additional nominations and none were offered.

MOTION

Board Member Osorio motioned that Board President Harabedian be reelected president of the California Acupuncture Board.

Board Member Kim seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 motion passes

Public Comment

A public comment was made saying that we have a very talented president. The commenter also congratulated the Board.

MOTION

Board President Harabedian motioned that Board Member Chen be elected as vice-president of the California Acupuncture Board.

Board Member Li seconded

Vote

Yes: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 motion passes

Item 12 – Public Comments for Items Not on the Agenda

The first public comment expressed satisfaction regarding the Board's Sunset Review. Nevertheless, it was noted that the Legislature left a few things out, one of them manual therapy or Asian massage. The commenter noted that when a person searches Asian massage online, it has a different connotation. They also inquired if the use of lasers is beyond the scope of practice.

The second public commenter updated the Board of his association's recent changes. They added that Tui Na is a better term than Asian Massage since it is more defined.

The third public comment spoke about wet cupping. They acknowledged that wet cupping is prohibited by DCA but retorted that wet cupping is a traditional treatment method that has been used for a long time. They added that it will be beneficial for the industry to permit wet cupping within the limits of Clean Needle Technique using lancet needles, while also restricting the amount of blood drawn. Lastly, they followed up on the issue of Acupotomy which was raised from the last board meeting.

At this point, President Harabedian left the meeting and Board Vice-President Chen presided.

The fourth public commenter agreed with the use of lasers. They also suggested another modality that may be considered, ASP semi-permanent needles.

The fifth public commenter discussed law and ethics, how it would be incorporated to what is already being taught at schools, and a committee on curriculum competency.

Item 13 – Future Agenda Items

Board Member Kim proposed a subcommittee meeting regarding the scope of acupuncture assistants in terms of public safety and clarification of what acupuncture assistants can perform.

Board Vice-President Chen would like to have more discussion regarding the curriculum when the Board receives more comments from the public and stakeholders. And based on the comments received, if the Board can do another analysis with more participants.

Public Comment

A public comment was made asking to have the issue of bleeding or wet cupping be put on the agenda for the next board meeting. They pointed out that it is in regulation, but it is not in statute. They sought to have some guidance from the Board.

Another public seconded the previous speaker. They also wanted a review of the business model of acupuncture in relation to opening an acupuncture business.

Item 14 – Adjournment

Vice-President Chen adjourned the meeting at 1:14 p.m.



5 - Executive Management Report

5(B) Budget Report

Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Reporting Structure(s): 11111700 Support

Fiscal Month: 13

Fiscal Year: 2022 - 2023

Run Date: 10/05/2023

PERSONAL SERVICES

Fiscal Code	PY Budget	PY FM13	Budget	YTD	YTD + Encumbrance	Balance
5100 PERMANENT POSITIONS	\$891,000	\$831,242	\$876,000	\$798,562	\$798,562	\$77,438
5100 TEMPORARY POSITIONS	\$19,000	\$90,079	\$19,000	\$0	\$0	\$19,000
5105-5108 PER DIEM, OVERTIME, & LUMP SUM	\$12,000	\$7,271	\$12,000	\$497	\$497	\$11,503
5150 STAFF BENEFITS	\$287,005	\$486,394	\$539,000	\$437,401	\$437,401	\$101,599
PERSONAL SERVICES	\$1,209,005	\$1,414,985	\$1,446,000	\$1,236,460	\$1,236,460	\$209,540

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	PY Budget	PY FM13	Budget	YTD	YTD + Encumbrance	Balance
5301 GENERAL EXPENSE	\$57,000	\$30,172	\$57,000	\$13,409	\$16,681	\$40,319
5302 PRINTING	\$18,000	\$13,300	\$18,000	\$13,120	\$13,261	\$4,739
5304 COMMUNICATIONS	\$18,000	\$6,343	\$18,000	\$3,633	\$3,633	\$14,367
5306 POSTAGE	\$6,000	\$6,562	\$6,000	\$1,517	\$1,517	\$4,483
5308 INSURANCE	\$0	\$22	\$0	\$17	\$17	-\$17
53202-204 IN STATE TRAVEL	\$34,000	\$5,263	\$34,000	\$8,266	\$8,266	\$25,734
5322 TRAINING	\$4,000	\$4,405	\$4,000	\$175	\$175	\$3,825
5324 FACILITIES	\$65,000	\$123,398	\$65,000	\$197,405	\$197,405	-\$132,405
53402-53403 C/P SERVICES (INTERNAL)	\$502,000	\$166,602	\$502,000	\$253,599	\$253,599	\$248,401
53404-53405 C/P SERVICES (EXTERNAL)	\$607,000	\$314,408	\$557,000	\$291,388	\$508,494	\$48,506
5342 DEPARTMENT PRORATA	\$739,000	\$849,568	\$926,000	\$751,368	\$751,368	\$174,632
5342 DEPARTMENTAL SERVICES	\$334,000	\$260,678	\$334,000	\$179,722	\$179,722	\$154,278
5344 CONSOLIDATED DATA CENTERS	\$4,000	\$11,628	\$4,000	\$7,878	\$7,878	-\$3,878
5346 INFORMATION TECHNOLOGY	\$36,000	\$67,692	\$36,000	\$5,070	\$5,070	\$30,930
5362-5368 EQUIPMENT	\$14,000	\$7,707	\$0	\$9,301	\$9,301	-\$9,301
5390 OTHER ITEMS OF EXPENSE	\$3,000	\$0	\$3,000	\$528	\$528	\$2,472
54 SPECIAL ITEMS OF EXPENSE	\$0	\$2,047	\$0	\$4,762	\$4,762	-\$4,762
OPERATING EXPENSES & EQUIPMENT	\$2,441,000	\$1,869,793	\$2,564,000	\$1,741,158	\$1,961,675	\$602,325

OVERALL TOTALS	\$3,650,005	\$3,284,779	\$4,010,000	\$2,977,618	\$3,198,135	\$811,865
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**0108 - Acupuncture Fund Analysis of Fund Condition
(Dollars in Thousands)**

Prepared 9.19.23

2023 Budget Act with 2022-23 Actuals

	ACTUAL 2022-23	CY 2023-24	BY 2024-25	BY +1 2025-26	BY +2 2026-27
BEGINNING BALANCE	\$ 3,648	\$ 4,154	\$ 3,769	\$ 3,273	\$ 2,689
Prior Year Adjustment	-173	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,475	\$ 4,154	\$ 3,769	\$ 3,273	\$ 2,689
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$ 63	\$ 41	\$ 41	\$ 41	\$ 41
4127400 - Renewal fees	\$ 3,093	\$ 2,806	\$ 2,806	\$ 2,806	\$ 2,806
4129200 - Other regulatory fees	\$ 268	\$ 247	\$ 247	\$ 247	\$ 247
4129400 - Other regulatory licenses and permits	\$ 702	\$ 675	\$ 675	\$ 675	\$ 675
4163000 - Income from surplus money investments	\$ 98	\$ 40	\$ 48	\$ 40	\$ 29
4171400 - Escheat of unclaimed checks and warrants	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4
Totals, Revenues	\$ 4,228	\$ 3,813	\$ 3,821	\$ 3,813	\$ 3,802
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$ 4,228	\$ 3,813	\$ 3,821	\$ 3,813	\$ 3,802
TOTAL RESOURCES	\$ 7,703	\$ 7,967	\$ 7,590	\$ 7,086	\$ 6,491
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 3,115	\$ 3,964	\$ 4,083	\$ 4,205	\$ 4,332
9892 Supplemental Pension Payments (State Operations)	\$ 43	\$ 43	\$ 43	\$ -	\$ -
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 391	\$ 191	\$ 191	\$ 191	\$ 191
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$ 3,549	\$ 4,198	\$ 4,317	\$ 4,397	\$ 4,524
FUND BALANCE					
Reserve for economic uncertainties	\$ 4,154	\$ 3,769	\$ 3,273	\$ 2,689	\$ 1,967
Months in Reserve	11.9	10.5	8.9	7.1	5.2

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.
Expenditure growth projected at 3% beginning BY +1.

**5(C) Q4
2022-23
Licensing
Report**

FY 2022/23 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Active	7753	7473	7317	7462
Inactive	2380	2395	2442	2383
Delinquent	1670	1809	1883	1805
Clear	11803	11677	11642	11650
Cancelled	70	52	110	91
Initial AC License Applications Approved	77	76	57	93
Initial AC License Applications Denied	0	0	0	0
AC License Renewals	1576	1669	1238	468
Active Wall Licenses	3438	3867	4034	4175
Initial Wall Licenses	485	538	367	415
Wall License Renewals	65	119	322	373

FY 2022/23 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
New CE Provider Applications Approved	5	7	10	10
CE Provider Applications Denied	0	0	0	0
Course Applications Received	330	1673	928	850
Course Applications Approved	514	342	1519	910
Course Denials	32	3	10	5
Total Number of Active CE Providers	181	136	212	246
Total CE Provider Numbers Issued	1759	1766	1776	1786

FY 2022/23 Acupuncture Educational and Training Programs

Application for Board Approval of Curriculum (ABAC)	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
ABAC - Received	5	2	1	2
ABAC - Incomplete	0	5	0	0
ABAC - Approved	0	0	0	1
Loss of Approval	0	0	0	0

FY 2022/23 Acupuncture Tutorial Training Programs

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Applications Received	4	6	2	2
New Program Approvals	4	0	1	4
Programs Completed	3	3	2	1
Programs Terminated, Abandoned	3	0	0	0
Total Approved Programs	51	48	49	50

**5(D) Q1
2023-24
Licensing
Report**

FY 23/24 Q1 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Active	7533			
Inactive	2358			
Delinquent	1778			
Clear	11669			
Cancelled	107			
Initial AC License Applications Approved	84			
Initial AC License Applications Denied	0			
AC License Renewals	1229			
Active Wall Licenses	4365			
Initial Wall Licenses	354			
Wall License Renewals	391			

FY 23/24 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
New CE Provider Applications Approved	4			
CE Provider Applications Denied	0			
Course Applications Received	614			
Course Applications Approved	691			
Course Denials	2			
Total Number of Active CE Providers	267			
Total CE Provider Numbers Issued	1790			

FY 22/23 Acupuncture Educational and Training Programs

Application for Board Approval of Curriculum (ABAC)	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
ABAC - Received	0			
ABAC - Incomplete	0			
ABAC - Approved	8			
Loss of Approval	0			

FY 22/23 Acupuncture Tutorial Training Programs

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Applications Received	0			
New Program Approvals	5			
Programs Completed	4			
Programs Terminated, Abandoned	1			
Total Approved Programs	50			

EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL

1/1/2023 - 6/30/2023

APPROVED ACUPUNTURE AND EDUCATIONAL TRAINING PROGRAMS	1ST TIME TAKERS			OVERALL (Includes Re-Takers)		
	#PASS	#FAIL	PASS %	#PASS	#FAIL	PASS %
Academy of Chinese Culture & Health Sciences	6	0	100%	7	0	100%
Acupuncture & Integrative Medicine College, Berkeley	8	2	80%	10	3	77%
Alhambra Medical University	8	3	73%	8	5	62%
American College of Traditional Chinese Medicine at CIIS*	5	1	83%	6	1	86%
Atlantic Institute of Oriental Medicine	0	2	0%	0	2	0%
Bastyr University	1	0	100%	1	0	100%
California Trinity University*	0	0	0%	0	1	0%
California University - Silicon Valley	4	0	100%	4	0	100%
Dongguk University Los Angeles	2	0	100%	2	3	40%
East West College of Natural Medicine*	0	0	0%	0	1	0%
Emperor's College of Traditional Chinese Medicine	8	1	89%	9	2	82%
Five Branches University	14	2	88%	16	3	84%
New England School of Acupuncture	1	0	100%	1	0	100%
Nine Star University of Health Sciences*	2	0	100%	2	0	100%
Pacific College of Health and Science	20	5	80%	21	13	62%
South Baylo University	22	8	73%	28	12	70%
Southern California University of Health Sciences	8	2	80%	9	2	82%
University of East West Medicine	7	4	63%	7	5	58%
University of Herbal Medicine*	0	0	0%	1	0	100%
Whitewater University	2	0	100%	2	0	100%
Yosan University	5	1	83%	7	1	88%
Tutorials	3	3	50%	3	6	33%
Foreign	4	1	80%	5	3	71%
GRAND TOTAL	130	35	79%	149	63	70%

*Previously Approved Training Program

EXAMINATION RESULTS STATISTICS - BY LANGUAGE**1/1/2023 - 6/30/2023**

LANGUAGE	#PASS	#FAIL	PASS %
Chinese	42	15	74%
English	90	42	68%
Korean	17	6	74%
GRAND TOTAL	149	63	70%

**5(E) Q4
2022-23
Enforcement
Report**



1625 N. Market Blvd., Suite N-219
 Sacramento, CA 95834
 P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



DATE	October 1, 2023
TO	Board Members
FROM	Ben Bodea, Executive Officer
SUBJECT	Enforcement Update for FY 2022/2023: Q4 April-June 2023

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category	Sub-Total	Received
Unprofessional Conduct		2
• Training provided to students	1	
• Billing	1	
Unlicensed/Unregistered		1
Criminal Charges/Convictions**		11
• Applicants	4	
• Licensees	7	
Sexual Misconduct		7
Fraud		1
Non-jurisdictional		2
Incompetence/Negligence		20
Unsafe/Unsanitary Conditions		2
Other		2
Substance Abuse/Drug & Mental/Physical Impairment		0
Discipline by Another State Agency		1
Total		49

The graph above shows the number of complaints received by complaint type for this quarter. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

INVESTIGATIONS*

DCA Category	Initiated	Pending **	Closed
Unprofessional Conduct	2	106	2
Unlicensed/Unregistered	1	30	0
Criminal Charges/Convictions (includes pre-licensure)	11	33	5
Sexual Misconduct	7	20	0
Fraud	1	47	0
Non-jurisdictional	2	7	1
Incompetence/Negligence	20	75	0
Unsafe/Unsanitary Conditions	2	11	0
Other	2	11	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	1	2	0
Total	49	342	8

* Includes both formal investigations by DCA category conducted by DOI and desk investigations by staff.

** These numbers include current and previous quarters and the DCA Category may change after the investigation is initiated to better categorize the complaint.

Enforcement Performance Measures

Q4 - April 1, 2023 - June 30, 2023

Performance Measure (PM) 1 - Volume Convictions/Arrests received

Complaint/Convictions Received	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM1: Total Complaints Received	108	26	19	29	38	112	↑ 4%
PM1: Total Convictions/Arrest Received	35	2	2	2	11	17	↓ -51%
PM1: Total Received	143	28	21	31	49	129	↓ -10%

PM2 - Intake Cycle Time - Avg time to open a complaint during the specified quarter.

Intake Cycle Time (Target: 10 Days)	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM2: Intake/Avg. Days	5	3	3	2	2	2.5	↓ -50%

PM3 - Inv. Cycle Time - Avg number of days to complete the process for complaints investigated and not sent to AG for formal discipline (includes intake, investigation, and case outcome or non-AG formal discipline.

Investigation Cycle Time (Target: 200 Days)	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM3: All Investigations Closed	113	6	2	5	8	21	↓ -81%
PM3: Average Cycle Time Investigations	416	36	233	105	82	114	↓ -73%

The percentage below reflects the number of investigation cases closed in the respective quarters.

	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	41%	6	1	3	6	80%	↑ 39%
91 - 180 Days	5%	0	0	0	1	5%	↓ 0%
181 Days - 1 Year (364)	10%	0	0	0	1	5%	↓ -5%
1 to 2 Years (365-730)	15%	0	1	0	0	5%	↓ -10%
2 to 3 Years (731- 1092)	13%	0	0	0	0	0%	↓ -13%
Over 3 Years (1093 +)	16%	0	0	1	0	5%	↓ -11%

The avg. time frame below is the total time to process citations that were closed within the respective quarter.

Citations	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Final Citations	3	0	0	0	0	0	↓ -100%
Average Days to Close	447.5	0	0	0	0	0.0	↓ -100%

PM4 Cycle Time-Discipline Average number of days to close cases transmitted to the AG for formal disciplinary action, including formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

Transmittals to Attorney General (AG) Target: 540 Days	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM4: Volume AG Cases	3	1	1	1	5	8	↑ 167%
PM4: Total Cycle Time	622	1748	1264	733	1679	1356	↑ 118%

	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
AG Cases Initiated	11	0	0	0	0	0	↓ -100%
AG Cases Pending	21	18	16	15	9	9	↓ -57%
SOIs Filed	0	0	0	0	0	0	→ 0%
Accusations Filed	7	2	0	0	1	3	↓ -57%
Total Closed after Transmission	5	1	1	0	5	7	↑ 40%
Revoked	0	0	0	0	2	2	↑ 100%
Voluntary Surrender	0	2	1	0	2	5	#DIV/0!
Probation	3	0	0	0	1	1	↓ -67%
License Denied	0	0	0	0	0	0	→ 0%
Public Reprimand	0	0	0	1	0	1	↑ 100%
Closed w/out Disciplinary Action	0	1	0	1	0	2	↑ 100%

The percentage below represents the number of cases assigned for discipline that closed in the specified quarter.

Total Orders Aging/Final Decision	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	0%	0	0	1	0	→ 0%	
91 - 180 Days	0%	0	0	0	0	→ 0%	
181 Days - 1 Year (364)	0%	0	0	0	0	→ 0%	
1 to 2 Years (365-730)	33%	0	0	0	0	↓ -33%	
2 to 3 Years (731- 1092)	0%	0	0	0	0	→ 0%	
Over 3 Years (1093 +)	67%	1	1	0	5	↑ 21%	

Other Legal Actions	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PC 23 Ordered	0	0	0	0	0	→ 0%	
Interim Suspension	0	0	0	0	0	→ 0%	

**5(F) Q1
2023-24
Enforcement
Report**



1625 N. Market Blvd., Suite N-219
 Sacramento, CA 95834
 P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



DATE	October 2023
TO	Board Members
FROM	Ben Bodea, Executive Officer
SUBJECT	Enforcement Update for FY 2023/2024: Q1 (July-September) 2023

COMPLAINTS/CONVICTIONS & ARRESTS

DCA Category		Received
Substance Abuse/Drug & Mental/Physical Impairment		0
Unsafe/Unsanitary Conditions		1
Fraud		3
Non-jurisdictional		2
Incompetence/Negligence		11
Other		1
Unprofessional Conduct	Sub-Total	5
• Disrespect Customers	3	
• Billing Issue	1	
• Practicing at unreported location & past fraud case	1	
Sexual Misconduct		9
Discipline by Another State Agency		0
Unlicensed/Unregistered		1
Criminal Charges/Convictions**		14
• Applicants	0	
• Licensees	14	
Total		47

The graph above shows the number of complaints received by complaint type for this quarter. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

INVESTIGATIONS*

DCA Category	Received	Closed	Pending**
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Unsafe/Unsanitary Conditions	1	1	11
Fraud	3	3	48
Non-jurisdictional	2	3	6
Incompetence/Negligence	11	11	76
Other	1	2	10
Unprofessional Conduct	5	17	95
Sexual Misconduct	9	6	24
Discipline by Another State Agency	0	0	2
Unlicensed/Unregistered	1	4	25
Criminal Charges/Convictions (includes pre-licensure)	14	11	36
Total	47	58	333

* Includes both formal investigations by DCA category conducted by DOI and desk investigations by staff.

** These numbers include current and previous quarters and the DCA Category may change after the investigation is initiated to better categorize the complaint.

Enforcement Performance Measures

FY 23/24 Q1

July 1, 2023 - September 30, 2023

Performance Measure (PM) 1 - Volume Convictions/Arrests received

Complaint/Convictions Received	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PM1: Total Complaints Received	112	33				33
PM1: Total Convictions/Arrest Received	17	14				14
PM1: Total Received	129	47				47

PM2 - Intake Cycle Time - Avg time to open a complaint during the specified quarter.

Intake Cycle Time (Target: 10 Days)	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PM2: Intake/Avg. Days	2.5	pending				pending

PM3 - Inv. Cycle Time - Avg number of days to complete the process for complaints investigated and not sent to AG for formal discipline (includes intake, investigation, and case outcome or non-AG formal discipline).

Investigation Cycle Time (Target: 200 Days)	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PM3: All Investigations Closed	21	58				58
PM3: Average Cycle Time Investigations	114	338				338

The percentage below reflects the number of investigation cases closed in the respective quarters.

Aging of Non-AG Cases	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Up to 90 Days	80%	24				24
91 - 180 Days	5%	6				6
181 Days - 1 Year (364)	5%	6				6
1 to 2 Years (365-730)	5%	16				16
2 to 3 Years (731- 1092)	0%	2				2
Over 3 Years (1093 +)	5%	4				4

The avg. time frame below is the total time to process citations that were closed within the respective quarter.

Citations	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Final Citations	0	0	0	0	0	0
Average Days to Close	0.0	0	0	0	0	0.0

PM4 Cycle Time-Discipline Average number of days to close cases transmitted to the AG for formal disciplinary action, including formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

Transmittals to Attorney General (AG) Target: 540 Days	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PM4: Volume AG Cases	8	0				0
PM4: Total Cycle Time	1356	0				0

	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
AG Cases Initiated	0	1				1
AG Cases Pending	9	7				0
SOIs Filed	0	0				0
Accusations Filed	3	1				1
Total Closed after Transmission	7	0				0
Revoked	2	0				0
Voluntary Surrender	5	0				0
Probation	1	0				0
License Denied	0	0				0
Public Reprimand	1	0				0
Closed w/out Disciplinary Action	2	pending				pending

The percentage below represents the number of cases assigned for discipline that closed in the specified quarter.

Total Orders Aging/Final Decision	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
Up to 90 Days	0%	0				0%
91 - 180 Days	0%	0				0%
181 Days - 1 Year (364)	0%	0				0%
1 to 2 Years (365-730)	0%	0				0%
2 to 3 Years (731- 1092)	0%	0				0%
Over 3 Years (1093 +)	88%	0				0%

Other Legal Actions	FY 2022/23	Fiscal Year 2023/24				
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD
PC 23 Ordered	0	0	0	0	0	0
Interim Suspension	0	0	0	0	0	0



6 -Legislative Report



1625 N. Market Blvd., Suite N-219
Sacramento, CA 95834
P 916.515.5200 F 916.928.2204
www.acupuncture.ca.gov



DATE	October 26, 2023
TO	Acupuncture Board Members
FROM	Kristine Brothers, Policy Coordinator
SUBJECT	2023 - 2024 Pending CA Legislation of Interest as of October 4, 2023

Bills the Board Currently Has a Support Position On (Update)

[Assembly Bill 1264](#): Acupuncture – Committee on Business and Professions

Status: Enrolled and presented to the Governor on 9/19

Summary of Bill:

AB 1264 is the Acupuncture Board's Sunset Review bill. The bill:

- Extends the Boards authority to regulate the profession of acupuncture for an additional four years to January 1, 2028.
- Establishes definitions and criteria for a Supervising Acupuncturist and acupuncture assistant. An acupuncture assistant is a person, without a license, who may perform basic supportive acupuncture procedures under the supervision and order of an acupuncturist. Basic supportive acupuncture service includes needle removal, cupping, moxibustion, gua sha, and any other service listed under Business and Professions Code (BPC) section 4937 (b). It also lists procedures that an acupuncture assistant is prohibited from performing as part of a basic supportive acupuncture service.
- Updates any reference to Accreditation Commission for Acupuncture and Oriental Medicine within the act to its updated name, Accreditation Commission for Acupuncture and Herbal Medicine, or its successor entity.
- Authorizes the Board, or its designee, upon complaint, to inspect specified premises, places of practice, or clinics.
- Requires specified records to be open to inspection by the Board, or its designee, during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action or issuance of a citation and fine by the Board. The bill would also require a copy of the above-described records to be provided to the Board immediately upon request.
- Under the statutory provisions related to the wall license place of practice, the bill would delete the requirement that requires an acupuncturist be responsible for Asian massage services at a place of practice. This is considered a technical clean up as Asian massage is already included under Section 4937 of the Code, which is already cited as treatments an acupuncturist is responsible for at a place of practice.

Board Implementation Plan:

- Communicate new inspection authority to the Division of Investigation who conducts the Board's formal investigations.
- Edit and add the amended laws within the Board's Laws and Regulations booklet.
- Send notice of the new laws to all licensees and stakeholders via electronic ListServ and postal mail.

Board Position:

Support

~~~

**[Senate Bill 544](#): Bagley-Keene Open Meeting Act: teleconferencing - Laird**

**Status:** Chaptered by Secretary of State on 09/22/2023. Chapter 216, Statutes of 2023.

**Summary of Bill:**

SB 544 would establish definitions of teleconference, teleconference location, remote location, and participating remotely. This bill would enact an additional, alternative set of provisions under which a state body may hold a meeting by teleconference.

Additionally, the bill would require:

- The teleconferenced portion of the meeting to be visible and audible to the public.
- The board to provide a means for the public to remotely hear, observe, attend, and address the board by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location.
- The applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location be provided in the notice.
- The board to provide reasonable accommodation and advertise procedures on how to observe and make public comment when a meeting is held telephonically or electronically.
- Post agenda on the internet as well at each teleconference location.
- At least one board member present at each teleconference location accessible where members of the public may participate in the meeting.
- Majority of board members present at one teleconference location.
- A board member who participates from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member's relationship with those individuals.
- Board members to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform unless the appearance would be technologically impracticable, as specified.
- A board member who does not appear on camera due to challenges with internet connectivity to announce the reason for their nonappearance when they turn off their camera.
- Upon discovering that a means of remote participation required by the bill has failed during the meeting and cannot be restored, the board must end or adjourn the meeting

in accordance with prescribed adjournment and notice provisions, including information about reconvening.

The bill would:

- Authorize under specified circumstances, a board member of the state body could participate from a remote location, which would not be required to be accessible to the public and which the bill would prohibit the notice and agenda from disclosing.
- Authorize a board member's remote participation if the member has a need related to a disability and notifies the board, as specified. That member would be counted toward the majority of members required to be physically present at the same teleconference location.
- Remove the rollcall vote requirement and the requirement for a quorum in attendance at the primary physical meeting location and, instead, would require at least one staff member of the board to be present at the primary physical meeting location.
- Permit a person to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.
- Make all provisions from this bill repealed as of January 1, 2026.

**Board Implementation Plan:**

- Order laptops equipped with cameras and headsets for Board members to comply with the new law which requires members to visually appear if they are participating remotely or at a different teleconference location.
- Create procedures for staff to follow to set up future Board meetings as hybrid meetings to allow for public to access meetings via WebEx.

**Board Position:**

Support

~~~

Bills the Board Currently Has a Watch Position On (Update)

[Assembly Bill 883:](#)

Business licenses: United States Department of Defense SkillBridge program- Mathis

Status: Enrolled and presented to the Governor on 9/19

Summary of Bill:

AB 883 would additionally require a board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who is an active-duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense (DOD) 'SkillBridge' program or has served as an active-duty member of the Armed Forces of the United States and was honorably discharged. The applicant is required to supply satisfactory evidence to the Board demonstrating they are an enrollee of the program. These new provisions would become effective on July 1, 2024.

Board Implementation Plan:

- Add the DOD SkillBridge program and honorable discharge options to the military question in Connect and to the Board's paper exam and license applications.

- Create procedures for staff to follow to set up future Board meetings as hybrid meetings to allow for public to access meetings via WebEx.

Board Position:

Watch

~~~

**[Assembly Bill 996](#): Department of Consumer Affairs: continuing education: conflict-of-interest policy - Low**

**Status:** Ordered to inactive file and is dead for 2023.

**Summary of Bill:**

AB 996 would require entities that require CE for their licensees to develop and maintain a conflict-of-interest policy that, at minimum, discourages the qualification of any CE course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course. Additionally, the policy would require conflicts to be disclosed at the beginning of each continuing education course.

**Board Position:**

Watch

~~~

[Assembly Bill 1028](#): Reporting of crimes: mandated reporters - McKinnor

Status: Held under submission and is dead for 2023.

Summary of Bill:

AB 1028, on and after January 1, 2025, would remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, and instead only require that report if the health practitioner suspects a patient has suffered a wound or physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm, a wound or physical injury resulting from child abuse, or a wound or physical injury resulting from elder abuse.

On and after January 1, 2025, AB 1028 would require a health practitioner who suspects a patient has suffered physical injury caused by domestic violence, as defined, to provide brief counselling, education, or other support, and a "warm handoff", or referral to local and national domestic violence or sexual violence advocacy services. AB 1028 defines that a "warm handoff" may include, but is not limited to, the health practitioner establishing direct and live connection through a call with a survivor advocate, in-person onsite survivor advocate, in-person on-call survivor advocate, or some other form of tele-advocacy. The bill specifies that a patient may decline a warm handoff.

The bill would specify that a health practitioner is not civilly or criminally liable for any report that is made in good faith and in compliance with the bill's provisions.

AB 1028 also removes the 22 PC offenses listed under "assaultive or abusive conduct" as part of the section. The mandated reporting to law enforcement specific to a health practitioner who knows or suspects a person is suffering from a wound or other physical injury inflicted by themselves or inflicted by another where the injury is by means of a firearm will remain law under AB 1028.

In connection with AB 1028, the Legislature finds that recognizing that abuse survivors often need to access health care and medical treatment apart from police reporting and criminal legal involvement, this bill replaces mandated police reporting by medical professionals with offering connection to survivor services. In addition, the Legislature states, "Studies have shown that medical mandatory reporting of adult domestic and sexual violence may increase patient danger and insecurity, whereas being able to openly discuss abuse without fear of police reporting can produce greater health and safety outcomes."

Board Position:

Watch

~~~

**[Assembly Bill 1707](#): Health professionals and facilities: adverse actions based on another state's law - Pacheco**

**Status:** Chaptered by Secretary of State - Chapter 258, Statutes of 2023.

**Summary of Bill:**

AB 1707 would prohibit a healing arts board under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in this state regardless of the patient's location.

Sensitive services is defined in Civil Code section 56.05 and means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in specified sections of the Family Code and Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.

**Board Position:**

Watch

~~~

[Senate Bill 259](#): Reports submitted to legislative committees - Seyarto

Status: Chaptered by Secretary of State. Chapter 148, Statutes of 2023.

Summary of Bill:

SB 259 was amended days before the Board's June meeting to no longer affect the Board. Instead, it made a substantive amendment requiring the Legislative Counsel to provide a link to state and local agency reports required by law to be submitted to the Legislature.

Board Position:

Watch

~~~

**[Senate Bill 345](#): Health care services: legally protected health care activities - Skinner**

**Status:** Chaptered by Secretary of State on 09/27/2023. Chapter 260, Statutes of 2023.

**Summary of Bill:**

The most relevant sections of the bill that relates to licensed acupuncturists is the addition of Business and Professions Code (BPC) sections 850.1 and 852. Proposed Section 850.1 would prohibit a healing arts board, as defined, from denying an application for a license or imposing discipline upon a licensee or health care practitioner on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive sensitive services, as defined, that would be lawful if provided in this state, regardless of the patient's location. Proposed Section 852 would provide that the performance, recommendation, or provision of a legally protected health care activity by a licensee or health care practitioner acting within their scope of practice for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health care activity is illegal, does not, by itself, constitute professional misconduct, upon which discipline or other penalty may be taken.

The bill defines "Legally protected healthcare activity" to mean specified acts, including, among others, the exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights related to reproductive health care services or gender-affirming health care services secured by the Constitution or laws of this state or the provision of by a health care service plan contract or a policy, or a certificate of health insurance, that provides for those services.

The bill would state that California law governs in any action against a person who provides or receives by any means, including telehealth, reproductive health care services or gender-affirming health care services, as specified, if the care was legal in the state in which it was provided at the time of the challenged conduct.

The bill would state that interference with the right to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services, as those terms are defined, is against the public policy of California.

This bill would additionally prohibit a state or local government employee or a person acting on behalf of the local or state government, among others, from providing information or expending resources in furtherance of an investigation that seeks to impose civil or criminal liability or professional sanctions on an individual for a legally protected health activity occurring in this state or that would be legal if it occurred in this state.

SB 345 would expand an exemption as part of the definition of murder. Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought, except for a person who commits an act that results in the death of a fetus under specific circumstances, including if the act is solicited, aided, abetted, or consented to by the mother of the fetus. The bill would expand that exemption to include a person pregnant with a fetus who committed the act that resulted in the death of the fetus.

The bill makes changes to law related to limiting: a magistrate's warrant for arrest, bail fugitive recovery licensees from detaining or arresting, and a judge from ordering a witness to appear in a criminal proceeding in another state, when the alleged crimes include sexual or reproductive health care activities.

This bill would replace "unborn child" and "unborn person" with "fetus" in specified provisions of law.

Additionally, SB 345 makes amendments to statutes within the Nursing Practice Act, Code of Civil Procedure, Education Code, Health and Safety Code, Probate Code, and the Welfare and Institutions Code.

**Board Implementation Plan:**



- Add new sections of law to the Board's Laws and Regulations booklet.

**Board Position:**

Watch

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Senate Bill 372: Department of Consumer Affairs: licensee and registrant records: name and gender changes - Menjivar

Status: Chaptered by Secretary of State. Chapter 225, Statutes of 2023.

Summary of Bill:

SB 372 would require boards to update a licensee's or registrant's license or registration by replacing references to the former name or gender on the license or registration, as specified, if the board receives documentation, as described, from the licensee or registrant demonstrating that the licensee or registrant's legal name or gender has been changed.

The bill would require boards to replace references to the licensee's or registrant's former name or gender with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet as part of the online license verification system.

SB 372 would prohibit boards from publishing the licensee's or registrant's former name or gender online and would instead require them to post an online statement directing the public to contact the board for more information. For licensees who were previously disciplined, the board would be prohibited from posting enforcement records online, but would be required to post an online statement stating that the individual was previously subject to an enforcement action and directing the public to contact the board, as prescribed.

This bill would provide that all records related to a request to update an individual's license or registration under these provisions are confidential and not subject to public inspection or disclosure.

Additionally, the bill would require boards to reissue any license issued to the licensee with their updated legal name or gender if requested. The bill would prohibit a board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender than the fee it charges for reissuing a document with other updated information.

Board Implementation Plan:

- Add new section of law to the Board's Laws and Regulations booklet.
- Create a separate name change paper form and in Connect to initiate the name change process when the documentation and basis relate to this new law, i.e., gender changes, witness protection program, etc.

Board Position:

Watch

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**Senate Bill 802: Licensing boards: disqualification from licensure: criminal conviction - Roth**

**Status:** Hearing cancelled by author and is dead for 2023.

**Summary of Bill:**

In addition to the existing requirement to notify an applicant in writing when the decision to deny an applicant for licensure is made, SB 802 would require that such written notification be carried out within 30 days of that decision.

**Board Position:**

Watch



**7 -  
Regulatory  
Update**



|                |                           |
|----------------|---------------------------|
| <b>DATE</b>    | October 26, 2023          |
| <b>TO</b>      | Acupuncture Board Members |
| <b>FROM</b>    | Board Staff               |
| <b>SUBJECT</b> | Regulatory Update         |

The following list displays the status of the Board's current regulatory packages:

- Division 13.7, Article 6.1 and 6.2, Title 16 CCR sections 1399.469 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines**

| CONCEPT PHASE                |      |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D  | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018                   | 2012 | N/A                         | 12/2020          | 6/2019                              | 6/2021                       |               |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
|                         |                             |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package reflects updates to the Board's Disciplinary Guidelines, which include incorporating relevant portions of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. It brings Board regulations in line with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) which required the development of the Uniform Standards.

The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. Following review from the Regulation Unit, the Board will review revisions to the proposed language and Disciplinary Guidelines at its October 2023 meeting.

**2. Disclosure of Probation Status to Patients – SB 1448  
(Implemented through Disciplinary Guidelines Package – See #3)**

| CONCEPT PHASE                |      |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D  | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018                   | 2012 | N/A                         | 12/2020          | 6/2019                              | 6/2021                       |               |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
|                         |                             |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

These changes (included as part of the package on updating the Board's Disciplinary Guidelines) will establish regulations consistent with SB 1448 (Hill, Chapter 570, Statutes of 2018), which requires licensees on probation pursuant to a probationary order made on or after July 1, 2019, to disclose that status to a patient or their guardian or health care surrogate prior to the patients first visit.

Following review from the Regulation Unit, the Board will review revisions to the proposed language and Disciplinary Guidelines at its October 2023 meeting.

**3. 16 CCR 1399.415, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, Article 3.5:  
Align Curriculum Standards and Approval Related Regulations with Statute:**

| PRODUCTION PHASE                    |                 | FINAL FILING PHASE |              |                |
|-------------------------------------|-----------------|--------------------|--------------|----------------|
| Staff & Legal Counsel Draft Package | Reg Unit Review | OAL Review         | OAL Decision | Effective Date |
| 5/22/2023                           | 6/1/2023        | 6/30/2023          | 8/4/2023     |                |

This package will make additional changes to regulations to ensure compliance with SB 1246 (Lieu, Chapter 397, Statutes of 2014). The law changed the Board's authority from approving schools and colleges of acupuncture to approving education and training programs in acupuncture. It is the second package from the Board in connection with SB 1246.

The regulatory package was converted to a Section 100 package and was filed with OAL on June 30, 2023. Staff withdrew the package on August 4, 2023, due to some necessary technical clean up and pulling over some of the proposed changes to a regular rulemaking. The majority of the proposed Section 100 changes are being revised and will be re-filed at a later date.

4. 16 CCR 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, 1399.419:

**Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service:**

| CONCEPT PHASE                |           |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|-----------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D       | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 11/28/2018                   | 2018/2019 | 3/25/2021                   | 8/26/2021        | 9/2021                              | 12/20/2021                   | 3/29/2021     |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| 9/8/2023                | 10/24/2023                  |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package sets regulations for the Board to approve credential evaluation services for evaluating the foreign education of applicants for licensure including, amendments addressing the licensing examination, documentation required during the applications process, and applications for examination and re-examination.

The regulatory package was submitted to OAL August 28, 2023, and the notice was published on September 8, 2023. The 45-day public comment period ends on October 24<sup>th</sup>. If no comments were received, the package will move into the final filing phase and move through the steps as outlined above.

5. **16 CCR 1399.419.3:  
Application for Retired Status; Retired Status; Restoration**

| CONCEPT PHASE                |        |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|--------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D    | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/2020                       | 4/2019 | 6/13/2019                   | 8/16/2019        | 1/7/2021                            | 9/7/2023                     |               |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
|                         |                             |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package will establish a retired license status, and outline the restrictions of a retired license, as well as how to apply for one and how to restore a retired license to active status. The Board has authority to establish such a license status from BPC Section 464.

The Board approved regulatory language in August 2019, and the package is currently under development by staff and the Regulation Unit. Revisions to the proposed language will be provided at a future Board meeting.



6. 16 CCR 1399.483, 1399.489:  
Continuing Education Requirements

| CONCEPT PHASE                |        |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|--------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D    | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/2020                       | 3/2019 | 3/29/2019                   | 6/23/2023        | 3/26/2021                           | 3/9/2023                     | 9/22/2023     |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
| 10/6/23                 | 11/21/23                    |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package will set requirements for continuing education in law and ethics for licensees (both in terms of the number of units and an end-of-class testing requirements) and clean up existing language. While the Board has previously required law and ethics courses in continuing education for licensees, this has not been the case since 1999.

Edits to the proposed language were approved by the Board at its June 2023 meeting and the regulatory package was submitted to the Director August 11, 2023. The package was approved by Agency and was subsequently filed with OAL on October 6, 2023. The 45-day public comment period ends November 21st. If no comments are received, the package will move into the final filing phase and move through the steps as outlined above.

7. **16 CCR 1399.452.2:  
Standards of Practice for Telehealth Services**

| CONCEPT PHASE                |         |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|---------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D     | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/1/2021                     | 12/2020 | 12/17/2020                  | 3/26/2021        | 3/26/2021                           |                              |               |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
|                         |                             |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package will provide specific guidance and requirements for delivering acupuncture services via telehealth. This was prompted by the COVID-19 pandemic and the subsequent encouragement by the Governor through Executive Orders to use telehealth to maximize the abilities of California's health care workforce.

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff. Following review from the Regulation Unit, the Board will consider revised language at its October 2023 meeting.

**8. 16 CCR 1399.451:  
Hand Hygiene Requirements**

| CONCEPT PHASE                |      |                             | PRODUCTION PHASE |                                     |                              |               |
|------------------------------|------|-----------------------------|------------------|-------------------------------------|------------------------------|---------------|
| Added to Rulemaking Calendar | R&D  | Language taken to Committee | Board Approval   | Staff & Legal Counsel Draft Package | Reg Unit & DCA Budget Review | Agency Review |
| 1/1/2023                     | 2013 | 1/2014                      | 10/2018          | 2014                                |                              |               |

| INITIAL FILING PHASE    |                             |                                               |                                |
|-------------------------|-----------------------------|-----------------------------------------------|--------------------------------|
| Notice Published by OAL | 45-Day Comment Period Ended | Board Approval of Responses and Modified Text | 15-Day Notice of Modified Text |
|                         |                             |                                               |                                |

| FINAL FILING PHASE |                    |            |                            |                |
|--------------------|--------------------|------------|----------------------------|----------------|
| DCA Review         | BCSH Agency Review | OAL Review | Filed w/Secretary of State | Effective Date |
|                    |                    |            |                            |                |

This package was initially approved by the Board in February 2014 to update existing regulations and bring them up to then-current public health and health industry standards. Package was set aside for higher priority regulations and in October 2018 the Board restated its interest in proceeding with regulations. Package was again set aside for higher priority regulations. It is currently under development with staff. Following review from the Regulation Unit, the Board will consider revised language at a future Board meeting.



**8**

**Telehealth  
Services  
Regulation**



1747 N. Market Blvd., Suite 180  
Sacramento, CA 95834  
P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



|                |                                                                                                                                                                                                                                                      |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | October 26, 2023                                                                                                                                                                                                                                     |
| <b>TO</b>      | Board members, Acupuncture Board                                                                                                                                                                                                                     |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator                                                                                                                                                                                                                |
| <b>SUBJECT</b> | Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Section 1399.452.1 in Title 16 of the California Code of Regulations: Standards of Practice for Telehealth Services |

### Background

The provision of medical services over the past three years has increasingly embraced telehealth. Although [Business and Professions \(BPC\) Code section 2290.5](#) provides statutory authority allowing licensed acupuncturists, as well as other Division 2 Healing Arts licensees, to deliver healthcare via telehealth, the Board continues to receive inquiries from public and licensees on the subject. In an effort to provide further guidelines and requirements specific to the delivery of acupuncture services provided via telehealth, staff has developed a telehealth regulation deemed necessary for clarity.

Staff last brought proposed regulatory language for discussion to the Board meeting held March 25 – 26, 2021. The Board voted to approve the proposed regulatory text and directed staff to initiate the rulemaking process.

During the initiation of rulemaking documents, staff worked with new Regulatory Counsel to review the telehealth language once more. In addition, staff applied additional edits to address clarity, consistency, and thoroughness. Revisions to the prior version of the regulatory text have been made and are being brought to the Board for discussion and review. These new changes are in yellow highlight.

### Proposed Amendments:

Staff is proposing the Board review the amendments in yellow highlight and adopt the updated version of new Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of the California Code of Regulations, titled, '*Standards of Practice for Telehealth Services*'. A summary of the amended provisions of the proposed regulation are as follows:

- Subsection (b) was previously under subsection (c), but was moved up in the regulatory text to achieve a more logical sequential order of events or requirements.
- Under subsection (c), informed consent to administer acupuncture services via telehealth was clarified to specify that it can be delivered verbally or in writing. Reference to BPC section 2290.5 was added to clarify that the services permitted be consistent with the authorizing statute to achieve consistency and clarity.

- Subsection (c) paragraph (1) was added as an additional concern to cover during informed consent. Potential risks and limitations of receiving treatment via telehealth as a concern was added based upon research of other boards with telehealth regulations to incorporate best practices. All of the concerns to cover were reordered to be listed by paragraph for ease of readability.
- Subsection (d) was added to address standards for recording patient consent when administered verbally and when provided in writing. This provides for a more complete understanding of the expectations of a licensee when delivering telehealth. It was also included to achieve consumer protection.
- Subsection (e) was added which requires a licensee to provide the patient with their license number. This was based upon research of other boards to incorporate best practices. Since some telehealth platforms are conducted verbally or are the result of a referral under a health insurance plan, the identity of the acupuncturist may not be known at the time services are initiated. Requiring the disclosure of a licensee's license number is with consumer safety in mind.
- BPC section 2290.5 was added under the authority section of the regulatory text.

### **Recommendation**

Staff is recommending the Board adopt each of the proposed edits to the telehealth language as presented today.

### **Recommended Motion Language**

Option 1: Move to Approve

- Rescind the Board's March 2021 order to initiate a rulemaking for this proposal and instead authorize a rulemaking using the proposed language with all of the changes to Division 13.7, Article 5, section 1399.452.1. The Board authorizes initiation and possible adoption of new text as follows:

... Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

If no adverse comments are received during the 45-day comment period and no hearing is requested,

Adopt new Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of CCR as noticed.

And authorize the Executive Officer to take all steps necessary to complete the rulemaking.

Option 2: Move to Approve, as Amended

Move to approve the proposed regulatory text as amended:

---

Note the amendments

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... Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

If no adverse comments are received during the 45-day comment period and no hearing is requested,

Adopt new Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of CCR as noticed.

And authorize the Executive Officer to take all steps necessary to complete the rulemaking.

DEPARTMENT OF CONSUMER AFFAIRS  
Title 16. Acupuncture Board

**PROPOSED REGULATORY LANGUAGE**  
**Standards of Practice for Telehealth Services**

|                |                                                                                                                                                                                                 |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Legend:</b> | Added text is indicated with an <u>underline</u> .<br>Omitted text is indicated by (* * * *)<br>Deleted text is indicated by <del>strikeout</del> .<br>Revisions are in <b>yellow</b> highlight |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Add Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of the California Code of Regulations to read:**

**§1399.452.1. Standards of Practice for Telehealth Services.**

A licensee is permitted to provide acupuncture services listed in section 4937 of the Business and Professions Code (“acupuncture services”), via telehealth as defined in Section 2290.5 of the Code, to a patient physically located in California, subject to the following conditions:

- (a) The licensee shall hold a current, active, and unrestricted license issued by the Board.
- (b) Before the delivery of acupuncture services via telehealth, the licensee shall determine that delivery of acupuncture services via telehealth is appropriate after considering at least the following factors:
  - (1) The licensee’s ability to obtain, confirm, or determine a diagnosis and/or prescribe treatment to a patient in a telehealth setting;
  - (2) The patient’s diagnosis, symptoms, and medical history;
  - (3) The patient’s preference for receiving acupuncture services via telehealth;
  - (4) The nature of the acupuncture services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth; and,
  - (5) The licensee’s competency to deliver such services based upon whether the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of acupuncture services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (c) Prior to the delivery of acupuncture services via telehealth, the licensee shall inform the patient of the use of telehealth, provide the disclosures set forth in this subsection, and obtain **verbal or written** consent from the patient for the use of telehealth as an acceptable mode of delivering acupuncture services **in compliance**



with this section and Section 2290.5 of the Code (“informed consent”). Such informed consent shall be obtained only after the licensee provides disclosures to the patient regarding concerns unique to the receipt of acupuncture services, via telehealth, including the following:

- (1) Potential risks and limitations of receiving acupuncture services via telehealth;
  - (2) Risks to patient confidentiality and information security;
  - (3) Any data storage policies and procedures specific to telehealth;
  - (4) The possibility of disruption and/or interruption of service due to technological failure;
  - (5) Insurance coverage considerations; and
  - (6) Other issues that the licensee can reasonably anticipate regarding the advantages and disadvantages between acupuncture services delivered in person and those delivered via telehealth.
- (d) If the patient’s consent is verbal, the licensee shall note in the patient’s medical record a description of the disclosures made in compliance with subsection (c) and date(s) on which the disclosures were provided to, and the verbal informed consent obtained from, the patient or the patient’s representative, as described in subsection (c). If the patient’s consent is written, the licensee shall retain a written copy in the patient’s medical records of the acknowledgement of receipt of the disclosures required by subsection (c) and informed consent to the use of telehealth as an acceptable mode of delivering acupuncture services that is signed and dated by the patient or the patient’s representative.
- (e) Upon initiation of telehealth services, a licensee shall provide the patient with their name and license number.
- (f) The licensee shall take reasonable steps to ensure that electronic data is transmitted securely and shall inform the patient immediately of any known data breach or unauthorized dissemination of data.
- (g) In providing telehealth services, the licensee shall comply with all other provisions of the Acupuncture Licensure Act, Acupuncture regulations, and all other applicable provisions of law and standards of care in this state related to the practice of acupuncture. Pursuant to Section 4955 of the Code, failure to comply with this section constitutes unprofessional conduct.

Authority: Sections 2290.5 and 4933, Business and Professions Code

Reference: Sections 686, 2290.5, 4927, 4937 and 4955, Business and Professions Code.



9

**Disciplinary  
Guidelines  
Regulations**



|                |                                                                                                                                                                                                                                                                                                         |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | October 26, 2023                                                                                                                                                                                                                                                                                        |
| <b>TO</b>      | Board Members, Acupuncture Board                                                                                                                                                                                                                                                                        |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator                                                                                                                                                                                                                                                                   |
| <b>SUBJECT</b> | Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees |

### **Background**

At its March 28, 2019, meeting, the Board approved regulatory language to update its Disciplinary Guidelines and implement the following:

- SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), Uniform Standards Related to Substance Abusing Licensees;
- SB 1448 (Hill, Chapter 570, Statutes of 2018), Healing arts licensees: probation status: disclosure; and
- AB 2138 (Chiu, Chapter 995, Statutes of 2018), Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

The Board last reviewed the proposed language to update its Disciplinary Guidelines and implement the Uniform Standards Related to Substance Abusing Licensees at its December 2020 public meeting. At that time, the changes were minimal consisting of updating the sections of the Guidelines related to AB 2138 Substantial Relationship Criteria and Criteria of Rehabilitation. Since then, staff has been developing the draft rulemaking documents and submitted them to the Department of Consumer Affairs Regulatory Unit for review in June 2021.

The Regulatory Unit suggested several edits to the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees document as well as revisions to the proposed language. Please note that the last complete Legal review of this rulemaking was with prior Legal Counsel.

### **Discussion:**

#### **Changes to the text of Title 16, California Code of Regulations (CCR) §1399.469**

The amendments of Title 16, CCR §1399.469 to update the Disciplinary Guidelines and implement the Uniform Standards have changed since the Board's December 2020 meeting. Existing amendments to the proposed language establish a presumption that the licensee is a substance abusing licensee if the conduct found to be grounds for discipline involves drugs and/or alcohol. This would give notice to the licensee that they have the burden of rebutting that presumption.

The Office of the Attorney General explained that implementing the rebuttable presumption language presented today provides additional benefits, including, consistency with protection of the public, less costly and more expedient process, and provides more discretion after the Accusation is filed bringing flexibility to impose appropriate discipline in the event sufficient mitigating evidence is provided by the licensee.

Staff also incorporated the "Quarterly Report" form as new subsection (e), made some minor edits for clarity and accurate citation reference to the other areas of the proposed language, which are the same for both options. All changes since the last Board review are in **yellow highlight**.

### **Recommendation:**

Staff recommends the Board adopt the proposed language since the language preserves the Board's ability to exercise disciplinary discretion and prioritize consumer protection.

### **Changes to the 'Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees', incorporated by reference into CCR §1399.469:**

On advice from the Board's regulatory attorneys and Legal Counsel, many edits to the entire document have occurred. Most of the edits are to provide more clarity, remove redundancy or errors, and improve the document as a whole. There have also been some grammatical edits, updates, and changes to any gender-specific pronouns throughout the document. Additions to the document are in **yellow highlight**. Below is an overview of the changes the Board proposes and the reasons for each change.

#### Cover Page (Page 1):

Updated revision date to October 2023 to reflect a proposed adoption date to occur at the October 2023 Board meeting.

#### Table of Contents (Page 2):

Edits more accurately describe sections of the Guidelines and updated page numbers.

#### Introduction (Page 4):

Deleted second paragraph of the introduction explaining the three categories of terms and conditions due to redundancy and the categories being explained further in the Disciplinary Guidelines under the Terms and Conditions section on Page 7.

#### General Considerations (Page 5):

- Re-titled section for better description.
- Added suggested explanation of appropriate deviations from the Guidelines when a case necessitates it and reworded direction to Deputy Attorney Generals (DAGs) and Administrative Law Judges (ALJs) regarding deviations and omissions of the Guidelines for clarity.
- Added new paragraph 'b.' as direction to include terms relating to recommended guidelines, which will improve the clarity of proposed decisions and stipulated settlements.
- Added new paragraph 'c.' as direction to include cost recovery.
- Added Information regarding the Board's authority to discipline in circumstances where the license has expired, cancelled, or surrendered as long as it can be renewed, restored, reissued, or reinstated. Included reference to the Board's laws relating to license cancellation for context and to help improve a DAG's understanding.

- Added note about all Board's disciplinary actions posted to the website pursuant to Business and Professions Code (BPC) section 27.

#### Terms and Conditions (Page 7):

- Added more specific definitions of "special terms and conditions" and when the Board shall apply them to incorporate the proposed regulatory text when a licensee is presumed to be a substance abusing licensee when conduct found to be grounds for discipline involves drugs, or alcohol, or both.

#### List of All Terms and Conditions (Page 8):

- Updated Terms and Conditions titles to improve clarity.
- Removed standard Term and Condition #12 Severability and renumbered of all terms and conditions from #12 through #15.
- Removed special Term and Condition #41 Violation of Probation Condition for Substance Abusing Licensees.

#### Accusations, Statements of Issues, Stipulated Settlements (Page 9):

- In "Statements of Issues" paragraph, updated language concerning license denials for any act or conduct that would warrant a license denial under Stipulated Settlements to align with the enactment of AB 2138 and the approval of the Board's corresponding regulations.
- In the "Stipulated Settlements" paragraph, amended the word "must" to "may be required to" as DAGs may exercise discretion to include certain terms, and corrected "proposed decisions" to "stipulated settlements."

#### Model Language for Probation Orders (Page 10):

Added two new model language orders that require a Respondent to take and pass the exam prior to a license being issued for, 1) when an applicant is granted a license on probation, or, 2) a petitioner is granted reinstatement on probation.

#### Recommended Language for Stipulated Settlements for License Surrenders (Page 12):

Added "Stipulated Settlements for License" in title to make the title clearer and more specific. Edited referencing pronouns and added "or its designee" to allow for a designated probation monitor or other agent to approve a payment plan related to a petition for reinstatement where there is unpaid cost recovery. Also added "on or before the date that" to make the date a Respondent must relinquish their licensure certificate clearer.

#### Factors in Consideration of Penalty (Page 13):

Re-titled section from General Considerations for a better description and specificity regarding factors in consideration of a penalty.

#### Substantial Relationship Criteria (Page 14)

Replaced language with the final order of adoption language from Title 16, CCR section 1399.469.4, which took effect September 2, 2021.

#### Criteria of Rehabilitation (Page 15):

Replaced language with the final order of adoption language from Title 16, CCR section 1399.469.5, which took effect September 2, 2021.

#### Suspensions or Revocations (Page 16):

Replaced language with the final order of adoption language from Title 16, CCR section 1399.469.6, which took effect September 2, 2021.

Reinstatement/Penalty Relief Hearings (Page 17):

- Added reference to Title 16, CCR section 1399.469.6 (b) so the user can refer to the applicable regulation for criteria of rehabilitation in cases of petitions for reinstatement.
- Added a note to the ALJ regarding any other evidence of rehabilitation permitted under Title 16, CCR section 1399.469.6 (b) (7) shall be detailed in the findings of the order.
- Added examples of rehabilitative efforts that a petitioner could provide the Board in a penalty relief hearing to improve clarity.
- Removed redundant examples of rehabilitation.
- Added additional directions for the petitioner and attorneys involved in a penalty relief hearing to improve understanding and provide a clearer process.

Evidence of Mitigation and Rehabilitation (Page 19):

- Added "and Rehabilitation" to the section title to better describe the content of the section.
- Further elaborated on the purpose of a Respondent's role in a disciplinary hearing and settlement process to explain that Respondent may provide mitigating circumstances and has the burden of demonstrating rehabilitation.
- Clarified recent dated letters from counselors from recovery programs or therapy are within the last year.
- Added two additional forms of rehabilitation and admittance of wrongdoing to the list of examples of mitigation and rehabilitation.

Evidence of Aggravation (Page 20):

- Added the phrase "act of dishonesty" to replace "patient's trust" to better conform the description of aggravating circumstances to the language of the Acupuncture Licensure Act.
- Added "False and misleading information provided to the Board" to replace perjury on forms since perjury is a criminal offense and not an administrative violation for discipline.
- Further clarified Board probation violation as an aggravating factor by specifying multiple minor violations of probation since Board probation violations are generally determined to be grounds for revocation.

Proposed Decisions (Page 21):

- Added Term #6. Findings regarding aggravation, mitigation, and rehabilitation to the list of requested items to include in a proposed decision for thoroughness.
- Added Term #7. Cost recovery to the list of requested items to include in a proposed decision as BPC section 4959 authorizes the Board to recover costs of investigation and prosecution.
- Special terms were elaborated upon by adding conditions applying the Uniform Standards Regarding Substance Abusing Licensees to provide more clarity.

Standard Terms and Conditions Term #2 Quarterly Reports (Page 22):

Incorporated the name of the quarterly report form and date into Title 16, CCR section 1399.469 to meet the Administrative Procedure Act (APA) standards.

Added footnote to define day as a calendar day.

Term #6 Tolling of Probation (Page 23):

Added language to indicate that any probationary obligation imposed by the Board's order shall not be suspended by out-of-state residency or practice unless directed by the Board in writing. This provides more authority to the Board over the probationer and serves as a deterrent to licensees moving out of state or ceasing practice just to get out of following the terms of their probation.

Term #7 Restriction on Employing and Supervision of Trainees; Prohibition on Teaching (Page 24):

Added "Prohibition on teaching" to the title of the term to better describe and be more inclusive of the term.

Term #11 License Surrender (Page 25):

Added instructions and requirements for a probationer to surrender their license to the term to provide clarity to the process.

Term #12 Severability Clause (Page 25):

Removed this term per advice from regulatory counsel indicating the court will likely tell the Board what is valid and enforceable if any part of an order is legally challenged. Additionally, the Board may not have authority to make such a declaration.

Term #13 Disclosure of Probation Status (Pages 25-26):

- Added the term conservator in parenthesis to better describe a lesser known term of healthcare surrogate used by the authorizing statute related to this term.
- Added additional clarifying information to the requirements of the written disclosure to improve the language.
- Added a clause to prohibit Respondent from practicing acupuncture until they receive Board approval of their written disclosure.
- Added direction of how to alternatively provide disclosure of probation status to patients when a circumstance occurs that is an exception for the process to be more complete.
- Added an example of a licensee who is exempted from disclosure when they do not have direct contact with a patient to provide more of an understanding for the reader.

Term #14 Maintenance of Clear and Active License (Page 27):

Added clause related to expiration and renewal.

Term #17 Psychological Evaluation (Pages 28-29):

Added note directing the DAG or ALJ to always include probation terms 20, Psychotherapy, and 31, Supervised Practice, when Term #17 is included in an order. This addresses the scenario of when an evaluation finds that a licensee is not fit to practice on their own. By having the supervision term in the order ready to be utilized, if required, resolves the implementation and mechanics of how the supervision will work.

Term #19 Practice/Billing Monitor (Pages 30-31):

- Added "current" and "unrestricted" license to the requirements of a monitor to strengthen the term.

- Added language about the types of records the monitor will have access to and is required to be available for inspection and copying by the Board for more clarity.
- Added language to provide more specificity and improve understanding of the conditions associated with this term.

Term #20 Psychotherapy (Page 32):

- Timeline to comply with term has been changed from 15 days to 30 days to align with Term #17 Psychological Evaluation.
- Current and active license was added to the requirements of the psychologist or psychotherapist to strengthen the term.
- Language was added to provide more specificity and improve understanding of the conditions associated with this term.

Term #21 Restrictions on Patient Population or Practice Setting (Page 33):

- Added examples for types of patient groups and settings that would be restricted to improve understanding.
- Strengthened term by requiring Respondent to provide copies of policies and procedures along with their written plan to implement the restriction(s).
- Added language explicitly stating that Respondent is to cease practice prior to receiving approval of their plan to implement or follow restriction(s) for clarity.
- Strengthened enforcement of term by requiring Respondent to provide patient records and copies of policies and procedures when requested by the Board or its designee.
- Included an additional note to the Deputy Attorney General to provide potential requirements for the ALJ's consideration when listing requirements that a Respondent's plan shall include.

Term #22 No Solo Practice (Page 33):

- Added language to provide more specificity and improve understanding of the conditions associated with this term.
- Added examples for the types of appropriate practice settings to comply with a no solo practice restriction.
- Added language to provide more specificity on the mechanics of how the term operates regarding when Respondent fails to secure a practice setting in compliance with the no solo practice restriction for clarity.
- Added examples of practice setting changes to improve understanding.

Term #23 Restrictions on Practice Techniques and Modalities (Page 34):

- Added examples of the types of modalities or techniques that are subject to restriction to improve understanding.
- Strengthened term by requiring Respondent to provide copies of policies and procedures along with their written plan to implement the restriction.
- Added language for clarity that states Respondent is to cease practice prior to receiving approval of their written plan on implementation of the ordered restriction(s).
- Strengthened enforcement of term by requiring Respondent to provide patient records and copies of policies and procedures when requested by the Board or its designee.



- Included an additional note to the Deputy Attorney General to provide potential requirements for the ALJ's consideration when a list of requirements for Respondent's plan is included in the order.

Term #24 Examination(s) (Page 34):

- Provided clarification on the current exam by including a reference to BPC section 4938, the statute that identifies the exam required for acupuncture licensure.

Term #26 Alcohol and Drug Abuse Treatment Program (Pages 35-36):

- Added "Or licensed therapist" to the term to allow for other qualified license types to oversee treatment programs in addition to psychologists.
- Added a sub-heading and additional note to make it clear that the special terms and conditions are to be used in lieu of other similar terms (such as this optional term) when a licensee is determined to be a substance abusing licensee.

Term #27 Attend Chemical Dependency Support and Recovery Groups (Pages 36-37):

- Added language to explicitly state that Respondent is required to pay all chemical dependency support group meeting costs.
- Added a note to make it clear that the special Term and Condition #37, Substance Abuse Support Group Meetings be used in lieu of this optional term when a licensee is determined to be a substance abusing licensee, as well as all of the other special terms and conditions.

Term #28 Abstain from Drugs and Alcohol and Submit to Tests and Samples (Pages 37-38):

- Added language to provide more specificity on the process for Respondent to provide documentation of legitimately prescribed medication information to the Board to strengthen the term and enforcement of the term.
- Added a sub-heading and additional note to make it clear that the special terms and conditions are to be used in lieu of other similar terms (such as this optional term) when a licensee is determined to be a substance abusing licensee. Special Terms and Conditions #36 and #39 (biological fluid testing and abstain from drugs and alcohol) were specifically required to be used in lieu of Term #28.

Term #29 Coursework (Page 38):

- Changed the term from previously having the Board or its designee provide the coursework requirements and number of hours outside of the Decision to providing blanks where the ALJ or DAG insert the coursework area(s) and hours required. This change allows for upfront transparency and consistency (if part of a stipulated order) from Respondent.
- Added examples of types of coursework areas to improve understanding.
- Added specific requirements of the coursework plan for clarity and increased enforcement of the term.

Term #30 Community Service (Page 39):

Added language to provide more specificity and improve understanding of the conditions associated with this term.

Term #31 Supervised Practice (Pages 39-40):

- Added examples of population of patients that may be restricted to treating under supervision to improve understanding.
- Added current and unrestricted license to the requirements of an acupuncturist required for supervision to strengthen the term.
- Added language shifting the responsibility of submitting the supervisor's report to the Board to the responsibility of submission falling on Respondent.
- Added levels of supervision through three options have been to strengthen the term and improve clarity.
- Added a note to include this term in cases where incompetence, repeated acts of negligence, or gross negligence violations occurred and/or every time a psychological evaluation is included as part of the probationary order.

Term #32 Notification of Probationer Status to Employers (Page 41):

- Added a 10-day deadline to require Respondent to provide their employer with a copy of their Accusation, Initial Probation License Order, or Decision and Order to provide more enforcement over the term.
- Added 30 day reporting requirement that provides the requirements of the report to establish a standard reporting process for this condition.
- Added requirement for written consent to ensure each employee of the probationer is aware of their employer's probation and the terms and conditions they must comply with.

Term #33 Notification of Probationer Status to Employees (Pages 41-42):

Added timelines and language on the requirements of how Respondent reports employee information to the Board and provides their employee(s)' acknowledgment of Respondent's terms and conditions to improve the operation of the term.

Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (Page 43):

- Expanded the title of the section to add the terms "Applying the Uniform Standards Regarding Substance Abusing Licensees" for more specificity and clarity.
- Edited the introduction to incorporate reference to the most current edition of the Uniform Standards document from March 2019.
- Added a note to the introduction indicating that there is no prohibition on including other optional terms and conditions to address a substance abusing licensee through settlement terms to provide more clarity.

Term #34 Clinical Diagnostic Evaluations and Reports (Pages 43-45):

- Added language to provide more specificity and improve understanding of the conditions associated with this term.
- Added the recommendation of the clinical evaluation report as a factor for the Board to consider whether Respondent is safe to return to practice full time or with restrictions.
- Added a note stating all costs associated with completion of a drug or alcohol abuse treatment program shall be paid by the Respondent for clarity.

Term #35 Notice of Employer or Supervisor Information (Pages 45-46):

Amended deadline from 14 days to 30 days for consistency with other terms of probation.

Term #36 Biological Fluid Testing (Pages 46-49):

- Included updates from Uniform Standard #4 from the revised March 2019 version of the Uniform Standards document in this term. Specifically, added factors to consider where the frequency of testing can be reduced.
- Added subheading to the term delineating the language of the term that calls out the process and consequences for positive test results so it is clear there is no action required by Respondent, but is relevant for transparency and reference to the Uniform Standards language.
- Added a note about requiring prior approval from the Board when an alternate testing schedule is requested for clarity and enforcement purposes.

Term #37 Substance Abuse Support Group Meetings (Pages 49-50):

- Added criteria from Uniform Standard #5 to take under consideration when the Board determines frequency and duration of group meeting attendance to make the term more complete.
- Added a 15-day deadline to start participation in support group meetings was for enforcement purposes and more clarity.

Term #39 Abstain from Drugs and Alcohol (Pages 51-52):

Moved the majority of language from optional Term #29, Abstain from Drugs and Alcohol and Submit to Tests and Samples, into its own new special term and condition to be used for substance abusing licensees. This new term now explicitly addresses the fact that substance abusing licensees need to abstain from non-prescribed drugs and alcohol as part of their probation when the other special terms and conditions are applied. Language was added for clarification on the procedure for when the Board receives a positive test for Respondent and makes reference to the biological fluid testing special term and condition which elaborates on the process more.

Term #41 Violation of Probation Condition for Substance Abusing Licensees (Page 51):

Deleted this term per advice from regulatory counsel indicating the term does not act as a probationary term and condition, and is not necessary for inclusion in the Disciplinary Guidelines.

Index of Violations (Page 54):

Amended title references to each code section to ensure the titles are original and do not utilize any copyright published titles.

Recommended Action by Violation of General California Business and Professions Code Provisions (Pages 56-66):

- Updated all violation section titles to correspond with the changes made on the Index of Violations.
- Added the preface, "with the following conditions" throughout the entire section wherever probation is recommended for clarity.

**Recommendation:**

Staff is recommending the Board adopt each of the proposed edits to the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees as presented today.

**Motion**

Approve Proposed Language as is:

I Move the Board:

- Rescind the Board’s December 2020 order to initiate a rulemaking for this proposal, relating to Articles 6.1, 6.2, and section 1399.469 of the California Code of Regulations (CCR), Title 16, and approve new Articles 6.1, 6.2, and the newly proposed regulatory text for section 1399.469, including the incorporated disciplinary guidelines and quarterly report presented at this meeting. The Board authorizes initiation and possible adoption of new text as follows:

... Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer and Board staff to take all steps necessary to complete the rulemaking and amend section 1399.469 and adopt new Articles 6.1 and 6.2 of Division 13.7 of Title 16 of CCR as noticed.

Approve Proposed Language as Amended:

Move to approve the proposed regulatory text as amended:

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Note the amendments

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... and direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and amend section 1399.469 and adopt new Articles 6.1 and 6.2 of Division 13.7 of Title 16 of CCR as noticed.

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 16. ACUPUNCTURE BOARD

PROPOSED REGULATORY LANGUAGE

Update to Disciplinary Guidelines and Implementation of Uniform Standards Related to  
Substance-Abusing Licensees

**Legend:** Added text is indicated with an underline.  
Omitted text is indicated by (\* \* \* \*)  
Deleted text is indicated by ~~strikeout~~.  
Text in **highlight** indicates changes applied since last Board review.

Adopt new Article 6.1 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.463, 1399.464, 1399.465, 1399.466, 1399.467, and 1399.468. The text of these sections would not change. The title and article would read as follows:

Article 6.1. Citations

Adopt new Article 6.2 and title in Division 13.7 of Title 16 of the California Code of Regulations and to include sections 1399.469, 1399.469.1, 1399.469.2, and 1399.469.3. The text of these sections would not change, except for § 1399.469 detailed below. The title and article would read as follows:

Article 6.2 Enforcement

Amend Section 1399.469 of Article 6.2 of Division 13.7 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.469. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the Acupuncture Board shall consider the disciplinary guidelines entitled "~~Department of Consumer Affairs, Acupuncture Board 'Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees' 1996 (Revised October 2023),~~" which are hereby incorporated by reference. ~~Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems.~~

(b) **Notwithstanding subdivisions (a) and (c), the Board shall apply the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees ("special**

terms and conditions”) in the disciplinary guidelines without deviation whenever this subdivision applies in a particular case. If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees, the special terms and conditions shall apply as written and be used in the order placing the license on probation.

(c) Deviation from the disciplinary guidelines and the orders referenced therein, including the standard terms of probation, is appropriate where the Acupuncture Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(d) Nothing in subdivision (b) shall be construed to prohibit the Acupuncture Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Acupuncture Board’s disciplinary guidelines referenced in subsection (a) in any order that the Acupuncture Board determines would provide greater public protection.

(e) Reports by disciplined licensees required by an order of the Board shall be filed quarterly on the form “Quarterly Report” (10/2023), which is hereby incorporated by reference.

NOTE: Authority cited: Sections 315, 4928, and 4933, Business and Professions Code; and Sections 11400.20, and 11425.50(e) and 11400.21, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; Sections 11400.20, 11400.21 and 11425.50(e) of the, Government Code.

*~~Department of Consumer Affairs~~*

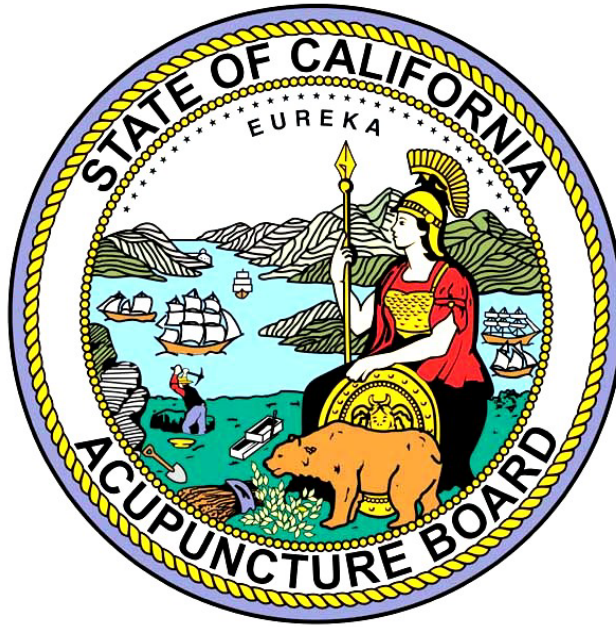
*~~Medical Board of California~~*

**~~ACUPUNCTURE  
COMMITTEE~~**

**~~DISCIPLINARY  
GUIDELINES~~**

**~~1996~~**

# Acupuncture Board



## Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees

Revised October 2023

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov).



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## Introduction

The Acupuncture ~~Committee~~ (AC) ~~Board~~ (Board) is a consumer protection agency with the primary mission of protecting consumers of acupuncture services from potentially harmful licensees. In keeping with its obligation to protect the consumer, the AC ~~Board~~ has adopted the following recommended “Acupuncture Board Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (Revised October 2023)” (hereafter “Guidelines”) for disciplinary orders and conditions of probation for violations of the Acupuncture Licensure Act.

~~The AC recognizes that a rare individual case may necessitate a departure from these Guidelines for disciplinary order. However, in such a rare case, the mitigating circumstances must be detailed in the "Findings of Fact" which is in every Proposed Decision or Stipulation.~~

These Guidelines are designed for use by attorneys, administrative law judges, acupuncturists, others involved in the disciplinary process, and ultimately the Board. They may be revised from time to time and shall be distributed to interested parties upon request.

These Guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The Guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

## GENERAL CONSIDERATIONS

Selecting conditions of discipline appropriate to individual cases may necessitate deviations from these Guidelines, including taking into account particular mitigating or aggravating circumstances. However, absent significant extenuating or mitigating circumstances, the penalty and probation provisions of these Guidelines should be followed by those individuals representing the Board in disciplinary actions.

Whenever a Proposed Decision or stipulation varies from the conditions contained in the following Guidelines, the Board encourages both the deputy attorney general who negotiated the stipulation or the administrative law judge who heard the case to explain any deviations or omissions from the Guidelines. Such explanations better inform the Board and understand the circumstances and reasons for any changes or deviations from these Disciplinary Guidelines. As the Board's highest priority in exercising its disciplinary function is public protection pursuant to Business and Professions Code section 4928.1, these Guidelines should not be construed as prohibiting an administrative law judge or the Board from imposing, consistent with applicable law, additional terms and conditions of probation which would provide greater public protection.

To enhance the clarity of a Proposed Decision or stipulation-stipulated settlement, the AG Board requests the following:

- a. that ~~a~~ All optional standard conditions that are being imposed be listed first in sequence followed immediately by all of the ~~standard optional and special~~ terms and conditions that are being imposed.
- b. When suspension or probation is recommended, the Board requests that the disciplinary order include terms within the recommended Guidelines for that offense unless the reason for departure from the Guidelines is clearly set forth in the findings and supported by the evidence.
- c. Reimbursement to the Board for costs of investigation and prosecution as warranted pursuant to Business and Professions Code section 4959 or a clear explanation why cost recovery is not included in the Disciplinary Order. (Section 4959 does not preclude the Board from seeking recovery of costs through stipulations; thus, it does not change the Board's policy of requesting and recovering costs where appropriate in stipulated settlements.)

If at the time of hearing, the administrative law judge finds that the respondent, for any reason, is not capable of safe practice, the AG Board expects outright revocation of the license. This is particularly true in cases of patient sexual abuse or bodily harm. In less egregious cases, a stayed revocation with probation pursuant to the ~~attached~~ Penalty Guidelines ~~would be~~ is expected.

The Board has jurisdiction to impose discipline in the following circumstances:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. (Bus. & Prof. Code, § 118.)

Note that Business and Professions Code section 4966 allows a license that has expired to be renewed at any time within three (3) years after its expiration by filing of an application for renewal on a form provided by the board, paying all accrued and unpaid renewal fees, and providing proof of completing continuing education requirements. Business and Professions Code section 4967 prohibits a person who failed to renew their license within three (3) years from renewing it, and the license may not be restored, reissued, or reinstated thereafter.

All disciplinary actions will be published pursuant to Board policy and the requirements of Business and Professions Code section 27.

~~The Board has adopted the "Department of Consumer Affairs, Acupuncture Board, Disciplinary Guidelines, 1996" as an administrative regulation pursuant to the Administrative Procedures Act. (Government Code Section 11400.20, 11400.21 and 11425.50, Sub. (E); Operative 7/1/97 [Statutes of 1995, Chapter 938, Section 98].)~~

## Terms and Conditions

~~Terms and conditions of probation are divided into two categories. The first category consists of optional terms and conditions that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the standard terms and conditions which must appear in all proposed decisions and proposed stipulated settlements.~~

The terms and conditions of probation are divided into three general categories:

1. Standard Conditions are those conditions of probation which should be used in all cases.
2. Optional Conditions are those conditions of probation which may be used to address the sustained violations and any significant mitigating or aggravating circumstances of a particular case.
3. Special terms and conditions are those terms and conditions of probation applicable to substance-abusing licensees and shall be applied as set forth in Title 16, California Code of Regulations section 1399.469(b), which provides, in part:

[The Board shall apply the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees in the Disciplinary Guidelines (“special terms and conditions”) without deviation whenever this subdivision applies in a particular case if the conduct found to be grounds for discipline involves drugs, or alcohol, or both, and the licensee does not rebut the presumption they are a substance abusing licensee pursuant to Title 16, California Code of Regulations section 1399.469, subdivision (b), then the special terms and conditions in the Disciplinary Guidelines shall be used in any probationary order of the Board affecting that licensee.]

# **List of all Terms and Conditions**

## **Standard Terms and Conditions**

- |          |                                                                        |           |                                                                                  |
|----------|------------------------------------------------------------------------|-----------|----------------------------------------------------------------------------------|
| <u>1</u> | <u>Obey All Laws</u>                                                   | <u>9</u>  | <u>Violation of Probation</u>                                                    |
| <u>2</u> | <u>Quarterly Reports</u>                                               | <u>10</u> | <u>Probation Monitoring Costs</u>                                                |
| <u>3</u> | <u>Monitoring Program</u>                                              | <u>11</u> | <u>License Surrender</u>                                                         |
| <u>4</u> | <u>Interview with the Board or Its Designee</u>                        | <u>12</u> | <u>Notification of Name, Address, Telephone Number or E-mail Address Changes</u> |
| <u>5</u> | <u>Changes of Employment</u>                                           | <u>13</u> | <u>Disclosure of Probation Status</u>                                            |
| <u>6</u> | <u>Tolling of Probation</u>                                            | <u>14</u> | <u>Maintenance of Clear and Active License</u>                                   |
| <u>7</u> | <u>Employment and Supervision of Trainees; Prohibition on Teaching</u> | <u>15</u> | <u>Completion of Probation</u>                                                   |
| <u>8</u> | <u>Cost Recovery</u>                                                   |           |                                                                                  |

## **Optional Terms and Conditions**

- |           |                                                               |           |                                                                       |
|-----------|---------------------------------------------------------------|-----------|-----------------------------------------------------------------------|
| <u>16</u> | <u>Actual Suspension</u>                                      | <u>25</u> | <u>Restitution</u>                                                    |
| <u>17</u> | <u>Psychological Evaluation</u>                               | <u>26</u> | <u>Alcohol and Drug Abuse Treatment Program</u>                       |
| <u>18</u> | <u>Physical Examination</u>                                   | <u>27</u> | <u>Attend Chemical Dependency Support and Recovery Groups</u>         |
| <u>19</u> | <u>Practice/Billing Monitor</u>                               | <u>28</u> | <u>Abstain from Drugs and Alcohol and Submit to Tests and Samples</u> |
| <u>20</u> | <u>Psychotherapy</u>                                          | <u>29</u> | <u>Coursework</u>                                                     |
| <u>21</u> | <u>Restrictions on Patient Population or Practice Setting</u> | <u>30</u> | <u>Community Service</u>                                              |
| <u>22</u> | <u>No Solo Practice</u>                                       | <u>31</u> | <u>Supervised Practice</u>                                            |
| <u>23</u> | <u>Restrictions on Practice Techniques and Modalities</u>     | <u>32</u> | <u>Notification of Probationer Status to Employers</u>                |
| <u>24</u> | <u>Examination(s)</u>                                         | <u>33</u> | <u>Notification of Probationer Status to Employees</u>                |

## **Special Terms and Conditions**

- |           |                                                           |           |                                                         |
|-----------|-----------------------------------------------------------|-----------|---------------------------------------------------------|
| <u>34</u> | <u>Clinical Diagnostic Evaluations and Reports</u>        | <u>37</u> | <u>Substance Abuse Support Group Meetings</u>           |
| <u>35</u> | <u>Notification of Employer or Supervisor Information</u> | <u>38</u> | <u>Worksite Monitor for Substance Abusing Licensees</u> |
| <u>36</u> | <u>Biological Fluid Testing</u>                           | <u>39</u> | <u>Abstain from Drugs and Alcohol</u>                   |

## Accusations

The Board has the authority, pursuant to section ~~425.3~~ 4959 of the Business and Professions Code, to recover costs of investigation and prosecution of its cases. The AG Board requests that this fact be included in the pleading and made part of the accusation.

## Statements of Issues

The AG Board will file a Statement of Issues to deny an application of licensure under Business and Professions Code section 480 and 4955 ~~a candidate for the commission of an act which if committed by a licensee would be cause for license discipline~~ for any action or conduct that would have warranted the denial of the acupuncture license, and/or upon any other applicable grounds listed in sections 4955, 4955.1, and 4955.2.

## Stipulated Settlements

The AG Board will consider agreeing to stipulated settlements to promote cost effective consumer protection and to expedite disciplinary Decisions. The Respondent should be informed that in order to stipulate to a settlement with the AG Board, ~~he/she~~ Respondent ~~must~~ may be required to admit to the violations set forth in the accusation. All Proposed Decisions stipulated settlements must be accompanied by a memo from the Deputy Attorney General addressed to AG Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

## **Model Language for Probation Orders**

When a stipulated settlement or Proposed Decision orders probationary terms and conditions (including standard, optional, or special terms and conditions, or a combination of all three), the Board recommends the following disciplinary order language be used:

- **Licensees:** It is hereby ordered, Acupuncture license no. AC-\_\_\_\_\_, issued to Respondent \_\_\_\_\_, is hereby revoked; however, the revocation is stayed and Respondent's license is placed on probation for \_\_\_\_\_ years on the following terms and conditions:
- **Applicants:** It is hereby ordered, the application of Respondent \_\_\_\_\_ for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements including payment of all fees and evaluation of the application, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent's license placed on probation for a period of \_\_\_\_\_ years on the following conditions:
- **Model Order for Granting Application and Placing License on Probation after Applicant Completes Conditions Precedent:** The application filed by Respondent \_\_\_\_\_ for initial licensure is hereby granted and a license shall be issued upon the following conditions precedent (list conditions precedent such as restitution, completion of continuing education, completion of rehabilitation program, take and pass licensing exam within \_\_\_\_\_ (months/year) of the effective date of this Decision, etc.). Upon completion of the conditions precedent above and successful completion of all licensing requirements, Respondent shall be issued a license. However, the license shall be immediately revoked, the revocation shall be stayed, and Respondent shall be placed on probation for a period of \_\_\_\_\_ years under the following terms and conditions:
- **Reinstatements with conditions of probation:** It is hereby ordered, the petition of \_\_\_\_\_ for reinstatement of Respondent's acupuncture license is hereby GRANTED, as follows.

Acupuncture license number AC-\_\_\_\_\_ is reinstated. The license will then be immediately revoked; however, the revocation is stayed and petitioner is placed on probation for \_\_\_\_\_ years on the following terms and conditions:

**NOTE:** If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation condition requiring payment of original cost recovery on a payment plan must be included in the reinstatement and Decision.



- **Reinstatements Placing License on Probation after Petitioner Completes Conditions Precedent:** The petition for reinstatement filed by \_\_\_\_\_ is hereby granted and Petitioner's license shall be fully reinstated upon the following conditions precedent (list conditions precedent such as restitution, cost reimbursement, completion of continuing education, completion of rehabilitation program, take and pass licensing exam, etc.): Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a license, Petitioner's license shall be reinstated. Upon reinstatement, Petitioner's license shall be revoked. However, said revocation shall be stayed and Petitioner shall be placed on probation for a period of \_\_\_\_\_ years under the following terms and conditions:

## Recommended Language for Stipulated Settlements for License Surrenders

If Respondent should ever apply or reapply for a new license, or petition for reinstatement of a license, Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 4959 in the amount of \$ \_\_\_\_\_ prior to issuance of a new or reinstated license. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee.

Respondent shall relinquish their wall and pocket certificate of licensure to the Board or its designee on or before the date that this Decision becomes effective.

## **Factors in Consideration of Penalty**

In determining whether revocation, suspension, or probation is to be imposed in a given case, mitigating or aggravating factors, such as the following, should be considered:

1. Actual or potential harm to any consumer, client, or the public.
2. Number and/or variety of current violations.
3. Time that has elapsed since commission of act(s) or crimes(s).
4. Evidence of aggravation.
5. Evidence of rehabilitation submitted by Respondent.
6. Whether or not the Respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
7. Respondent's ability or inability to convey remorse for Respondent's wrongdoing and whether Respondent accepts or does not accept responsibility for the actions which are resulting in the imposition of discipline on Respondent's license.
8. Evidence that Respondent was dishonest, untruthful, or engaged in corruption during the pendency of the Board's proceedings.
9. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if Respondent is being held to account for conduct committed by another, the Respondent had knowledge of or knowingly participated in such conduct.
10. The financial benefit to the Respondent from the misconduct.

No one of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

## Substantial Relationship Criteria

Title 16 California Code of Regulations section 1399.469.4 states:

(a) For the purpose of denial, suspension, or revocation of a license pursuant to 4955.1, or 4955.2 of the Business and Professions Code, a crime, professional

[REDACTED]

(b) In making the substantial relationship determination required under subsection (a) for a crime, the Board shall consider the following criteria:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense.

[REDACTED]

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 12,

(2) Conviction of a crime involving fiscal dishonesty.

Effective September 2, 2021

# Criteria of Rehabilitation

## A. Denial

(a) When considering the denial of a license under Section 480 of the Business and Professions Code, the Board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1) The nature and gravity of the crime(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (a), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 4955, 4955.1, and 4955.2 of the Business and Professions Code, the Board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1) The nature and gravity of the act(s), professional misconduct or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s), professional misconduct or crime(s) committed subsequent to the act(s), professional misconduct or crime(s) under consideration as grounds for denial.

(3) The time that has elapsed since commission of the act(s), professional misconduct or crime(s) referred to in paragraphs (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

Effective September 2, 2021

## B. Suspensions      Revocations

Title 16 California Code of Regulations section 1399.469.6 states:

(a) When considering the suspension or revocation of a license under Section 490 of

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(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or

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(5) The extent to which the terms or conditions of parole or probation were modified

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(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the Board determines that the applicant did not make the

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(1) The nature and gravity of the act(s), disciplinary action(s), or crime(s).

(2) The total criminal record.

(3) The time that has elapsed since commission of the act(s), disciplinary action(s), or crime(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such licensee.

(5) The criteria in subsection (a)(1) to (5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of

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(c) When considering a petition for reinstatement of a license under the provisions of

evidence of rehabilitation submitted by the petitioner considering those criteria

Effective September 2, 2021

## Reinstatement/Penalty Relief Hearings

The primary concerns of the AC Board at reinstatement or penalty relief hearings are is that the evidence presented by the petitioner of his/her **their** rehabilitation **not**. The AC is not interested in retrying the original revocation or probation case re-litigating the facts of the original disciplinary case in determining whether or not to grant reinstatement.

When considering a petition for reinstatement of a license under the provisions of Section 4960.5 of the Business and Professions Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in California Code of Regulations section 1399.469.6 subsection (b).

The AC will consider the following criteria of rehabilitation:

- ~~1. Nature and severity of the act(s) or offense(s).~~
- ~~2. Total criminal record.~~
- ~~3. The time that has elapsed since commission of the act(s) or offense(s).~~
- ~~4. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.~~
- ~~5. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.~~
- ~~6. Evidence, if any, of rehabilitation submitted by the licensee or registration holder.~~

~~In the Petition Decision, The AC Board requests that would appreciate a summary of the offense and the specific codes violated which resulted in the revocation, surrender or probation of the license be included in the Petition Decision.~~

The AC Board requests that the administrative law judge provide detailed findings regarding any evidence of rehabilitation submitted by petitioner pursuant to section 1399.469.6, subsection (b)(7), including, but not limited to comprehensive information be elicited from the petitioner regarding his/her rehabilitation. The petitioner should provide details which include:

1. Continuing education pertaining to the offense and its effect on the practice of acupuncture.
2. Specifics of rehabilitative efforts and results which should include recovery programs, psychotherapy, medical treatment, etc., and the duration and outcomes of such efforts. This may include letters from recognized recovery programs (such as state licensed or court approved recovery programs) or healthcare professionals addressed to the Board and providing current sobriety and length of time of sobriety if there has been a history of alcohol or drug abuse, or current physical or mental health condition and ability to practice acupuncture safely.

3. If applicable, copies of court documents pertinent to conviction, including documents specifying conviction and sanctions, and proof of completion of sanctions.
4. If applicable, copy of Certificate of Rehabilitation or evidence of expungement proceedings.
5. If applicable, evidence of compliance with and completion of terms of probation, parole, restitution, or any other sanctions.
6. A ~~culpability or excludability~~ **rehabilitation** statement. When considering the reinstatement of a surrendered or revoked license or an early termination or modification of probation on the grounds that the petitioner was convicted of a crime, the petitioner should provide details regarding rehabilitation that include a description of the conviction, the circumstances surrounding the conviction, and any rehabilitation efforts or changes in life since the conviction to prevent future problems. This information may be provided by petitioner in a letter addressed to the Board.
7. Letters of reference from professors or colleagues within the field of acupuncture.
8. Letters of reference from past and/or current employers.
9. Letters of reference from other knowledgeable professionals, such as probation or parole officers.

**Any information and written statements submitted on behalf of petitioner shall be subject to further verification by Board staff.**

If the AG Board should deny a request for reinstatement of licensure or penalty relief, the AG Board requests that the administrative law judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial. Such language would include methodologies or approaches which would demonstrate rehabilitation.

If a petitioner fails to appear for ~~his/her~~their scheduled reinstatement or penalty relief hearing, such action shall result in a default Decision to deny reinstatement of the license or reduction of penalty pursuant to Government Code section 11520.



## **Evidence of Mitigation and Rehabilitation**

The Respondent is permitted to present mitigating circumstances at a hearing or during the settlement process and has the burden of demonstrating any rehabilitative or corrective measures they have taken. The Board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form or admissibility of such evidence. The Respondent must produce admissible evidence in the form required by law in the absence of a stipulation to admissibility by the complainant.

The following documents are examples of appropriate factors or evidence the Respondent may submit for the Board's consideration to demonstrate mitigating circumstances and/or Respondent's rehabilitative efforts and competency in acupuncture:

1. Recent (within the last year), dated letters from counselors regarding Respondent's participation in a recognized rehabilitation or recovery program (such as state licensed or court approved rehabilitation or recovery programs), or ongoing therapy, where appropriate. These should include a description of the program, the number of sessions the Respondent has attended, the counselor's diagnosis of Respondent's condition and current state of rehabilitation (or improvement), the counselor's basis for determining improvement and/or rehabilitation, and the credentials of the counselor.
2. Recent (within the last year), dated letters describing Respondent's participation in state or nationally recognized support groups, e.g., Alcoholics Anonymous, Narcotics Anonymous, etc., where appropriate, and sobriety date.
3. Recent, dated laboratory analyses or drug screen reports, where appropriate.
4. Recent, dated physical examination or assessment report by a licensed physician and surgeon, nurse practitioner, or physician assistant.
5. Certificates or transcripts of courses related to acupuncture which Respondent may have completed since the date of the violation.
6. Written, dated statements showing the licensee has cooperated with the board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
7. A letter from the licensee acknowledging Respondent's wrongdoing and providing a plan of corrective action to prevent recurrence.

## **Evidence of Aggravation**

The following are examples of aggravating circumstances which may be considered by the Board:

1. An act of dishonesty against a patient where the patient's health, safety, or welfare was jeopardized.
2. An act of dishonesty against a patient or employer (e.g., theft, embezzlement, fraud, or other documents with legal significance).
3. History of prior discipline with the Board.
4. Patterned behavior, which occurs when the Respondent has a history of one or more violations or convictions related to the current violation(s).
5. False or misleading information provided to the Board on official Board forms.
6. Violent nature of crime or act.
7. Multiple minor violations of Board Probation.
8. Commission of any crime against a minor, or while knowingly in the presence of, or while caring for, a minor.

# Proposed Decisions

The **AG Board** requests that Proposed Decisions include the following:

1. Names and addresses of all parties to the action.
2. Specific code section violated with the definition of the code in the Determination of Issues.
3. Clear description of the acts or omissions which caused the violation.
4. Respondent's explanation of the violation if ~~he/she~~ Respondent is present at the hearing in the findings of fact.
5. Explanation of deviation from the AG's Board's Disciplinary Guidelines.
6. Where appropriate, findings regarding aggravation, mitigation, and rehabilitation.
7. Cost recovery, if warranted pursuant to Business and Professions Code section

When a probation order is imposed, the **AG Board** requests that the order first list all of the Standard Terms and Conditions (1-15) followed by any combination of the Optional Terms and Conditions (16-33) or Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (34-39) as they may pertain to the case.

If the Respondent fails to appear for ~~his/her~~ their scheduled hearing or does not submit a Notice of Defense form, such inaction shall result in a default Decision to revoke licensure or deny application pursuant to Government Code section 11520.

# Standard Terms and Conditions

(To be included in all Decisions)

|          |                                                                        |           |                                                                                  |
|----------|------------------------------------------------------------------------|-----------|----------------------------------------------------------------------------------|
| <u>1</u> | <u>Obey All Laws</u>                                                   | <u>9</u>  | <u>Violation of Probation</u>                                                    |
| <u>2</u> | <u>Quarterly Reports</u>                                               | <u>10</u> | <u>Probation Monitoring Costs</u>                                                |
| <u>3</u> | <u>Monitoring Program</u>                                              | <u>11</u> | <u>License Surrender</u>                                                         |
| <u>4</u> | <u>Interview with the Board or Its Designee</u>                        | <u>12</u> | <u>Notification of Name, Address, Telephone Number or E-mail Address Changes</u> |
| <u>5</u> | <u>Changes of Employment</u>                                           | <u>13</u> | <u>Disclosure of Probation Status</u>                                            |
| <u>6</u> | <u>Tolling of Probation</u>                                            | <u>14</u> | <u>Maintenance of Clear and Active License</u>                                   |
| <u>7</u> | <u>Employment and Supervision of Trainees; Prohibition on Teaching</u> | <u>15</u> | <u>Completion of Probation</u>                                                   |
| <u>8</u> | <u>Cost Recovery</u>                                                   |           |                                                                                  |

## **1. 13 Obey All Laws**

Respondent shall obey all federal, state, and local laws, and all regulations governing the practice of acupuncture in California, and remain in full compliance with any court ordered criminal probation terms, payments, and/or other orders. A full and detailed account of any and all violations of law shall be reported by the Respondent to the AC Board or its designee in writing within seventy-two (72) hours of occurrence.

## **2. 14 Quarterly Reports**

Respondent shall submit quarterly declarations reports under penalty of perjury on the form entitled "Quarterly Report" (10/2023) which is incorporated by reference in Title 16, CCR section 1399.469 forms provided by the AC Board or its designee, stating whether there has been compliance with all the conditions of probation. If the final probation report is not submitted as directed, probation shall be extended automatically until such time as the final report is submitted and accepted as complete by the Board or its designee.

## **3.15 Surveillance Monitoring Program**

Respondent shall comply with the AC's Board's probation surveillance monitoring program and shall, upon reasonable notice, report to the assigned probation monitor ~~investigative district office~~. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Unless the Respondent obtains prior approval from Respondent's assigned

Board probation monitor to allow for contact, Respondent shall not have any unsolicited or unapproved contact with (1) known victims, witnesses, and/or complainants associated with the case; (2) AG Board members and/or members of its staff; or (3) persons serving the AG Board as expert examiners subject matter experts.

#### **4.16 Interview with the AG Board or Its Designee**

Respondent shall appear in person for interviews with the AG Board or its designee upon request at various intervals and with or without prior reasonable notice throughout the term of probation.

#### **5.17 Changes of Employment**

Respondent shall notify the AG Board in writing, through the assigned probation monitor ~~surveillance compliance officer~~ of any and all changes of employment, location and employment address within thirty (30) days<sup>1</sup> of such change.

#### **6.18 Tolling for Out-of-State Practice or Residence of Probation**

~~In the event Respondent should leave California to reside or to practice outside the State, Respondent must notify the AG in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.~~

If Respondent leaves California to reside or practice outside this state, or if for any reason Respondent stops practicing acupuncture in California, Respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which Respondent is not engaging in the practice of acupuncture. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total of two consecutive years.

For purposes of this condition, a Board ordered suspension or non-practice in compliance with any other condition of probation shall not be tolled. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. No obligation imposed herein, including requirements to file written reports, reimburse the Board's costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

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<sup>1</sup> Unless otherwise specified, the use of "day" in these Guidelines refers to a calendar day.

All provisions of probation shall recommence on the effective date of resumption of practice in California, and the term of probation shall be extended for the period of time Respondent was out of state or in state and not practicing.

**7.19 Employment Restriction on Employing and Supervision of Trainees; Prohibition on Teaching**

Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation. Respondent shall not teach at any Board approved educational and training program or courses for any Board-approved continuing education provider during the course of this probation.

**8.20 Cost Recovery**

Respondent shall pay to the AG Board its costs of investigation and enforcement in the amount of \$\_\_\_\_\_. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, with payments to be completed no later than three months prior to the end of the probation term. Cost recovery will not be tolled.

At Respondent's request, if Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of their good faith efforts to comply with this condition, and if no other conditions have been violated, the Board or its designee, in its discretion, may grant an extension of Respondent's probation period up to two (2) years without further hearing in order to comply with this condition. During the two (2) years extension, all original conditions of probation will apply.

**NOTE: If Respondent violates any term and a petition to revoke probation is filed that results in a default revocation, any outstanding cost recovery shall be ordered to be paid by the effective Decision date.**

**9.24 Violation of Probation**

If Respondent violates probation in any respect, the AG Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was ~~stated~~ stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the AG Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

## **10. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board or its designee, which may be adjusted on an annual basis. Such costs shall be made payable and delivered to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs as directed shall be considered a violation of probation.

## **11. License Surrender**

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license or registration. Respondent's written request to surrender Respondent's license shall include the following: their name, license number, case number, address of record, and an explanation of the reason(s) why Respondent seeks to surrender their license. The Board or its designee reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within fifteen (15) days, deliver Respondent's pocket and/or wall certificate to the Board or its designee and Respondent shall no longer practice acupuncture. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent reapplies for an acupuncture license, the application shall be treated as a petition for reinstatement of a revoked or surrendered license.

## **12. Notification of Name, Address, Telephone Number or E-mail Address Changes**

Respondent shall notify the assigned probation monitor, in writing within ten (10) days of any and all name, address, telephone, and/or e-mail address changes.

## **13. Disclosure of Probation Status**

No later than ten (10) days after the effective date of this Decision, Respondent shall submit a proposed written disclosure of probation status to provide to all patients or a patient's guardian or health care surrogate (conservator) to the Board for prior approval. Respondent shall not practice after the effective date of this Decision until the Board has issued approval of Respondent's disclosure. The written disclosure shall include the following:

- (1) Respondent's probation status stating "I am currently on probation with the Acupuncture Board of California":
- (2) Length of probation;
- (3) Probation end date;
- (4) All practice restrictions imposed by the probation order;
- (5) The Board's telephone number;
- (6) Explanation of how the patient can find further information on Respondent's license status and any enforcement actions taken by the Board against Respondent's license on the Board's web site.

Following the effective date of the Board's Decision and after the Board approves Respondent's written disclosure, Respondent shall provide (e.g. by email or mail) the written disclosure to all patients within five (5) days prior to a patient's first visit. Respondent shall obtain the signature of the patient, or the patient's guardian, conservator or health care surrogate (other legally authorized representative) and retain a separate, signed copy of the written disclosure, as part of the patient's healthcare records.

When any of the following applies, disclosure of probation status is exempt

- (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to the written disclosure requirement above and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
- (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
- (3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit, in which case, the written disclosure is required at the time of the patient's visit.
- (4) The licensee does not have a direct treatment relationship with the patient. For example, a licensee who consults with the treating acupuncturist on the patient.

Respondent shall make all patient records available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours, upon request, and without charge. Respondent shall retain the records for the entire term of probation.



#### **14. Maintenance of Clear and Active License**

Respondent shall, at all times, maintain an active and current license with the Board, including any period of suspension or tolled probation.

If the license is expired at the time the Board's Decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

#### **15. ~~22~~ Completion of Probation**

Upon successful completion of probation, Respondent's license will be fully restored.

# Optional Terms and Conditions

- |                                                                         |                                                                                 |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <u>16</u> <u>Actual Suspension</u>                                      | <u>25</u> <u>Restitution</u>                                                    |
| <u>17</u> <u>Psychological Evaluation</u>                               | <u>26</u> <u>Alcohol and Drug Abuse Treatment Program</u>                       |
| <u>18</u> <u>Physical Examination</u>                                   | <u>27</u> <u>Attend Chemical Dependency Support and Recovery Groups</u>         |
| <u>19</u> <u>Practice/Billing Monitor</u>                               | <u>28</u> <u>Abstain from Drugs and Alcohol and Submit to Tests and Samples</u> |
| <u>20</u> <u>Psychotherapy</u>                                          | <u>29</u> <u>Coursework</u>                                                     |
| <u>21</u> <u>Restrictions on Patient Population or Practice Setting</u> | <u>30</u> <u>Community Service</u>                                              |
| <u>22</u> <u>No Solo Practice</u>                                       | <u>31</u> <u>Supervised Practice</u>                                            |
| <u>23</u> <u>Restrictions on Practice Techniques and Modalities</u>     | <u>32</u> <u>Notification of Probationer Status to Employers</u>                |
| <u>24</u> <u>Examination(s)</u>                                         | <u>33</u> <u>Notification of Probationer Status to Employees</u>                |

Listed below are optional conditions of probation which the AG Board ~~would~~ expects to be included in any Proposed Decision as appropriate. The terms are not mutually exclusive, but can and should be combined with each other, as appropriate to a particular case. Other terms and conditions may be specified in stipulations for inclusion at the request of the AG Board depending on the unique aspects of an individual case.

## **16.1. Actual Suspension**

As part of the probation, Respondent is suspended from the practice of acupuncture for \_\_\_\_ days beginning with the effective date of this Decision.

## **17.2. Psychological Evaluation**

Within ninety (90) days of the effective date of this Decision and on a periodic basis thereafter as may be required by the AG Board or its designee, Respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by an AG Board ~~appointed~~ approved California licensed psychologist or psychiatrist. Respondent shall sign a release that authorizes the evaluator to furnish the AG Board or its designee shall receive with a diagnosis based on currently accepted standards, such as the Diagnostic and Statistical Manual of Mental Disorders, 5<sup>th</sup> Edition (DSM-5),-III-R diagnosis and a written report regarding the Respondent's judgment and/or ability to function independently as an acupuncturist with safety to the public, and whatever other information the AG Board or its designee deems relevant to the case. ~~Respondent shall execute a~~

~~release authorizing the evaluator to release all information to the AC. The completed evaluation is the sole property of the AC Board.~~

If the AC Board or its designee concludes from the results of the evaluation that Respondent is unable to practice independently and safely, Respondent shall immediately cease practice and shall not resume practice until notified by the AC Board or its designee. If the AC Board or its designee concludes from the results of the evaluation that Respondent would benefit from ongoing psychotherapy, Respondent shall comply with the AC's Board's directives in that regard. If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's or its designee's direction. Costs of such therapy shall be paid by Respondent.

If a psychological or psychiatric evaluation indicates a need for supervised practice, (within thirty (30) days of notification by the Board), Respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the Respondent's practice will be supervised.

Respondent shall pay all costs associated with the psychological evaluation. Failure to pay costs will be considered a violation of the probation order.

**Note:** Optional terms and conditions #20, Psychotherapy and #31, Supervised Practice, shall always be included when Optional term and condition #17 is placed in a probation order

*Psychological evaluations shall be utilized when an offense calls into question the judgment and/or emotional and/or mental condition of the Respondent or where there has been a history of abuse of or dependency on ~~of~~ alcohol or controlled substances. When appropriate, Respondent shall be barred from rendering acupuncture services under the terms of probation until Respondent has undergone an evaluation, the evaluator has recommended resumption of practice, and the AC Board has accepted and approved the evaluation. The Board requires that psychologists or psychiatrists have appropriate knowledge, training, and experience in the area involved in the violation.*

### **18.3. Physical Examination**

Within ninety (90) days of the effective date of this Decision, Respondent shall undergo a physical examination by a licensed physician and surgeon approved by the AC Board or its designee. Respondent shall bear all costs of such an examination. Failure to pay costs will be considered a violation of the probation order. The AC Board shall receive the physician's report which shall provide an assessment of Respondent's physical condition and capability to safely provide acupuncture services. If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician

providing written progress reports to the AG Board or its designee on a quarterly basis or as otherwise determined by the AG Board or its designee.

It shall be the Respondent's responsibility to assure that the required progress reports are filed in a timely manner.

**Note:** *This condition permits the AG Board to require the probationer to obtain appropriate treatment for physical problems/disabilities which could affect safe practice of acupuncture. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.*

#### **19.4. Practice/Billing Monitor**

~~Within 90 days of the effective date of this decision, Respondent shall submit to the AC for its prior approval, the name and qualifications of one or more California licensed acupuncturists whose license is clear (no record of complaints) and current and who has agreed to serve as a practice monitor. Once approved, the monitor shall submit to the AC a plan by which Respondent's practice shall be monitored. The monitor's education and experience shall be in the same field of practice as that of the Respondent. The monitor shall submit written reports to the AC on a quarterly basis verifying that monitoring has taken place and providing an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely fashion. The Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall be permitted to make direct contact with patients. Further, the monitor shall have no prior business, professional, personal or other relationship with Respondent. Respondent shall execute a release authorizing the monitor to divulge any information that the AC may request.~~

~~If the monitor quits or is otherwise no longer available, Respondent shall not practice until a new monitor has been approved by the AC. All costs of monitoring shall be borne by the Respondent. Monitoring shall consist of at least one hour per week of individual face to face meetings.~~

Within ninety (90) days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a \_\_\_\_\_ (i.e., practice, billing, or practice and billing) monitor(s), the name and qualifications of one or more California licensed acupuncturists whose license is **current, active, and unrestricted** by the Board. Prior to the Board's approval, Respondent shall provide a copy of the Board's Accusation and Decision to the monitor(s). A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board or its designee, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs. The Board in its sole discretion shall have the option of rejecting the proposed monitor(s) for any reason and Respondent shall work to provide an

alternative monitor(s) as set forth above.

Upon approval of the monitor(s), the Board or its designee shall provide a monitoring plan. Within fifteen (15) days of receipt of the monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within one-hundred twenty (120) days of the effective date of this Decision, and continuing through probation, Respondent shall make all patient records, as well as any and all records reviewed by the monitor, available for immediate inspection and copying on the premises by the monitor at all times during business hours, and upon request and without charge. Respondent shall retain the records for the entire term of probation.

Respondent shall notify all current and potential patients in writing of any term or condition of probation which will affect their treatment or the confidentiality of their records (such as this condition which requires a practice monitor). Such written notification shall be signed by each patient prior to continuing or commencing treatment and the written notification shall be kept as part of the patient's healthcare record.

The Respondent shall submit a quarterly written report prepared by the monitor to the Board or its designee, which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of acupuncture or billing, or both, and whether Respondent is practicing acupuncture safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits written reports to the Board or its designee quarterly.

If the monitor resigns or is no longer available, Respondent shall, within five days of such resignation or unavailability notify the Board. Within thirty (30) days after such resignation or unavailability, Respondent shall submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor. Upon written notice of approval to Respondent by the Board, the monitor shall assume monitoring responsibility. If Respondent fails to obtain approval of a replacement monitor within sixty (60) days of the resignation or unavailability of the monitor, after notification by the Board, Respondent shall be suspended from the practice of acupuncture until a replacement monitor is approved and prepared to assume immediate monitoring responsibility.

Failure to maintain all patient records, as well as any and all records reviewed by the monitor, or to make all said records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above, is a

violation of probation.

***Note:** Monitoring shall be utilized when Respondent's ability to function independently is in doubt, as a result of a deficiency in knowledge or skills, or as a result of questionable judgment.*

## **20. Psychotherapy**

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of Respondent's choice. The therapist shall: (1) be a California-licensed psychologist or psychiatrist with a current, active and unrestricted license; (2) shall have had no prior business, professional, personal, or other relationship with Respondent; and, (3) not be the same person as respondent's monitor. Psychotherapy shall, at a minimum, consist of one hour per week, unless otherwise determined by the Board or its designee. Respondent shall continue in psychotherapy at the Board's or its designee's direction. Cost of such therapy is to be borne by the Respondent.

Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session. Upon written notice of approval of the therapist by the Board, Respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall ensure that the quarterly written reports written by the treating therapist are submitted to the Board or its designee concerning Respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board or its designee. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board or its designee.

If the treating therapist finds that Respondent cannot practice safely or independently, the therapist shall notify the Board within three working days. Upon notification by the Board or its designee, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified Respondent that they may resume practice. Respondent shall document compliance with this condition via a written attestation and/or through the Respondent's quarterly report required by the Board or its designee.

If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of acupuncture without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume

the practice of acupuncture without restrictions.

*Note: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation.*

## **21.5. Restrictions of on Patient Population or Practice Setting**

Respondent's practice shall be restricted to [specify patient population (e.g., male patients, existing patients, etc.) and/or setting (e.g., group practice, with supervision from another acupuncturist or physician and surgeon, etc)] for \_\_\_\_\_ years of probation. Within sixty (60) days from the effective date of the Decision, Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction, including copies of policies and procedures. Respondent shall cease practice until the Board, or its designee, has approved Respondent's plan. Respondent may resume practice once the plan is approved. Respondent shall submit a written attestation of compliance with this term of probation on a quarterly basis. Respondent shall provide copies of patient records, office policies, and procedures upon request by the Board or its designee.

*Note: The restrictions shall be appropriate to the violation. The Deputy Attorney General shall provide potential requirements for the administrative law judge's consideration when listing requirements a Respondent's plan shall include. This condition shall be included in cases wherein some factor of the patient population at large (e.g. age, gender) may put a patient at risk if in treatment with the Respondent. The condition shall also be used in cases where public protection is achieved by Respondent having a specified practice setting (e.g. no offsite visits, no multi-disciplinary office settings, etc.).; language appropriate to the case may be developed to restrict such a population. The language would vary greatly by case.*

## **22. No Solo Practice**

Respondent is prohibited from engaging in the solo practice of acupuncture. Prohibited solo practice includes a practice where: 1) Respondent is the sole licensed practitioner at that location, or 2) Respondent merely shares office space with another licensed practitioner but is not affiliated for the purpose of providing patient care .

Respondent shall notify the Board in writing if Respondent fails to establish a practice with another licensed practitioner or secure employment in an appropriate practice setting (e.g., working with at least one other acupuncturist together as part of an acupuncturist-only practice or as part of a multi-disciplinary setting with other health care professionals) within sixty (60) days of the effective date of this Decision. After the foregoing 60-day time period has passed, Respondent shall have five (5) days to notify the Board of their failure to practice in a setting in compliance with this Decision. Upon receipt of such notice, the Board or its

designee shall send written notice to Respondent to cease the practice of acupuncture within three (3) days after being so notified by the Board. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes (e.g., partnership dissolves or no longer employed at multi-disciplinary healthcare setting) and the Respondent is no longer practicing in a setting compliant with this Decision, the Respondent shall notify the Board or its designee within five (5) days of the practice setting change. Respondent shall notify the Board in writing if Respondent fails to establish a practice with another licensed practitioner or failed to secure employment in a practice setting compliant with this Decision within sixty (60) days of the practice setting change. Upon receipt of notice of Respondent's failure to secure work in a setting in compliance with this Decision, the Board or its designee shall issue a written notification to Respondent to cease the practice of acupuncture within three (3) days after being so notified by the Board. The Respondent shall not resume practice until an appropriate practice setting is established.

### **23. Restrictions on Practice Techniques and Modalities**

Respondent's practice shall be prohibited from providing [insert treatment modalities (e.g., electroacupuncture, herbs, application of heat, etc.)]. Within thirty (30) days from the effective date of the Decision, Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction, including copies of policies and procedures. Respondent shall cease practice until the Board, or its designee, has approved Respondent's plan. Respondent may resume practice once the plan is approved. Respondent shall submit a written attestation of compliance with this term of probation on a quarterly basis. Respondent shall provide copies of patient records, office policies, and procedures upon request by the Board or its designee as necessary for the Board to review compliance with this term of probation. Respondent shall notify all present and future employers of the restrictions imposed on their practice while on probation.

**Note:** The restrictions shall be appropriate to the violation. The Deputy Attorney General shall provide potential requirements for the administrative law judge's consideration when listing the requirements that a Respondent's plan shall include. The condition shall be used in cases where public protection is achieved by Respondent abstaining from a specific acupuncture service (e.g., herbs, moxibustion, other treatments in the Acupuncture Licensure Act, etc.)

### **24.6. Examination(s)**

Respondent shall take and pass the written and/or clinical licensing examination(s)



~~prior to the termination of probation. licensure exam(s) currently required of new applicants for the license possessed by Respondent pursuant to Business and Professions Code section 4938. Respondent shall not practice acupuncture until such time as Respondent has taken and passed these examination(s)s. The examinations shall be taken on regularly scheduled exam dates. Respondent shall pay the established examination fees.~~

~~If Respondent fails the has not passed the examination three times, his/her license to practice acupuncture is suspended until the examination is successfully passed. within eighteen (18) months from the effective date of this Decision, Respondent shall be considered to be in violation of probation.~~

*Note: In cases involving evidence of deficiencies in the body of knowledge required to be minimally competent to practice independently, it may be appropriate to require the Respondent to pass both the written and clinical the examination(s) during the course within the first eighteen (18) months of the probation period. In some instances, it may be appropriate for practice to be suspended until the examination is passed (condition precedent).*

#### **25.7. Restitution**

Within ninety (90) days of the effective date of this Decision, Respondent shall provide proof to the AG Board or its designee of restitution in the amount of \$ \_\_\_\_\_ paid to \_\_\_\_\_.

*Note: In offenses involving breach of contract, restitution is an appropriate term of probation. The amount of restitution shall be the amount of actual damages sustained as a result of breach of contract. Evidence relating to the amount of restitution would have to be introduced at the administrative hearing.*

#### **26.8 Alcohol and Drug Abuse Treatment Program**

Effective thirty (30) days from the date of this Decision, Respondent shall enter an inpatient or outpatient alcohol or other drug abuse recovery program (a minimum of ~~six (6)~~ three (3) months duration) or an equivalent program as approved by the AG Board or its designee. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by Respondent. Subsequent to the program, Respondent shall submit proof of completion of the recovery program to the Board or its designee within fifteen (15) days of its conclusion. ~~participate in on-going treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as approved by the AC at least three times a week during the first year of probation; and/or other substance abuse recovery programs approved by the AC. Respondent shall pay all costs of treatment and therapy, and provide documentation of attendance at Twelve Step meetings or the equivalent as approved by the AC~~ The psychologist or licensed

therapist shall confirm that Respondent has complied with the requirements of this Decision and shall notify the AGBoard immediately if they believe the Respondent cannot safely render acupuncture services. Respondent shall execute a release authorizing the psychologist or licensed therapist to divulge the aforementioned information to the AGBoard.

The Board may accept a recovery program taken and completed by Respondent under court order within the last three years prior to the effective date of the Decision as compliance with this term.

***Note:** Alcohol and other drug abuse treatment shall be required in addition to other terms of probation in cases where the use of alcohol or other drugs by Respondent has impaired Respondent's ability to safely provide acupuncture services to patients. This condition must be accompanied by optional terms and conditions #28 (Attend Chemical Dependency Support and Recovery Groups) and #29 (Abstain from Drugs and Alcohol and Submit to Tests and Samples) unless the Special Terms and Conditions are triggered, which contain specific requirements for biological fluid testing (special term and condition #36) and to abstain from drugs and alcohol (special term and condition #39) to be used in lieu of those terms as follows.*

**Requirement to Apply the Special Terms and Conditions in this document in**

If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees, the special terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in the order placing the license on probation. (See Special Terms and Conditions #34-39).

**10. Reimbursement for Probation Surveillance Monitoring**

~~Respondent shall reimburse the AC for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.~~

~~**NOTE:** This condition can only be included in a proposed stipulation, since there is no legal authority to include it in proposed decisions.~~

**27. Attend Chemical Dependency Support and Recovery Groups**

Within thirty (30) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Frequency and duration shall be

determined by the Board or its designee. Respondent shall pay all chemical dependency support group meeting costs.

**Note:** Special Term and Condition #37 (Substance Abuse Support Group Meetings) should be used in lieu of this term along with all of the other Special Terms and Conditions listed in this document if the following occurs. If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees, then in such a case, the Board must use all of the Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (See Special Terms and Conditions #34-39).

### **28.9. Abstain from Drugs and Alcohol and Submit to Tests and Samples**

Respondent shall abstain completely from the personal use or possession or use of alcohol and controlled substances, as defined in the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, Health and Safety Code) and dangerous drugs as defined in Section 4244 4022 of the Business and Professions Code, or any drugs requiring a prescription and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Respondent shall abstain completely from the use of alcoholic beverages.

Within fifteen (15) days of a request by the Board or its designee, Respondent shall provide documentation as described below from the licensed practitioner or health insurer that the prescription or referral for the drug was legitimately issued and is a necessary part of the medical treatment of the Respondent. Within fifteen (15) calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release to the Board covering the entire probation period. Failure to provide such documentation within fifteen (15) days shall be considered a violation of probation. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, shall be considered a violation of probation.

Respondent shall undergo random biological fluid testing as determined by the AG Board or its designee. Respondent shall bear all costs of such testing. The length of time and frequency will be determined by the AG Board or its designee. Any

confirmed positive finding will be considered a violation of probation.

**Note:** *This condition provides documentation that the probationer is substance or chemical free. It also provides the AC Board or its designee with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances unless the Special Terms and Conditions are triggered, which contain specific requirements for biological fluid testing (special term and condition #36) and to abstain from drugs and alcohol (special term and condition #39) to be used in lieu of this term as follows.*

**Requirement to Apply the Special Terms and Conditions in this document in**

If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees, then in such a case, the Board must use all of the Special Terms and Conditions Applying the Uniform Standards Regarding Substance Abusing Licensees (See Special Terms and Conditions #35-41).

**29.11. Coursework**

~~Respondent shall take and successfully complete not less than twenty (20) semester units or thirty (30) quarter units of coursework in the following area(s) \_\_\_\_\_ . All coursework shall be taken at the graduate level at a school approved by the AC. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all coursework must be completed within the first 3 years of probation. The required coursework must be in addition to any continuing education courses that may be required for license renewal.~~

~~Within 90 days of the effective date of this decision, Respondent shall submit a plan for the AC's prior approval for meeting the educational requirements. All costs of the coursework shall be borne by the Respondent.~~

Respondent, at their own expense, shall enroll and successfully complete coursework substantially related to the violation(s) no later than the end of the first year of probation. Respondent shall take \_\_\_\_\_ hours of coursework in the following area(s): \_\_\_\_\_ (e.g., recordkeeping, ethics, clean needle technique, etc.) at a school or from a continuing education (CE) provider approved by the Board or other Department of Consumer Affairs' regulatory board/bureau.

The coursework shall be in addition to that required for license renewal. Within

thirty (30) days of the effective date of this Decision, Respondent shall submit a written plan, including name of school or CE provider, CE provider number, dates, hours, course title, and course description, to comply with this requirement to the Board or its designee. The Board or its designee shall approve such a plan prior to enrollment in any course of study.

Upon successful completion of the coursework, Respondent shall submit original completion certificates or transcripts to the Board within thirty (30) days of course completion.

### **30.12. Community Service**

Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, a community service program in which Respondent shall provide volunteer services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per month for \_\_\_\_\_ years of probation. Such community service may include, but does not require, the provision of free acupuncture service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a quarterly basis.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service. Respondent shall submit proof of compliance, including a signed attestation from the supervisor that they were provided a copy of Respondent's Decision, to the Board or its designee within fifteen (15) calendar days of completion of the community service. This condition shall also apply to any change(s) in community service.

Respondent shall complete all community service hours no later than six months prior to the completion of probation.

***Note:** In addition to other terms of probation, community service work may be required for relatively minor offenses which do not involve deficiencies in knowledge, skills or judgment. Community service may be appropriately combined with restitution or other conditions as a term of probation. ~~Specific language applicable to the case shall include the requirement that services rendered shall be professional in nature and under the auspices of a governmental entity or a non profit corporation tax exempt under the Internal Revenue Code.~~*

### **31. Supervised Practice**

During the period of probation, when Respondent conducts evaluations and/or

treatments on \_\_\_\_\_ (specific population of patients, e.g., seniors, children, females, etc.), such evaluations and treatments shall be performed only under the supervision and direct observation of a California licensed acupuncturist whose license is current, active, and unrestricted by the Board. Upon and after the effective date of this Decision, Respondent shall not practice acupuncture and Respondent's license shall be automatically suspended until a supervisor is approved by the Board or its designee. The supervision shall be direct observation of all evaluations and/or treatments provided to all \_\_\_\_\_ (specific population of patients).

The supervisor shall be a current California licensed acupuncturist, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of Respondent's performance. Failure to submit the direct supervisor's acknowledgements timely to the Board or its designee shall be considered a violation of probation. The supervisor shall be independent, with no prior business, professional or personal relationship with Respondent. If Respondent is unable to secure a supervisor in Respondent's field of practice due to the unavailability of licensed acupuncturists in the area, then the Board or its designee may consider permitting Respondent to secure a supervisor not in the Respondent's field of practice. The Board or its designee may require that Respondent provide written documentation of Respondent's good faith attempts to secure face-to-face supervision or to locate another licensed acupuncturist.

Within thirty (30) days of the effective date of this Decision, Respondent shall have Respondent's supervisor submit notification to the Board or its designee in writing stating that the supervisor has read the Decision in case number \_\_\_\_\_ and accepts the required level of supervision as determined by the Board or its designee. Levels of supervision are the following:

- Option 1: The supervisor shall be on site at all times Respondent is practicing.
- Option 2: The supervisor shall be on site at least 50% of the time respondent is practicing.
- Option 3: Patient's condition shall be reviewed by supervisor prior to patient leaving facility. This condition shall be required for \_\_\_\_\_ (e.g., first/etc. year of probation).

It shall be the respondent's responsibility to submit the supervisor's acknowledgement(s) to the Board or its designee timely. If Respondent changes employment, it shall be the Respondent's responsibility to submit the new supervisor's acknowledgement(s) to the Board or its designee timely. Respondent shall have Respondent's new supervisor, within fifteen (15) days after employment commences, submit notification to the Board or its designee in writing stating the direct supervisor has read the Decision and accepts the level of supervision as determined by the Board or its designee. Respondent shall not practice

acupuncture and Respondent's license shall be automatically suspended until the Board or its designee approves a new supervisor. Failure to cause the direct supervisor to submit timely acknowledgements to the Board or its designee shall be considered a violation of probation. Within thirty (30) days of leaving employment, Respondent shall notify the Board or its designee in writing.

**Note:** *This term should be included in cases where incompetence, repeated acts of negligence, or gross negligence violations occurred and/or every time a psychological evaluation is included as part of the probationary order (Optional Term and Condition #17).*

### **32. Notification of Probationer Status to Employers**

Respondent shall notify all present and future employers (during the period of probation) of the Decision in case number \_\_\_\_\_ and the terms, and conditions of the probation, as follows:

Respondent shall provide a true copy of the Board's Decision and Order, Statement of Issues or Accusation, Initial Probationary License Decision, or Stipulated Decision and Order, as applicable, to Respondent's employer, supervisor, or contractor, or prospective employer or contractor, and at any other facility where Respondent engages in the practice of acupuncture within ten (10) days of accepting or continuing employment.

Within thirty (30) days of the effective date of this Decision, and within ten (10) days of undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each of [their] employer(s), and the name(s) and telephone number(s) of all of Respondent's direct supervisor and the work schedule, if known. Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause their direct supervisor and the owner or owner representative of Respondent's employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the Decision in case number \_\_\_\_\_, and terms and conditions imposed thereby.

The information will be provided in writing to the probation monitor within thirty (30) days and will include written employer or contractor confirmation of receipt.

Respondent shall sign and return to the Board a written consent authorizing the Board or its designee to communicate with all of Respondent's employer(s), supervisor(s), or contractors and authorizing those employer(s), supervisor(s) or contractors to communicate with the Board or its designee, concerning Respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

### **33. Notification of Probationer Status to Employees**

If Respondent is an employer, Respondent shall notify all present or future employees of the Decision in case number [redacted] and terms and conditions of the probation, as follows. Respondent shall provide a true copy of the Board's Decision and Order, Statement of Issues or Accusation, Initial Probationary License Decision, or Stipulated Decision and Order to each employee and submit written confirmation of employee receipt to the Board within thirty (30) days.

Within thirty (30) days of the effective date of this Decision, and within ten (10) days of hiring a new employee, Respondent shall report to the Board in writing the name, physical address, and mailing address of each of their employee(s), and the name(s) and telephone number(s) of all of Respondent's employee(s) and the employee(s)' work schedule(s), if known. Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of Respondent hiring a new employee, Respondent shall submit to the Board their employee(s)' written acknowledgment that each employee has/have read the Decision in case number [redacted], and terms and conditions imposed thereby.



**Special Terms and Conditions Applying the Uniform Standards  
Regarding Substance Abusing Licensees:**

- 34 Clinical Diagnostic Evaluations and Reports
- 35 Notification of Employer or Supervisor Information
- 36 Biological Fluid Testing
- 37 Substance Abuse Support Group Meetings
- 38 Worksite Monitor for Substance Abusing Licensees
- 39 Abstain from Drugs and Alcohol

Pursuant to Section 315 of the Business and Professions Code, the Board is directed to use the standards developed by the Substance Abuse Coordination Committee (SACC) for substance abusing licensees. On April 11, 2011, the SACC developed standards to be used by all healings arts boards and published a document entitled "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees ( April 2011)" . Those standards were updated by the SAAC in a document entitled "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" (March 2019) ("Uniform Standards"). Administrative law judges, parties, and staff are therefore required to use the language below as written when a licensee is determined to be a substance abusing licensee.

The following special terms and conditions describe the Uniform Standards that apply to a substance abusing licensee. If the ground(s) for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance abusing applicant or licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, there shall be a finding that he or she is a substance abusing applicant or licensee, and the special terms and conditions applying the Uniform Standards for a substance abusing licensee shall apply as written and be used in the order placing the license on probation. If a Uniform Standard is included in a probation order, the language below must be included as written.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board or its designee. These conditions shall be used in lieu of any similar standard or optional terms and conditions proposed in the Guidelines, unless otherwise specified. However, the Board's standard and optional conditions should still be used in formulating the penalty and in considering additional terms and conditions of probation appropriate for greater public protection. This requirement does not prohibit the Board from considering special terms and conditions of probation for a substance-abusing licensee in a settlement agreement.

**34. Clinical Diagnostic Evaluations and Reports**

Within thirty (30) days of the effective date of this Decision, and on whatever

periodic basis thereafter as may be required by the Board, Respondent shall undergo and complete a clinical diagnostic evaluation, by a Board-approved health professional (“evaluator”).

The clinical diagnostic evaluation shall be conducted by a licensed health professional who:

- holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation,
- has three (3) years’ experience in providing evaluations of health professionals with substance abuse disorders; and,
- is approved by the Board, or its designee.

The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

The evaluator shall furnish a written evaluation report to the Board. The clinical diagnostic evaluation report shall:

- set forth, in the evaluator’s opinion, whether Respondent has a substance abuse problem,
- set forth, in the evaluator’s opinion, whether Respondent is a threat to himself or herself or others, and
- set forth, in the evaluator’s opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Respondent’s rehabilitation and ability to practice safely.

If the evaluator determines during the evaluation process that Respondent is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination with a phone call and in writing through email.

In determining whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the Board shall consider the following factors:

- the recommendation of the clinical diagnostic evaluation;
- the license type;
- the Respondent’s history;

- the documented length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
- the scope and pattern of substance abuse;
- the treatment history;
- the Respondent's medical history and current medical condition;
- the nature, duration, and severity of substance abuse; and
- whether Respondent is a threat to himself/herself or the public.

All costs associated with completion of a drug or alcohol abuse treatment program shall be paid by the Respondent.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on Respondent based on the factors listed above, including the evaluator's recommendations. Respondent shall not be returned to practice until Respondent has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that Respondent has not used, consumed, ingested, or administered to himself or herself a prohibited substance.

The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the evaluator or the Board shall be borne by the Respondent.

Respondent shall not engage in the practice of acupuncture until notified by the Board that Respondent is fit to practice acupuncture safely. Respondent shall undergo biological fluid testing as required in this Decision at least two (2) times per week while awaiting the results of the clinical diagnostic evaluation.

Respondent shall comply with all restrictions or conditions recommended by the evaluator and approved by the Board within fifteen (15) days after being notified by the Board.

*Note: This condition implements numbers one, two and six of the Uniform Standards.*

### **35. Notice of Employer or Supervisor Information**

Within thirty (30) days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and

telephone numbers of all employers, supervisors, and contractors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers, supervisors, and contractors to communicate regarding Respondent's work status, performance, and monitoring.

*Note: This condition implements number three of the Uniform Standards.*

### **36. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board. Respondent shall make daily contact with the Board to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

The Board may require less frequent testing if any of the following applies:

- Where there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, the Board may reduce testing to one (1) time per month;
- Where Respondent has previously participated in a treatment or monitoring program requiring testing, the Board may consider that prior testing record in applying the three-tier testing frequency schedule described above;
- Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the Board may skip the first-year testing frequency requirement(s);
- Where Respondent is not employed in any health care field, frequency of testing may be reduced to a minimum of twelve (12) tests per year. If Respondent wishes to thereafter return to employment in a health care field, Respondent shall be required to test at least once a week for a period of

sixty (60) days before commencing such employment, and shall thereafter be required to test at least once a week for a full year, before Respondent may be reduced to a testing frequency of at least thirty-six (36) tests per year, and so forth;

- Respondent's testing requirement may be suspended during any period of tolling of the period of probation;
- Where Respondent has a demonstrated period of sobriety and/or non-use, the Board may reduce the testing frequency to no less than twenty-four (24) tests per year; and,
- Where Respondent receives a minimum of fifty (50) percent supervision per day by a supervisor licensed by the Board, the Board may reduce testing frequency to a minimum of twenty-four (24) tests per year.

Prior to practicing acupuncture, Respondent shall contract with a laboratory or service, assigned and approved in advance by the Board, that will conduct random, unannounced, biological fluid testing and meets all of the following standards:

- (a) Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
- (c) Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
- (d) Collection of specimens shall be observed.
- (e) Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.
- (f) A collection site must submit a specimen to a laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.
- (g) Specimen collectors shall possess all the materials, equipment, and technical expertise necessary in order to test Respondent on any day of the week.

- (h) Specimen collectors shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
- (i) Specimen collectors must provide collection sites that are located in areas throughout California.
- (j) Specimen collectors must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Respondent to check in daily for testing.
- (k) Specimen collectors must have a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.
- (l) Specimen collectors shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
- (m) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if Respondent holds a valid prescription for the substance.

Prior to vacation or absence, any alternative to Respondent's drug testing requirements (including frequency) must be approved by the Board.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

### **Process and Consequences for Positive Test Results**

If a biological fluid test result indicates Respondent tests positive for a banned substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing acupuncture or providing acupuncture services immediately. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice acupuncture or provide acupuncture services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If the Board thereafter determines that the positive drug test does not evidence prohibited use, the Board shall immediately lift the cease-practice order, within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory; communicating with the licensee, and/or any treating physician(s); and other health care provider, including group facilitator/s, as applicable.

For purposes of this condition, the terms “biological fluid testing” and “testing” mean the acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

For purposes of this condition, the term “prohibited substance” means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

*Note: This condition implements numbers four (updated March 2019), eight, nine, ten, and thirteen of the Uniform Standards.*

### **37. Substance Abuse Support Group Meetings**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board, for its prior approval, the name of a substance abuse support group which Respondent shall attend for \_\_\_\_\_ year(s) of probation. Frequency and duration of group meeting attendance shall be determined by the Board, which shall give consideration to the following:

- The Respondent’s history;
- The documented length of sobriety/time that has elapsed since substance abuse;
- The recommendation of the clinical evaluator;
- The scope and pattern of use;
- The Respondent’s treatment history; and ,
- The nature, duration, and severity of substance abuse.

Respondent shall participate in facilitated group support meetings within fifteen (15) days after written notification of the Board’s approval of the meeting facilitator. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meetings shall have a minimum of three (3) years’ experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organizations. The facilitator shall not have a current or former financial,

personal, or business relationship with Respondent within the last year. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The Respondent shall provide a signed document to the Board showing Respondent's name, the group name, the date and location of the meeting, Respondent's attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board within twenty-four (24) hours of the unexcused absence in writing through email.

Note: This condition implements number five of the Uniform Standards.

### **38. Worksite Monitor for Substance Abusing Licensee**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board for prior approval as a worksite monitor, the name and qualifications of one or more licensed acupuncturists, or other licensed health care professional if no licensed acupuncturist is available, or, as approved by the Board, a person in a position of authority who is capable of monitoring the Respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall Respondent's worksite monitor be an employee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years and shall sign an affirmation that the monitor has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if applicable; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's



normal business hours, the verbal report shall be made to the Board within one (1) hour of the start of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly, or as directed by the Board, which shall include the following:

- (1) Respondent's name and Licensed Acupuncturist number;
- (2) the worksite monitor's name and signature;
- (3) the worksite monitor's license number, if applicable;
- (4) the location or location(s) of the worksite;
- (5) the dates Respondent had face-to-face contact with the worksite monitor;
- (6) the names of worksite staff interviewed, if applicable;
- (7) a report of Respondent's work attendance;
- (8) any change in Respondent's behavior and/or personal habits; and;
- (9) any indicators that can lead to suspected substance abuse by Respondent.

Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, authorizing the Board, and worksite monitor to communicate **with the worksite monitor.**

If the worksite monitor resigns or is no longer available, Respondent shall, within fifteen (15) days of such resignation or unavailability, submit to the Board, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within thirty (30) days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board to cease the practice of acupuncture within three (3) days after being so notified **by the Board.** Respondent shall cease the practice of acupuncture until a replacement monitor is approved and assumes monitoring responsibility.

*Note: This condition implements number seven **of the Uniform Standards.***

### **39. Abstain from Drugs and Alcohol**

Respondent shall abstain from the possession or use of alcohol and controlled substances, as defined in the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, Health and Safety Code) and dangerous drugs as defined in Section 4022 of the Business and Professions Code, or any drugs requiring a prescription and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Within fifteen (15) days of a request by the Board or its designee, Respondent shall provide documentation as described below from the licensed practitioner or health insurer that the prescription or referral for the drug was legitimately issued and is a necessary part of the medical treatment of the Respondent. Within fifteen (15) calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release to the Board covering the entire probation period. Failure to provide such documentation within fifteen (15) days shall be considered a violation of probation. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, shall be considered a violation of probation.

If Respondent has a positive drug screen for any substance not lawfully prescribed as set forth above, Respondent shall be ordered by the Board to cease any practice and may not practice unless and until notified by the Board. Positive drug screens shall be processed in accordance with the terms and conditions set forth in the Biological Fluid Testing term of this probationary order.

**Note: This condition implements Uniform Standard numbers four and eight.**

## Penalty Recommendations

The following is an attempt to provide information regarding the range of offenses under the Acupuncture Licensure Act and the appropriate penalty for each offense. ~~Examples are given for illustrative purposes, but no attempt is made to catalog all possible offenses.~~ The AG Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations, which take into account each case's unique circumstances.

If there are deviations or omissions from the Guidelines in formulating a Proposed Decision, the AG Board always appreciates it if requests that the administrative law judge hearing the case include some explanation of this in the Proposed Decision so that the circumstances can be better understood by the AG Board during its review and consideration of the Proposed Decision for final action.

~~All references are to the specified subsections of section 4955 of the Business and Professions Code.~~

The Acupuncture Licensure Act (Business and Professions Code, Division 2, Chapter 1 2) and general provision sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. Below are the code sections with the recommended disciplinary actions listed by the degree of the offense.

When filing an Accusation, the Office of the Attorney General may also cite additional related statutes and regulations.

**Note:** Under conditions of probation the applicable numbered conditions are set out to include in a Decision and Order.

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# **Recommended Action by Violation of General California Business and Professions Code Provisions**

## **Section 480 –**

### **Denial of a License for Conviction of Crime or Formal Discipline Substantially Related to Acupuncture; Knowingly Made False Statement of Fact on Application**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #24, #28, #29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

## **Section 490 –**

### **Suspension or Revocation for Conviction of a Crime Substantially Related to the Qualifications, Functions or Duties of an Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#67, #24, #28, #29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

## **Section 651 –**

### **False, Fraudulent, Misleading Advertising**

- Maximum Penalty: Revocation, stayed, 3 years of probation with the following conditions:
- Minimum Penalty: Revocation, stayed, 1 year of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29, #30)

## Section 726 –

### Sexual Misconduct with a Patient

- Maximum Penalty: Revocation
- Minimum Penalty: Revocation, stayed, 60 days suspension, with 5 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #17, #20, #21, #28, #3)
  3. Special Terms and Conditions, if appropriate (#354 – # 39)

## Recommended Action by Violation of Acupuncture Licensure Act

### ~~A. SECURING A CERTIFICATE BY FRAUD OR DECEIT~~

Revocation is the only suitable penalty inasmuch as the license would not have been issued but for the fraud or deception. If the fraud is substantiated prior to issuance of the license or registration, then denial of the application is the only suitable penalty.

### ~~B. COMMITTING A FRAUDULENT OR DISHONEST ACT AS AN ACUNCTURIST RESULTING IN INJURY TO ANOTHER~~

~~MAXIMUM:~~ Dishonest or fraudulent act resulting in substantial harm to patient(s)  
~~Penalty:~~ Revocation; denial of license.

~~MINIMUM:~~ Dishonest or fraudulent t resulting in minimal harm to patient(s)  
~~Penalty:~~ 5 years probation, minimum 60 days suspension [1], psychological evaluation and ongoing therapy if appropriate [2], full restitution [7], written and clinical examination [6], coursework in ethics [11], community service [12], and standard terms and conditions [13–22].

### ~~C. USING ANY CONTROLLED SUBSTANCE, OR DANGEROUS DRUG, OR ALCOHOLIC BEVERAGE TO AN EXTENT OR IN A MANNER DANGEROUS TO HIMSELF OR HERSELF, OR TO ANY OTHER PERSON, OR THE PUBLIC, AND TO AN EXTENT THAT SUCH USE IMPAIRS HIS OR HER ABILITY TO ENGAGE IN THE PRACCE OF ACUPUNCTURE WITH SAFETY TO THE PUBLIC~~

~~MAXIMUM:~~ Abuse of alcohol or a controlled substance resulting in substantial harm to patient(s).  
~~Penalty:~~ Revocation; denial of license.

~~MINIMUM:~~ Abuse of alcohol or controlled substance to the extent that ability to safely perform acupuncture services is impaired.  
~~Penalty:~~ 5 years probation, actual suspension [1], participation in an alcohol/drug abuse treatment program and continuing therapy with a psychologist trained in substance abuse treatment [8], biological fluid testing [9], practice monitor [4], physical examination (if appropriate) [3], and standard terms and conditions [13–22].

### ~~D. CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE FUNCTIONS OF AN ACUPUNCTURIST, THE RECORD OF CONVICTION BEING CONCLUSIVE EVIDENCE THEREOF~~

~~MAXIMUM:~~ Convictions of a crime of violence against person or property or economic crime resulting in substantial harm to patient(s).  
~~Penalty:~~ Revocation; denial of license.



~~*MINIMUM:* Conviction of other crime resulting in little or no harm to patient(s).  
*Penalty:* 5 years probation, minimum 30 day suspension [1], ethics course [11], restitution (if appropriate) [7], community service [12], and standard terms and conditions [13-22].~~

#### ~~**E. IMPROPER ADVERTISING**~~

~~Repeated infraction of statute regarding advertising.  
*Penalty:* 5 years probation, written and clinical examination [6], coursework in ethics [11], community service [12], and standard terms and conditions [13-22].~~

#### ~~**F. VIOLATING OR CONSPIRING TO VIOLATE THE TERMS OF THIS CHAPTER**~~

~~No Guidelines drafted.  
Refer to underlying statute or regulation.~~

#### ~~**G. GROSS NEGLIGENCE IN THE PRACTICE OF ACUPUNCTURE**~~

~~*MAXIMUM:* Gross negligence resulting in substantial harm to patient(s).  
*Penalty:* Revocation; denial of license.~~

~~*MINIMUM:* Gross negligence resulting in minimal harm to patient(s).  
*Penalty:* 5 years probation, minimum 60 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

#### ~~**H. REPEATED NEGLIGENT ACTS**~~

~~*MAXIMUM:* Repeated negligent acts resulting in substantial harm to patient(s).  
*Penalty:* Revocation; denial of license.~~

~~*MINIMUM:* Repeated negligent acts resulting in minimal harm to patient(s).  
*Penalty:* 5 years probation, minimum 90 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

#### ~~**I. INCOMPETENCE**~~

~~*MAXIMUM:* Incompetence resulting in harm to patient(s).  
*Penalty:* Revocation; denial of license.~~

~~*MINIMUM:* Incompetence resulting in minimal harm to patient(s).  
*Penalty:* 5 years probation, minimum 60 days suspension [1], psychological evaluation prior to resumption of practice (condition precedent) [2], practice monitor [4], clinical examination [6], coursework [11], and standard terms and conditions [13-22].~~

The following makes reference to ~~4935~~ and are in conjunction with ~~4955(f)~~ of the Business and Profession Code.

**J. ~~IMPERSONATING ANOTHER PERSON HOLDING AN ACUPUNCTURE LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER LICENSE~~**

~~MAXIMUM:~~ Impersonation or use resulting in substantial harm to patient(s).

~~Penalty:~~ Revocation; denial of license, or written and clinical examination application.

~~MINIMUM:~~ Impersonation or use resulting in little or no harm to patient(s).

~~Penalty:~~ 5 years probation / actual suspension [4], coursework in ethics [11], community service [12], and standard terms and conditions [13-22].

**K. ~~AIDING OR ABETTING UNLICENSED PRACTICE~~**

~~MAXIMUM:~~ Aiding or abetting unlicensed practice which results in harm to patient(s).

~~Penalty:~~ Revocation; denial of license.

~~MINIMUM:~~ Aiding or abetting unlicensed practice which results in minimal harm to patient(s).

~~Penalty:~~ 5 years probation / actual suspension [4], oral examination [6], coursework [11], and standard terms and conditions [13-22].

## **Violation: Unprofessional Conduct**

### **Section 4935(a)(1) –**

#### **Unlicensed Practice of Acupuncture**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #24, #29)

### **Section 4935(a)(2) –**

#### **Fraudulently Buy, Sell or Obtain Acupuncture License**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #22, #24, #29, #30, #32)

### **Section 4935(b) –**

#### **Unlawful Practice of Acupuncture (Other Non-Exempt Healthcare Licensees)**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #24, #29)

### **Section 4935(c) –**

#### **Unlawfully Holding Oneself Out as a Licensed Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #24, #29)

## **Section 4936 –**

### **Misrepresentation as a Doctor**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29)

## **Section 4955(a) –**

### **Dangerous Use or Possession of a Controlled Substance, Dangerous Drug or Alcoholic Beverage**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension, with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#67, #25, #26, #27, #28)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

## **Section 4955 (b) –**

### **Conviction of a Substantially Related Crime**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 30 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #24, #28, #29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Note:** As provided in Title 16, California Code of Regulations section 1399.469.1, if an individual is required to register as a sex offender pursuant to section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law and no exemptions provided in that section apply, the Board shall do the following: (1) deny an application by the individual for licensure; (2) promptly revoke the license of the individual and shall not stay the revocation nor place the licensee on probation; or (3) deny any petition to reinstate or reissue the individual's license.

## **Section 4955(c) –**

### **False or Misleading Advertising that Constitutes Unprofessional Conduct**

- Maximum Penalty: Revocation, stayed, 3 years of probation with the following conditions:
- Minimum Penalty: Revocation, stayed, 1 year of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29)

**Section 4955 (d) –**

**Violation of the Terms of this Chapter or Any Board Regulation**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)
  3. Special Terms and Conditions, if appropriate (#34 – # 39)

**Section 4955 (e) –**

**Violating Infection Control Guidelines**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (190, #29, #32, #33)

**Section 4955 (f) –**

**Threats or Harassment Against a Licensee or Patient**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29, #32, #33)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955 (h) –**

**Disciplinary Action Taken by Any Public Agency for Substantially Related Acts**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)

**Section 4955 (i) –**

**Action or Conduct that Warrants Denial**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Condition (#29)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955 (j) –**

**Violation of Any Law on Business Premises**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#29, #30)

**Violation: Fraud**

**Section 4955.1 (a) –**

**Securing a License by Fraud or Deception**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 3 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #22, #24, #29, #30)

**Section 4955.1 (b), (c), (d) –**

**An Act of Fraud, Dishonesty, or Corruption as an Acupuncturist**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 60 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #17, #19, #22, #29, #30, #32)

**Section 4955.1 (e) –**

**Failure to Keep Adequate and Accurate Records (repeated acts)**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed with 2 years' probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#19, #29)

**Violation: Negligence**

**Section 4955.2 (a) –**

**Gross Negligence**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 60 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Terms and Conditions (#16, #19, #21, #22, #29, #32, #33)
  3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955.2 (b) –**

**Repeated Negligent Acts**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 90 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)

2. Optional Terms and Conditions (#16, #19, #21, #22, #29, #32, #33)
3. Special Terms and Conditions, if appropriate (#34 – #39)

**Section 4955.2 (c) –**

**Incompetence**

- Maximum Penalty: Revocation or denial of license
- Minimum Penalty: Revocation, stayed, 90 days suspension with 3 years of probation with the following conditions:
  1. Standard Terms and Conditions (#1 – #15)
  2. Optional Term and Conditions (#16, #19, #21, #22, #23, #29, #32, #33)





1625 North Market Blvd., Suite N-219  
 Sacramento, CA 95834  
 P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



**Quarterly Report**

**QUARTERLY REPORTING PERIOD**

January 1 – March 31, 20\_\_\_\_
  July 1 – September 30, 20\_\_\_\_  
 April 1 – June 30, 20\_\_\_\_
  October 1 – December 31, 20\_\_\_\_

**Probation Case No.:** \_\_\_\_\_

**Directions:** Please answer each question for those conditions that apply to you. Lastly, **sign your name** under penalty of perjury and mail this completed form back to your probation monitor at the Board’s office address with any reports and or payment that should be filed quarterly. Quarterly reports are due the 5<sup>th</sup> of each month. Providing false, misleading or inaccurate information to the Board may be grounds for further disciplinary action by the Board.

**Information about You**

|                       |                                                |        |        |       |     |
|-----------------------|------------------------------------------------|--------|--------|-------|-----|
| Name:                 | _____                                          |        |        |       |     |
|                       | Last                                           | First  | Middle |       |     |
| License Number:       | _____                                          |        |        |       |     |
| Residence Address:    | _____                                          |        |        |       |     |
|                       | Number                                         | Street | City   | State | Zip |
|                       | <input type="checkbox"/> Select if new address |        |        |       |     |
| Telephone (home):     | _____                                          |        |        |       |     |
| Business Address:     | _____                                          |        |        |       |     |
|                       | Number                                         | Street | City   | State | Zip |
|                       | Number                                         | Street | City   | State | Zip |
|                       | <input type="checkbox"/> Select if new address |        |        |       |     |
| Telephone (business): | _____                                          |        |        |       |     |
| Business Name:        | _____                                          |        |        |       |     |
| E-Mail:               | _____                                          |        |        |       |     |
| Cell Phone:           | _____                                          |        |        |       |     |

**Probationary Terms & Conditions**

1. Actual Suspension  Not applicable Condition Completed

- Did you suspend your practice of acupuncture (check appropriate response)?  
Yes  No  If so, what were the dates in which you suspended your practice?  
\_\_\_\_\_
- How did you notify patients of the suspension of your practice?  
\_\_\_\_\_

2. Changes of Employment

- Have there been any employment changes since your last quarterly report?  
 Yes  No  
Please note changes below (employment changes must be submitted to monitor  
within 30 days of change):  
\_\_\_\_\_  
\_\_\_\_\_

3. Disclosure of Probation Status

- Do you provide written disclosure to each patient within five days prior to their first visit?  
 Yes  No
- How many patients were seen this quarter requiring written disclosure of probation status?  
\_\_\_\_\_

4. Restriction on Employing and Supervision of Trainees; Prohibition on Teaching

Have you employed or supervised any trainees or applied to employ or supervise any trainees since your last quarterly report?  
 Yes  No  
Are you teaching at any Board approved educational and training program or courses for any Board-approved continuing education?  
 Yes  No

5. Monitoring Program

**Probationary Terms & Conditions**

- Have you had any unapproved contact with any known victims, witnesses or complainants associated with your case, Board members and/or members of its staff, or persons who served as subject matter experts?  
 Yes  No
- Have you contacted your probation monitor for any questions pertaining to your order this quarter?  
 Yes  No

6. Cost Recovery  Not applicable Condition Completed

- In this quarter, have you paid recovery costs as directed in your terms and conditions of probation?  Yes  No  
If you answered no, provide an explanation (attach additional documentation regarding your good faith efforts):

\_\_\_\_\_  
\_\_\_\_\_

7. Tolling of Probation

- Have you left the state to reside or practice or stopped practicing acupuncture since your last quarterly report?  
 Yes  No

If yes, please provide details:

\_\_\_\_\_  
\_\_\_\_\_

8. Psychological Evaluation  Not applicable Condition Completed

- Have you undergone a psychological evaluation?  
 Yes  No
- Were you provided results of the evaluation from the Board?  
 Yes  No
- If ongoing psychotherapy was ordered by the Board as a result of the evaluation, what therapist are you seeing and what were the dates you saw them this quarter?

\_\_\_\_\_  
\_\_\_\_\_

9. Community Service  Not applicable Condition Completed

- Has a plan been submitted and approved?  
 Yes  No
- Have you submitted proof of your community service for this quarter?

**Probationary Terms & Conditions**

Yes  No

- How often are you providing community services?

\_\_\_\_\_

10. Coursework

Not applicable

Condition Completed

Date plan of coursework was approved: \_\_\_\_\_

Are you attending or have you completed the assigned coursework? Yes  No

Please list coursework you completed within this quarter:

| <u>Coursework Assigned</u> | <u>Name of Provider</u> | <u>Hours/Units</u> | <u>Date Completed</u> |
|----------------------------|-------------------------|--------------------|-----------------------|
| _____                      | _____                   | _____              | _____                 |
| _____                      | _____                   | _____              | _____                 |
| _____                      | _____                   | _____              | _____                 |

In this quarter, did you enroll in any required courses? Yes  No  If no, explain below:

\_\_\_\_\_

If you are developing your continuing education plan, detail below the actions you have taken to meet this requirement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When do you expect completion of the required coursework?

\_\_\_\_\_  
\_\_\_\_\_

- Have you provided completion certificates or transcripts showing you have completed the required coursework?

Yes  No Date proof provided: \_\_\_\_\_

11. Abstain from Drugs and Alcohol

Not applicable

What is the date of your sobriety? Alcohol: \_\_\_\_\_ Drugs: \_\_\_\_\_

**Probationary Terms & Conditions**

Have you abstained from alcohol and/or drugs during this period of probation?

Yes  No

If your answer was no, when was the last time you used drugs or alcohol and what were the circumstances?

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12. Submit to Tests and Samples  Not applicable

- Are you currently taking prescription medications? Yes  No
- If your answer is yes, please provide prescriber's name, address, and telephone number, medication name and strength, issuing pharmacy name, address, and telephone number, and date prescribed:

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- Dates of tests this quarter:

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- Name and location of regular testing site:

---

13. Attend Chemical Dependency Support/Recovery Groups  
 Not applicable

Condition Completed

Did you attend **and** participate in group therapy meetings (i.e. Alcoholics Anonymous, Narcotics Anonymous, or any other Support Group) this quarter? Yes  No

If you failed to comply with this term during this quarter, provide a detailed explanation regarding your failure to do so:

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---

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Group Name: \_\_\_\_\_

**Probationary Terms & Conditions**

*ATTACH COPIES OF PROOF OF ATTENDANCE DURING THIS QUARTER (All entries must be signed by the group secretary/facilitator.)*

How many meetings per week did you attend? \_\_\_\_\_

Do you have a sponsor?

Yes  No

14. Alcohol and Drug Abuse Treatment Program

Not applicable

Condition Completed

- Did you complete a recovery program under court order within the last three months of your effective date that was alternately approved by the Board?  
 Yes  No
- Are you currently enrolled in a Board approved inpatient or outpatient recovery program?  
 Yes  No
- Have you submitted proof of completion of your recovery program?  
 Yes  No Date proof submitted: \_\_\_\_\_

15. Obey All Laws

- Since the last quarterly report have you been arrested, charged, or convicted of any federal or state statute, or county or city ordinance?  
 Yes  No
- If you answered yes, provide a detailed explanation and attach the arrest report: \_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Name of arresting agency: \_\_\_\_\_  
Address of arresting agency: \_\_\_\_\_

In this quarter have you been convicted of a crime? Yes  No

If you answered yes, provide a detailed explanation (Attach the certified court documents.)

Name of court: \_\_\_\_\_

Address: \_\_\_\_\_ Case Number: \_\_\_\_\_

**Probationary Terms & Conditions**

Probation Officer: \_\_\_\_\_ Telephone Number: (\_\_\_\_) \_\_\_\_\_

16. Practice/Billing Monitor  Not applicable

- Has a practice/billing monitor plan been approved by the Board?  
 Yes  No
- Name and license number of practice/billing monitor:  
\_\_\_\_\_
- How many times did you meet with your monitor this quarter?  
\_\_\_\_\_
- Is your monitor report attached?  
 Yes  No

17. Psychotherapy  Not applicable

- What were the dates you met with your treating psychologist/psychiatrist this quarter?  
\_\_\_\_\_
- Has your psychologist/psychiatrist submitted monthly reports to the Board during this quarter?  
 Yes  No
- Doctor/Therapist's Name: \_\_\_\_\_
- License No.: \_\_\_\_\_
- Address: \_\_\_\_\_
- Telephone No.: (\_\_\_\_) \_\_\_\_\_

18. No Solo Practice  Not applicable

- Have you established a practice with another licensed practitioner or secured employment in an appropriate practice setting (e.g., working with at least one other acupuncturist together as part of an acupuncturist-only practice or as part of a multi-disciplinary setting with other health care professionals) ?  
 Yes  No
- Practitioner's Name: \_\_\_\_\_
- License No. and Type: \_\_\_\_\_
- Address: \_\_\_\_\_
- Telephone No.: (\_\_\_\_) \_\_\_\_\_

19. Supervised Practice  Not applicable

- Has a supervisor been approved by the Board?  
 Yes  No Date of approval: \_\_\_\_\_
- Is your supervisor's quarterly report attached?  
 Yes  No
- Name of Supervising Acupuncturist: \_\_\_\_\_

### Probationary Terms & Conditions

- License No. of Supervising Acupuncturist: \_\_\_\_\_
- What level of supervision is being used by your supervisor (Check which level applies)?
  1. The supervisor is on site at all times:
  2. The supervisor is on site at least 50% of the time respondent is practicing:
  3. Patient's condition is reviewed by supervisor prior to patient leaving facility
- Have you completed your required term of supervised practice?
  - Yes  No  N/A
  - Date of completion: \_\_\_\_\_

20. Restrictions on Patient Population or Practice Setting  Not applicable

- Have received approval of your plan to comply with the population or practice setting restriction?
  - Yes  No      Date of approval: \_\_\_\_\_
- Are you restricting your practice to the population specified in your Decision and Order?
  - Yes  No  N/A
- Are you restricting your practice to the practice setting specified in your Decision and Order?
  - Yes  No  N/A

21. Restrictions on Practice Techniques and Modalities  Not applicable

- Have received approval of your plan to comply with the practice technique and modalities restriction?
  - Yes  No      Date of approval: \_\_\_\_\_
- Are you refraining from the practice of the prohibited practice techniques and modalities specified in your Decision and Order?
  - Yes  No

|                 |                                         |                                              |
|-----------------|-----------------------------------------|----------------------------------------------|
| 22. Restitution | <input type="checkbox"/> Not applicable | Condition Completed <input type="checkbox"/> |
|-----------------|-----------------------------------------|----------------------------------------------|

- Have you paid your ordered restitution in full?
  - Yes  No
- Have you provided proof of payment to the Board? (Proof may include a copy of the cancelled check or other documentary evidence showing payment made directly to the person to whom you owe restitution.)
  - Yes  No      Date proof submitted: \_\_\_\_\_

23. Notification of Probationer Status to Employers  Not applicable

- Have you provided notification of your probation status to your employer?
  - Yes  No      Date notification provided: \_\_\_\_\_
- Name of employer: \_\_\_\_\_
- Physical address: \_\_\_\_\_



**Probationary Terms & Conditions**

- Mailing address: \_\_\_\_\_
- Telephone No.: \_\_\_\_\_
- Name of direct supervisor: \_\_\_\_\_
- Supervisor's work schedule: \_\_\_\_\_

24. Notification of Probationer Status to Employees  Not applicable

- Have you provided notification of your probation status to your employee(s)?  
 Yes  No Date notification provided: \_\_\_\_\_
- Number of employees: \_\_\_\_\_
- Has the following information been provided to the Board for all employee(s)?  
 Yes  No Date provided: \_\_\_\_\_
- Physical address: \_\_\_\_\_
- Mailing address: \_\_\_\_\_
- Telephone No.: \_\_\_\_\_
- Employee(s)' work schedule \_\_\_\_\_

25. Biological Fluid Testing (Substance Abusing Licensees)  Not applicable

- Did you submit to a minimum of three biological fluid tests this quarter?  
 Yes  No  
Dates of tests this quarter:  
\_\_\_\_\_  
Name and location of regular testing site:  
\_\_\_\_\_
- Did you receive approval to be tested at an alternative site for an approved vacation or absence?  
 Yes  No  
Name and location of testing site:  
\_\_\_\_\_

26. Substance Abuse Support Group Meetings (Substance Abusing Licensees)  Not applicable

Condition Completed

Did you attend your approved group meetings this quarter? Yes  No

Group Name: \_\_\_\_\_

**ATTACH COPIES OF PROOF OF ATTENDANCE DURING THIS QUARTER (All entries must be signed by the group secretary/facilitator.)**

How many meetings this quarter did you attend? \_\_\_\_\_

What is your approved frequency of meetings?  
\_\_\_\_\_

**Probationary Terms & Conditions**

27. Worksite Monitor for Substance Abusing Licensee  Not applicable

- Name and license number of worksite monitor:  
\_\_\_\_\_
- How many times did you meet with your monitor this quarter?  
\_\_\_\_\_
- Is your monitor report attached?  
 Yes  No

I hereby submit this Quarterly Report as required by the California Department of Consumer Affairs, Acupuncture Board and its order of probation thereof, and declare under penalty of perjury of the laws of the State of California that I have read the foregoing report in its entirety, and that all statements made are true and correct.

\_\_\_\_\_  
Probationer Signature

\_\_\_\_\_  
Date

**INFORMATION COLLECTION AND ACCESS** The information requested herein is mandatory and is maintained by the California Acupuncture Board, 1625 North Market Blvd., Suite N-219, Sacramento, CA 95834, Executive Officer, (916) 515-5200, in accordance with the Acupuncture Licensure Act (Bus. & Prof. Code, §§ 4925 et seq.) and Title 16, California Code of Regulations section 1399.469. The Board uses this information principally to identify and evaluate probationers' compliance with its disciplinary decisions and orders and enforce licensing and reporting standards set by law and regulation. Failure to provide all or any part of the requested information may result in further disciplinary or other enforcement action by the Board.

The information on this form may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information about you unless the records are exempted from disclosure. Individuals may obtain information regarding the location of their records by contacting the Board's Executive Officer at 1625 North Market Blvd., Suite N-219, Sacramento, CA 95834, or at (916) 515-5200.



**12 -  
Committee  
Assignments**



1625 N. Market Blvd., Suite N-219  
Sacramento, CA 95834  
P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



## 23/24 Acupuncture Board Committees

### Licensing Committee

Chair: Hyun “Francisco” Kim, L.Ac.  
Dr. Yong Ping Chen, L.Ac., Ph.D.

### Enforcement

Chair: Ruben Osorio  
Dr. Amy Matecki, MD, L.Ac.



**13 - Setting  
2024 Meeting  
Calendar**

# 2024

| January |    |    |    |    |    |    |
|---------|----|----|----|----|----|----|
| S       | M  | T  | W  | T  | F  | S  |
|         | 1  | 2  | 3  | 4  | 5  | 6  |
| 7       | 8  | 9  | 10 | 11 | 12 | 13 |
| 14      | 15 | 16 | 17 | 18 | 19 | 20 |
| 21      | 22 | 23 | 24 | 25 | 26 | 27 |
| 28      | 29 | 30 | 31 |    |    |    |
|         |    |    |    |    |    |    |

| February |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| S        | M  | T  | W  | T  | F  | S  |
|          |    |    |    | 1  | 2  | 3  |
| 4        | 5  | 6  | 7  | 8  | 9  | 10 |
| 11       | 12 | 13 | 14 | 15 | 16 | 17 |
| 18       | 19 | 20 | 21 | 22 | 23 | 24 |
| 25       | 26 | 27 | 28 | 29 |    |    |
|          |    |    |    |    |    |    |

| March |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| S     | M  | T  | W  | T  | F  | S  |
|       |    |    |    |    | 1  | 2  |
| 3     | 4  | 5  | 6  | 7  | 8  | 9  |
| 10    | 11 | 12 | 13 | 14 | 15 | 16 |
| 17    | 18 | 19 | 20 | 21 | 22 | 23 |
| 24    | 25 | 26 | 27 | 28 | 29 | 30 |
| 31    |    |    |    |    |    |    |

| April |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| S     | M  | T  | W  | T  | F  | S  |
|       | 1  | 2  | 3  | 4  | 5  | 6  |
| 7     | 8  | 9  | 10 | 11 | 12 | 13 |
| 14    | 15 | 16 | 17 | 18 | 19 | 20 |
| 21    | 22 | 23 | 24 | 25 | 26 | 27 |
| 28    | 29 | 30 |    |    |    |    |
|       |    |    |    |    |    |    |

| May |    |    |    |    |    |    |
|-----|----|----|----|----|----|----|
| S   | M  | T  | W  | T  | F  | S  |
|     |    |    | 1  | 2  | 3  | 4  |
| 5   | 6  | 7  | 8  | 9  | 10 | 11 |
| 12  | 13 | 14 | 15 | 16 | 17 | 18 |
| 19  | 20 | 21 | 22 | 23 | 24 | 25 |
| 26  | 27 | 28 | 29 | 30 | 31 |    |
|     |    |    |    |    |    |    |

| June |    |    |    |    |    |    |
|------|----|----|----|----|----|----|
| S    | M  | T  | W  | T  | F  | S  |
|      |    |    |    |    |    | 1  |
| 2    | 3  | 4  | 5  | 6  | 7  | 8  |
| 9    | 10 | 11 | 12 | 13 | 14 | 15 |
| 16   | 17 | 18 | 19 | 20 | 21 | 22 |
| 23   | 24 | 25 | 26 | 27 | 28 | 29 |
| 30   |    |    |    |    |    |    |

| July |    |    |    |    |    |    |
|------|----|----|----|----|----|----|
| S    | M  | T  | W  | T  | F  | S  |
|      | 1  | 2  | 3  | 4  | 5  | 6  |
| 7    | 8  | 9  | 10 | 11 | 12 | 13 |
| 14   | 15 | 16 | 17 | 18 | 19 | 20 |
| 21   | 22 | 23 | 24 | 25 | 26 | 27 |
| 28   | 29 | 30 | 31 |    |    |    |
|      |    |    |    |    |    |    |

| August |    |    |    |    |    |    |
|--------|----|----|----|----|----|----|
| S      | M  | T  | W  | T  | F  | S  |
|        |    |    |    | 1  | 2  | 3  |
| 4      | 5  | 6  | 7  | 8  | 9  | 10 |
| 11     | 12 | 13 | 14 | 15 | 16 | 17 |
| 18     | 19 | 20 | 21 | 22 | 23 | 24 |
| 25     | 26 | 27 | 28 | 29 | 30 | 31 |
|        |    |    |    |    |    |    |

| September |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| S         | M  | T  | W  | T  | F  | S  |
| 1         | 2  | 3  | 4  | 5  | 6  | 7  |
| 8         | 9  | 10 | 11 | 12 | 13 | 14 |
| 15        | 16 | 17 | 18 | 19 | 20 | 21 |
| 22        | 23 | 24 | 25 | 26 | 27 | 28 |
| 29        | 30 |    |    |    |    |    |
|           |    |    |    |    |    |    |

| October |    |    |    |    |    |    |
|---------|----|----|----|----|----|----|
| S       | M  | T  | W  | T  | F  | S  |
|         |    | 1  | 2  | 3  | 4  | 5  |
| 6       | 7  | 8  | 9  | 10 | 11 | 12 |
| 13      | 14 | 15 | 16 | 17 | 18 | 19 |
| 20      | 21 | 22 | 23 | 24 | 25 | 26 |
| 27      | 28 | 29 | 30 | 31 |    |    |
|         |    |    |    |    |    |    |

| November |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| S        | M  | T  | W  | T  | F  | S  |
|          |    |    |    |    | 1  | 2  |
| 3        | 4  | 5  | 6  | 7  | 8  | 9  |
| 10       | 11 | 12 | 13 | 14 | 15 | 16 |
| 17       | 18 | 19 | 20 | 21 | 22 | 23 |
| 24       | 25 | 26 | 27 | 28 | 29 | 30 |
|          |    |    |    |    |    |    |

| December |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| S        | M  | T  | W  | T  | F  | S  |
| 1        | 2  | 3  | 4  | 5  | 6  | 7  |
| 8        | 9  | 10 | 11 | 12 | 13 | 14 |
| 15       | 16 | 17 | 18 | 19 | 20 | 21 |
| 22       | 23 | 24 | 25 | 26 | 27 | 28 |
| 29       | 30 | 31 |    |    |    |    |
|          |    |    |    |    |    |    |