

**TITLE 16. CALIFORNIA ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE IS HEREBY GIVEN that the California Acupuncture Board (hereinafter “Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
1747 N. Market Blvd, 2nd floor, Sapphire Room
Sacramento, CA 95834
July 20, 2015 at 9am**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than July 20, 2015 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 4933 of the Business and Professions Code, and to implement, interpret or make specific section 138 of the Business and Professions Code, the Board is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board currently regulates a total of 17,200 licensees, all of whom have been issued a license to practice Acupuncture in California. The Board’s highest priority is the protection of the public when exercising its licensing, regulatory, examination and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violating of the Acupuncture Licensure Act (hereinafter “ALA”); monitoring licensees whose license has been placed on probation; overseeing approval of Acupuncture Schools and training programs; and administering the California Acupuncture Licensing Exam (CALE).

Business and Professions Code section 4933 authorizes the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Acupuncture Practice Act.

The primary purpose of these proposed regulations is to implement, interpret, and make specific the provisions of section 138 of the Business and Professions Code relative to providing conspicuous notification to consumers that acupuncturists are licensed and regulated by the Board, require that the notice include a statement to that effect, and contain the Board's telephone number and its Web Site address.

The Board is proposing the following changes:

Adopt Section 1399.469.3 of Division 5 of Title 16 of the California Code of Regulations (Notice to Consumers):

The proposed regulations require a licensed acupuncturist engaged in the practice of acupuncture to provide notice to each patient of the fact that he or she is licensed and regulated by the Board. This proposal would require the notice include a statement that acupuncturists are licensed and regulated by the Board and contain the Board's telephone number and Web site address.

The proposed regulations would specify that the notice is required to be prominently posted in an area visible to patients on the premises where services are provided in at least 48-point type font.

Benefits

As previously specified, the protection of the public is the Board's highest priority when exercising its licensing, regulatory, examination, and disciplinary functions. This proposal is consistent with the Board's priority of protecting the public. An informed consumer is in a better position to make a reasoned choice relating to acupuncture care. Additionally, an informed consumer would be able to assist the Board in regulating the practice of Acupuncture via the Board's complaint process, should a problem arise.

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact/Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Although many businesses will be required to comply, the economic impact will be minor. Acupuncturists would only be required to prominently post a sign, indicating that they are licensed by the Board, and the notice would include a statement that acupuncturists are licensed and regulated by the Board and contain the Board's telephone number and Web site address.

Cost Impact on Representative Private Person or Business:

Specifically, this proposed regulation requires acupuncturists to notify their patients that they are licensed and regulated by the Board and to provide the Board's contact information. Acupuncturists may provide the notice by posting of a sign. The Board believes that the vast majority of acupuncturists would implement this regulation via the easiest means by posting a sign in a visible place, such as a reception /check-in area or waiting room. The most "professional" way to achieve this would be for a practice setting to print the sign on a laser jet printer (less than \$0.05 per page) and then buy a simple black plastic "document" frame (estimated to cost \$4.50 at an office supply store). Thus, per office, the cost would be less than \$5.00 to implement. The Board does not maintain data relating to the number or percentage of licensees who own a business, therefore, a number or percentage of businesses that may be impacted cannot be predicted. The estimated expense of less than \$5.00 per office would be minor and absorbable.

Effect on Housing Costs: None

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation has an estimated expense of less than \$5.00 per office, which would be minor and absorbable. This minimal cost is outweighed by the benefits to the public of providing accessible information that fully informs consumers about the license status of their acupuncture health practitioner and the regulatory agency who is responsible for regulating Acupuncture in the State of California.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, that it will not create or eliminate jobs or occupations in California, that it will not impact the creation of new businesses or the elimination of existing businesses, that it will not impact the expansion of businesses in California, and the proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services. The Board's proposal does not impact multiple industries.

Benefits of the Regulation: As previously specified, the protection of the public is the Board's highest priority when exercising its licensing, regulatory, examination, and disciplinary functions. This proposal is consistent with the Board's priority of protecting the public. An informed consumer is in a better position to make a reasoned choice relating to acupuncture care. Additionally, an informed consumer would be able to assist the Board in regulating the practice of Acupuncture via the Board's complaint process, should a problem arise.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not have a significant economic impact on small businesses.

Although many small businesses will be required to comply, the economic impact will be minor. Acupuncturists would only be required to prominently post a sign in a conspicuous location in the treatment area. The proposed regulation permits the acupuncturist to choose how he or she will comply with the notice requirements. The Board believes that the vast majority of acupuncturists would implement this regulation via the easiest means: posting a sign in a visible place, such as a reception/ check-in area or waiting room. The most "professional" way to achieve this would be for a practice setting to print the sign on a laser jet printer (less than \$0.05 per page) and then buy a simple black plastic "document" frame (estimated to cost \$4.50 at an office supply store). Thus, per office, the cost would be less than \$5.00 to implement. The Board does not maintain data relating to the number or percentage of licensees who own a small business, therefore, a number or percentage of small businesses that may be impacted cannot be predicted. The estimated expense of less than \$5.00 per office would be minor and absorbable.

Occupations/Businesses Impacted: The Board has made an initial determination that this regulatory proposal will impact acupuncturists. As of January 2015, the Board had approximately 17,200 licenses issued in the state.

Reporting Requirements: None

Comparable Federal Regulations: None

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative that is considered to the regulation or that has otherwise been identified or brought to its attention would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed regulations.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Acupuncture Board at 1747 N. Market Blvd, Suite 180, Sacramento, CA 95834, or by accessing the Board's website at www.acupuncture.ca.gov

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name:	Marc Johnson, Policy Coordinator
Address:	1747 North Market Blvd, Suite 180 Sacramento, CA 95834
Telephone No.:	916-515-5200
Fax No.:	916-928-2204
E-Mail Address:	acupuncture@dca.ca.gov

The backup contact person is:

Name: Terri Thorfinnson, Executive Officer
Address: 1747 North Market Blvd, Suite 180
Sacramento, CA 95834
Telephone No.: 916-515-5200
Fax No.: 916-928-2204
E-Mail Address: acupuncture@dca.ca.gov

Website Access: Materials regarding this proposal can be found at
http://www.acupuncture.ca.gov/about_us/dpopp.shtml