AB 72 (Eng)

Health Care Coverage: Acupuncture

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 72

Introduced by Assembly Member Eng
(Coauthors: Assembly Members Dickinson, Fong, Ma, Nielsen, and Swanson)
(Coauthor: Senator Huff)

December 21, 2010

An act to amend Section 1373.10 of the Health and Safety Code, and to amend Sections 10127.3 and 10176 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 72, as amended, Eng. Health care coverage: acupuncture.

Existing law requires a health care service plan, that is not a health ~~care~~ maintenance organization or is not a plan that enters exclusively into specialized health care service plan contracts, and a ~~disability~~ *health* insurer issuing policies on a groupwide basis, to offer acupuncture coverage under those terms and conditions as may be agreed upon by the parties~~, with specified exceptions~~. *Existing law provides that a plan or insurer is not required to offer "that Coverage as" part of a contract or policy covering public employees.* A willful violation of the laws regulating health care service plans is a crime.

This bill would instead require every health care service plan, except a plan that enters exclusively into *contracts that are accident-only, specified disease, hospital indemnity, Medicare supplement, or* specialized health care service plan contracts, and every ~~disability~~ *health* insurer issuing policies on a groupwide basis, *except for policies that are accident-only, specified disease, hospital indemnity, Medicare*

supplement, or specialized health insurance policies, to provide acupuncture coverage under those terms and conditions as may be agreed upon by the parties.

Because a violation of this bill's requirements with respect to a health care service plan would be a crime, this bill would impose a state-mandated local program by creating a new crime.

Existing law authorizing a disability insurance policy to provide payment for acupuncture services requires that the disability insurance policy or contract expressly include acupuncture as a benefit in order for a licensed or certified acupuncturist to be paid or reimbursed under the policy for his or her services.

This bill would delete the requirement conditioning the payment and reimbursement of a certified or licensed acupuncturist, for his or her services, on the express inclusion of acupuncture as a benefit in a disability insurance policy or contract. This bill would also make technical and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1373.10 of the Health and Safety Code
2 is amended to read:
3 1373.10. (a) On and after January 1, 1985, every health care
4 service plan, that is not a health maintenance organization or is
5 not a plan that enters exclusively into specialized health care
6 service plan contracts, as defined by subdivision (o) of Section
7 1345, that provides coverage for hospital, medical, or surgical
8 expenses, shall offer coverage to group contractholders for
9 expenses incurred as a result of treatment by holders of certificates
10 under Section 4938 of the Business and Professions Code, under
11 terms and conditions as may be agreed upon between the health
12 care service plan and the groupcontract holder.
13 (b) *(1)* On and after January 1, 2012, *except as provided in*
14 *paragraph (2),* every health care service ~~plan, that is not a plan~~

~~that enters exclusively into specialized health care service plan contracts, as defined by subdivision (o) of Section 1345,~~ *plan* that provides coverage for hospital, medical, or surgical expenses, shall provide coverage to group contractholders for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under terms and conditions as may be agreed upon between the health care service plan and the group contractholder.

(2) This subdivision shall not apply to plan contracts that are accident-only, specified disease, hospital indemnity, Medicare supplement, or specialized health care service plan contracts, as defined in subdivision (o) of Section 1345.

SEC. 2. Section 10127.3 of the Insurance Code is amended to read:

10127.3. (a) On and after January 1, 1985, every insurer issuing group disability insurance that covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under terms and conditions as may be agreed upon between the group policyholder and the insurer.

(b) *(1)* On and after January 1, 2012, *except as provided in paragraph (2),* every insurer issuing group ~~disability insurance that covers hospital, medical, or surgical expenses~~ *health insurance* shall provide coverage for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under terms and conditions as may be agreed upon between the group policyholder and the insurer.

(2) This subdivision shall not apply to insurance policies that are accident-only, specified disease, hospital indemnity, Medicare supplement insurance, or specialized health insurance policies, as defined in subdivision (c) of Section 106.

SEC. 3. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance, the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, acupuncture, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any of those services, and provision may be made therein for payment of all or a portion of the amount

of charge for these services without requiring that the insured first pay the expenses. The policy shall not prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2050, 2472, 2553, 2630, 2948, 3055, or 4938 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, the certificate holder or licensee being expressly authorized by law to perform those services.

Nor shall the policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2050 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 4996 of the Business and Professions Code or any occupational therapist as specified in Section 2570.2 of the Business and Professions Code, or any marriage and family therapist who is the holder of a license under Section 4980.50 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, or from selecting any speech-language pathologist or audiologist licensed under Section 2532 of the Business and Professions Code or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing or any advanced practice registered nurse certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code who participates in expert clinical practice in the specialty of psychiatric-mental health nursing, or any respiratory care practitioner certified pursuant to Chapter 8.3 (commencing with Section 3700) of Division 2 of the Business and Professions Code to perform services deemed necessary by the referring physician, that certificate holder, licensee or otherwise regulated person, being expressly authorized by law to perform the services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training, and experience. For the purposes of this section, "marriage and family therapist" means a licensed marriage and family therapist who has

received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family, and child relationship dysfunctions that is equivalent to the instruction required for licensure on January 1, 1981.

An individual disability insurance policy, which is issued, renewed, or amended on or after January 1, 1988, and which includes mental health services coverage may not include a lifetime waiver for that coverage with respect to any applicant. The lifetime waiver of coverage provision shall be deemed unenforceable.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AB 1889 (Fong)

Practical Examination

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1889

Introduced by Assembly Member Fong

February 22, 2012

An act to amend Section ~~3209.3 of the Labor Code, relating to workers' compensation~~ *4938 of the Business and Professions Code, relating to acupuncture.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1889, as amended, Fong. ~~Workers' compensation: acupuncturists.~~ *Acupuncture: license requirements.*

Existing law, the Acupuncture Licensure Act, provides for an Acupuncture Board within the Department of Consumer Affairs to license and regulate the practice of acupuncture.

Existing law requires the board to issue a license to practice acupuncture to a person who files an application, pays a fee, and meets specified criteria, including taking a written examination and completing a clinical internship program.

This bill would require an applicant for a license to practice acupuncture to also pass a practical examination administered by the board.

~~Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law prohibits an acupuncturist, as defined, from being authorized to determine disability for certain purposes relating to workers' compensation disability payments and benefits.~~

~~This bill would delete this prohibition. The bill would also make technical changes.~~

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

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

1 *SECTION 1. Section 4938 of the Business and Professions*
2 *Code is amended to read:*
3 4938. The board shall issue a license to practice acupuncture
4 to any person who makes an application and meets the following
5 requirements:
6 (a) Is at least 18 years of age.
7 (b) Furnishes satisfactory evidence of completion of one of the
8 following:
9 (1) An educational and training program approved by the board
10 pursuant to Section 4939.
11 (2) Satisfactory completion of a tutorial program in the practice
12 of an acupuncturist which is approved by the board.
13 (3) In the case of an applicant who has completed education
14 and training outside the United States and Canada, documented
15 educational training and clinical experience which meets the
16 standards established pursuant to Sections 4939 and 4941.
17 (c) Passes a written examination *and a practical examination*
18 administered by the board that tests the applicant's ability,
19 competency, and knowledge in the practice of an acupuncturist.
20 The written ~~examination~~ *and practical examinations* shall be
21 developed by the Office of Professional Examination Services of
22 the Department of Consumer Affairs.
23 (d) Is not subject to denial pursuant to Division 1.5 (commencing
24 with Section 475).
25 (e) Completes a clinical internship training program approved
26 by the board. The clinical internship training program shall not
27 exceed nine months in duration and shall be located in a clinic in
28 this state, which is approved by the board pursuant to Section 4939.
29 The length of the clinical internship shall depend upon the grades
30 received in the examination and the clinical training already
31 satisfactorily completed by the individual prior to taking the
32 examination. On and after January 1, 1987, individuals with 800
33 or more hours of documented clinical training shall be deemed to

have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

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

~~SECTION 1. Section 3209.3 of the Labor Code is amended to read:~~

~~3209.3. (a) "Acupuncturist" means a person who holds an acupuncturist's certificate issued pursuant to Chapter 12 (commencing with Section 4925) of Division 2 of the Business and Professions Code.~~

~~(b) "Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.~~

~~(c) "Psychologist" means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology.~~

~~(d) When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer.~~

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May 2, 2012

Re: AB 1889 (Fong) - **OPPOSE**

The Honorable Felipe Fuentes, Chair
Assembly Appropriations Committee
State Capitol, Room 95814
Sacramento, CA 95814
916.319.2181 fax

Dear Assembly Member Fuentes and Committee:

The College of Acupuncture & Oriental Medicine (CAOM), is located at the Southern California University of Health Sciences (SCU) in Whittier, California. CAOM celebrated its 12th year anniversary in 2012, and is fully accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). SCU is fully accredited by the Western Association of Schools and Colleges (WASC), and recently celebrated its 100th anniversary. SCU-CAOM is pioneering a fundamentally new and integrated way of educating Acupuncture and Oriental Medicine practitioners for the 21st century.

SCU is in strong opposition to AB 1889 for the following reasons: a practical examination is too expensive for the California Acupuncture Board (CAB) and prospective licensees, too complex and manpower intensive for the CAB, unlikely to be legally defensible, not required by other healthcare professions in the state, and not necessary to ensure public safety.

1. The previously offered CAB practical exam included five components 1) Point Location, 2) Herbal Identification, 3) Clean Needle Technique, 4) Face and Tongue Diagnosis, and 5) Case Diagnosis. This exam was discontinued because of the **huge expense to create and administer the practical examination**, and because of numerous lawsuits that arose over the validity of the examination. According to the National Certification Commission for Acupuncture and Oriental Medicine –NCCAOM, in order to create a legally-defensible, reliable, credible, and valid practical examination covering only one domain, such as Point Location, would cost about $120,000. To create a comprehensive practical examination of similar quality **would easily cost several hundred thousand to more than a half million dollars just to develop. This does not include the costs for administering the examination on an ongoing basis.** In this time of budget cuts, the fiscal reality is that this is not feasible to require of the CAB.
2. The cost of a practical examination to prospective licensees, if developed and required by CAB, would be unreasonably excessive. The cost of the written examination is $550, plus a $75 application fee. Undoubtedly, the cost of a practical exam would be at least as much.
3. No other healthcare licensing board in the State of California oversees a practical exam.

4. The safety record of the field of Acupuncture and Asian Medicine is excellent. There is no demonstrated need for the re-introduction of a practical exam.

Consequently, we strongly oppose AB 1889 and urge Representative Fong to withdraw this bill.

We further urge that, instead of imposing additional testing requirements upon the CAB, the CAB should be encouraged to adopt the NCCAOM certifying examination for licensure, the same as is required in all 49 other states. This would allow for benchmarking of institutional performance on a national level, which would expose programs who may not prepare their students well for practice. We also recommend that the CAB not engage in the practice of approving AOM colleges, but instead follow the lead of the other 49 states by requiring that students who wish to be licensed in the state of California graduate from ACAOM accredited colleges. We believe that these steps would do more to ensure the public safety than imposing a practical examination, and would allow the CAB to concentrate its efforts on protecting the public safety from unethical practitioners, and would reduce costs significantly to the CAB, the State of California, and the potential licensees.

Please do not hesitate to contact me if there are any questions or concerns related to our position.

Sincerely,

J. Todd Knudsen, DC, DACBR
Vice-President for Academic Affairs and Chief Academic Officer
Southern California University of Health Sciences
toddknudsen@scuhs.edu
Ph (562)902-3305

cc: Members, Assembly Appropriations Committee
Lisa Murawski, Consultant, Assembly Appropriations Committee
Ted Blanchard, Consultant, Assembly Republican Caucus
Lark Park, Legislative Unit, Governor's Office
Janelle Wedge, California Acupuncture Board

Pacific College of Oriental Medicine

April 19, 2012

RE: AB 1889 (Fong) - Acupuncture: license requirements - **OPPOSE**

The Honorable Mary Hayashi, Chair
Assembly Committee on Business, Professions and Consumer Protection
State Capitol, Room 3013
Sacramento, CA 95814

Dear Assemblymember Hayashi:

This letter documents our strong opposition to AB 1889. We are the largest Chinese Medical School in the country with campuses in San Diego, Chicago, and New York. This bill would have very negative ramifications on the profession of Chinese medicine and acupuncture and, despite the claims of its proponents, will not provide any better care to California consumers. We base that assessment on historical data, a lack of necessity, and its inherent anti-competitive effect.

Historically, the California Acupuncture Board (CAB) did administer a practical exam. This ended over twelve years ago due to many flaws. These included serious problems in providing validity and reliability for the exam. **Validity** is a scientific term that means the test shows what it says it is showing. Two issues affecting validity include "standardized" point models and herbs. Point models were paid individuals used to assess acupuncture point location. Each test taker would have a different person. Adhesive disks were placed on these models and determined if it was correctly on the point. The problem is that each model was different. It is impossible to ensure similar body types for each examinee. This meant that one examinee may get a very easy model and pass when they should not and another examinee would have a very tough model and not pass when he or she should have. Herbs have a similar problem: herbs on an identification portion of the exam can differ dramatically based on where they were grown, where and when they were purchased, how they were picked, sliced, or processed. This can cause variances in who passes and who does not.

The other side of validity is **reliability**. This is another scientific term that means that results are reproducible and consistent. Given the flaws in validity, reliability was not and cannot be assured. In other words, examinees of similar ability would not consistently get similar scores. It results in an element of randomness in the exam results.

Given the minimal levels of validity and reliability, the practical exam **lacks defensibility**. Again historically, the practical exam was frequently under legal attack by failed examinees and the

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CAB had difficulty defending it. These lawsuits, of course also distracted the limited resources of the CAB from its main goal of patient safety.

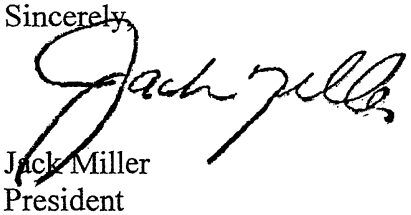
Reinstituting the practical exam also would have a severe **anti-competitive effect** on the profession. The barrier to entry of the profession's recent graduates would be raised substantially and, given the points above, unfairly. This would prevent consumer choice and the inherent positive effects of competition such as decreased costs and increased service for patients.

Finally and significantly, the proponents of this bill have not demonstrated **necessity**. The purpose of the CAB and the exam are to ensure public safety and protect consumers. If there was any increase in danger this would be demonstrated by objective measurements. One of these measures is malpractice insurance rates. Since the cessation of the practical exam, there has not been a substantial increase in malpractice insurance costs by any of the major acupuncture malpractice companies in California. Another objective measure of safety concerns are the complaint rates fielded by the CAB. Again, there has not been any significant difference in complaint rates or disciplinary actions since stopping the practical exam over twelve years ago.

In summary, the history of the acupuncture practical exam shows significant flaws in its execution and there is no obvious reason to reinstitute it other than to protect a small number of practitioners from increasing competition at the expense of California consumers. Since the practical exam was last given, the education of the profession in California has increased significantly in hours and graduates are coming out of school today with more knowledge and skills than past graduates. All of this does not touch on the increased costs or administrative burden to the CAB or the increased costs, in both time and money, to the examinees. Please do not allow this bill to pass.

Thank you for your time. If you have any further questions, please feel free to contact me.

Sincerely,



Jack Miller
President

SB 1488 (Yee)

Traditional Chinese Medicine Traumatologist Certification

AMENDED IN SENATE APRIL 30, 2012

SENATE BILL No. 1488

Introduced by Senator Yee

February 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: traditional Chinese Medicine traumatologist certification.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

This bill would establish the Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements and pays a specified fee. This bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

This bill would limit the timeframe for new applications to the period from January 1, 2013, to December 15, 2013. Thereafter, the council may only issue renewals of current certificates.

This bill would set forth procedures for the renewal of a certificate to perform traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would also require specified treatment procedures to be performed under the supervision of an orthopedic surgeon and prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of "certified traditional Chinese Medicine traumatologist" without meeting these certification requirements *and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.*

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

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

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

1 SECTION 1. Chapter 12.5 (commencing with Section 4979.1)
2 is added to Division 2 of the Business and Professions Code, to
3 read:
4
5 CHAPTER 12.5. TRADITIONAL CHINESE MEDICINE
6 TRAUMATOLOGY
7
8 4979.1. As used in this chapter:
9 (a) "Certified traditional Chinese Medicine traumatologist"
10 means a person who has been certified by the Traditional Chinese
11 Medicine Traumatology Council to perform traditional Chinese
12 Medicine traumatology.
13 *(b) "Council" means the California Traditional Chinese*
14 *Medicine Traumatology Council.*
15 ~~(b)~~
16 *(c)* "Traditional Chinese Medicine traumatology" includes a
17 range of treatments to address both acute and chronic
18 musculoskeletal conditions, as well as many nonmusculoskeletal

conditions. Techniques include, but are not limited to, brushing, kneading, rolling, pressing, and rubbing the areas between each of the joints to open the body's defensive chi and stimulate the energy movement in both meridians.

~~4979.2. The Traditional Chinese Medicine Traumatology Council shall be established as a nonprofit organization for the purpose of developing standards for, and certifying the practice of, traditional Chinese Medicine traumatology.~~

4979.3. (a) ~~(1)~~ *The California Traditional Chinese Medicine Traumatology Council shall be established as a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for the purpose of developing standards for, and certifying the practice of, traditional Chinese Medicine traumatology. The council may commence activities as authorized by this section after submitting a request to the Internal Revenue Service seeking the exemption.*

(b) (1) The council shall consist of seven members, composed of three representatives from the clinical settings of traumatology, two representatives from the California Orthopaedic Association, and one representative each from the Medical Board of California and the California Medical Association.

(2) Representatives from the clinical settings of traumatology shall be selected by professional societies, associations, or other entities, whose memberships are comprised solely of practitioners of traditional Chinese Medicine traumatology.

(3) To qualify, a professional society, association, or entity shall have a dues-paying membership in California of at least 30 individuals for the last three years and shall have bylaws that require its members to comply with a code of ethics.

~~(b)~~

(c) (1) Subject to subdivision ~~(d)~~ *(e)*, the council shall meet and confer to determine the certification standards, including the level of experience and training needed for an individual to qualify for traditional Chinese Medicine traumatology certification.

(2) The council shall develop the application form for certification.

(3) The meetings and deliberations of the council shall be subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

~~(c)~~

(d) The council shall issue a certificate for certified traditional Chinese Medicine traumatology to any person who makes an application and meets all of the following requirements, as determined by the council pursuant to subdivision ~~(d)~~ *(e)*:

(1) Is at least 18 years of age.

(2) Furnishes satisfactory evidence of training and clinical experience that meets the standards established by the council.

(3) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

~~(d)~~

(e) The council shall evaluate whether an applicant meets the certification standards, including the level of experience and training to sufficiently qualify for the traumatology certification.

~~(e)~~

(f) An individual who is not qualified to receive a certificate under this section, or who fails to apply for certification under this section, shall not hold himself or herself out as a certified traditional Chinese Medicine traumatologist pursuant to this section.

4979.4. (a) A certified traditional Chinese Medicine traumatologist, when engaging in traditional Chinese Medicine traumatology manipulation techniques to realign the musculoskeletal and ligamentous relationships, shall be supervised by a physician and surgeon who has completed an orthopaedic residency program. The extent of the relationship between a traditional Chinese Medicine traumatologist and orthopedic surgeon regarding those manipulation techniques shall be determined by the council after the qualifications necessary for certification are defined and adopted by the council.

(b) A certified traditional Chinese Medicine traumatologist shall not practice medicine, as defined in Section 2052.

(c) A certified traditional Chinese Medicine traumatologist shall not practice within the scope of activities regulated by the State Board of Chiropractic Examiners.

4979.5. (a) An applicant for traditional Chinese Medicine traumatology certification shall, commencing January 1, 2013, until December 15, 2013, file an application for a certificate for traditional Chinese Medicine traumatology with the council.

(b) On and after December 16, 2013, the council shall not issue an initial certificate to any applicant.

(c) On and after December 16, 2013, the council may issue only a renewal of a certificate under this section.

(d) An individual who is not qualified to receive a certificate under this section, or who fails to apply for certification under this section by December 15, 2013, shall not hold himself or herself out as a certified traditional Chinese Medicine traumatologist.

4979.6. An applicant for certification as a traditional Chinese Medicine traumatologist shall pay an application fee in a reasonable amount, not to exceed two hundred dollars ($200) for the regulatory cost to the council of processing the application, when submitting his or her application to the council.

4979.7. A certified traditional Chinese Medicine traumatologist shall renew his or her certificate every two years.

4979.8. An expired certificate may be renewed at any time within six months after its expiration. The holder of the certificate shall pay all accrued and unpaid renewal fees, plus a delinquency fee.

(a) The renewal fee shall be one hundred dollars ($100).

(b) The delinquency fee shall be twenty-five dollars ($25).

(c) The fee for a duplicate or replacement engraved wall certificate shall be fifteen dollars ($15).

(d) The fee for a duplicate or replacement renewal receipt/pocket certificate shall be ten dollars ($10).

4979.9. Moneys received under this section shall be utilized by the council to pay for the costs associated with administering this chapter.

4979.10. It is an unfair business practice for any person to hold himself or herself out as a certified traditional Chinese Medicine traumatologist or use the title of "certified traditional Chinese Medicine traumatologist" without meeting the requirements of this chapter.

4979.11. It is a violation of this chapter for a certificate holder to commit, and the council may deny an application for a certificate or suspend or revoke a certificate for, any of the following:

(a) Unprofessional conduct, including, but not limited to, denial of licensure or certification, revocation, suspension, restriction, or any other disciplinary action against a certificate holder by another state or territory of the United States, by any other

government agency, or by another entity. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions.

(b) Procuring a certificate by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any rule or bylaw adopted by the council.

(d) Conviction of any felony, or conviction of a misdemeanor that is substantially related to the qualifications or duties of a certificate holder, in which event the record of the conviction shall be conclusive evidence of the crime.

(e) Impersonating an applicant or acting as a proxy for an applicant in any part of the application process or any part of satisfying the standards set by the council referred to under this chapter for the issuance of a certificate.

(f) Impersonating a certified traditional Chinese Medicine traumatologist, or permitting or allowing an uncertified person to use a certificate.

(g) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.

(h) Committing any act punishable as a sexually related crime.

~~4979.11.~~

4979.12. This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

O

May 1, 2012

Senator Leland Yee
State Capitol, Room 4074
Sacramento, CA 95814

RE: SB 1488 (Yee) – OPPOSE

Dear Senator Yee:

Southern California University of Health Sciences (SCUHS) must regrettably oppose your bill, SB 1488. SCUHS opposes SB 1488 for the following reasons:

- TCM Traumatology is part of Traditional Chinese Medicine. Traumatologists use the TCM Theories, Diagnosis, Tui-Na/Massage skills and Herbs in their practice. Therefore, this should not be separated from the current acupuncture license system by the California Acupuncture Board.

- Under the California Acupuncture Board Law and Regulation Title 16, Article 3.5 Acupuncture Training Programs 1399.434. Criteria for Approval of Acupuncture and Oriental Medicine Training Programs (effective 1/1/05) (b)(1)(F), it clearly indicates that Traumatology is part of AOM/TCM practice and all AOM schools must cover this topic. SB 1488 also identifies this group as Traditional Chinese Medicine Traumatology practitioners. It clearly indicates that the TCM Traumatology is part of Traditional Chinese Medicine (Acupuncture & Oriental Medicine in California). The TCM Traumatology practice should be covered under AOM practice in California, and only Licensed Acupuncturists (L.Ac) can practice TCM Traumatology.

- The creation of a Traumatology Committee within the California Acupuncture Board may undermine the integrity of the existing licensed acupuncture profession by introducing a certification title which is likely to cause confusion among consumers, and by placing the committee under the control of medical doctors who are not regulated by the Acupuncture Board.

- Currently, the TCM traumatology practitioners in California lack the robust educational standards, accreditation, and rigorous examinations found throughout health care. In fact, there are currently no standards for training, certification, or practice. By giving certificates to these TCM Traumatology practitioners without a standard education, evaluation and license

Los Angeles College of Chiropractic ▫ College of Acupuncture and Oriental Medicine ▫ School of Professional Studies
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(562) 947-8755 ▫ Fax (562) 947-5724 ▫ www.scuhs.edu
CCE Accredited 1966 ▫ WASC Accredited 1993 ▫ ACAOM Accredited 2005

examination, SB 1488 poses a significant threat to the health and safety of California consumers.

- SB 1488 appears to be focused upon satisfying the needs of a special interest group that is unable or unwilling to obtain licensing or certification through existing means. The bill does not contribute a sustained, long-term health care option for the California consumer.

The College of Acupuncture & Oriental Medicine (CAOM) is located at the Southern California University of Health Sciences in Whittier, California. CAOM celebrated its 12th year anniversary in 2012. SCUHS is WASC accredited and recently celebrated their 100th anniversary. SCU-CAOM is pioneering a fundamentally new and integrated way of educating Acupuncture and Oriental Medicine practitioners for the 21st century.

For the reasons stated above, we must oppose SB 1488 when it is heard in the Assembly Business & Professions Committee.

Sincerely,

John Scaringe, DC, EdD
President/CEO

cc: Members, California State Senate
California Acupuncture Board
Bill Gage, Consultant, Senate Business & Professions Committee
Gareth Elliot, Legislative Affairs, Governor Brown's Office

FIVE BRANCHES UNIVERSITY

Graduate School of Traditional Chinese Medicine

Santa Cruz Campus

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California

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■

San Jose Campus

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Suite 507

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California

95128

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■

www.fivebranches.edu

May 4, 2012

Senator Leland Yee
State Capitol, Room 4074
Sacramento, CA 95814

RE: SB 1488 (Yee) – OPPOSE

Dear Senator Yee:

Five Branches University opposes **bill SB 1488.** We fully agree with the other acupuncture and Asian medicine colleges and especially the professional organizations that oppose SB 1488.

Our opposition of SB 1488 is based on the following:

- TCM Traumatology is clearly part of Traditional Chinese Medicine (TCM). Traumatologists use TCM theories, diagnosis, tuina/massage skills and herbal medicinals in their practice. Therefore, this health care profession should **not** be separated from the current acupuncture license system by the California Acupuncture Board.

- Under the California Acupuncture Board Law and Regulation Title 16, Article 3.5 Acupuncture Training Programs 1399.434, Criteria for Approval of Acupuncture and Oriental Medicine Training Programs (effective 1/1/05) (b)(1)(F), it clearly indicates that Traumatology is part of AOM/TCM practice and all AOM schools must cover this topic. SB 1488 also identifies this group as Traditional Chinese Medicine Traumatology practitioners. It clearly indicates that the TCM Traumatology is part of Traditional Chinese Medicine (Acupuncture & Oriental Medicine in California). The TCM Traumatology practice should be covered under AOM practice in California, and only Licensed Acupuncturists (L.Ac) can practice TCM Traumatology.

- The creation of a Traumatology Committee within the California Acupuncture Board will undermine the integrity of the existing licensed acupuncture profession by introducing a certification title which is likely to cause confusion among consumers, and by placing the committee under the control of medical doctors who are not regulated by the Acupuncture Board. In addition, this bill sets a very disconcerting precedence for other similar actions.

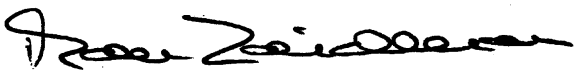
- Currently, the TCM traumatology practitioners in California lack educational standards, accreditation, and rigorous examinations found throughout all other health care professions. In fact, there are currently no standards for training, certification, or practice. By giving certificates to these TCM Traumatology practitioners without a standard education, evaluation and license examination, SB 1488 poses a significant threat to the health and safety of California consumers.

- SB 1488 appears to be focused upon satisfying the needs of a special interest group that is unable or unwilling to obtain licensing or certification through existing means. The bill does not contribute a sustained, long-term health care option for the California consumer.

Established in 1984, Five Branches University offers accredited Masters and Doctoral degrees in acupuncture and Asian medicine through its campuses in Santa Cruz and San Jose California.

For the reasons stated above, we must oppose SB 1488.

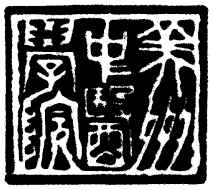
Sincerely,



Ron Zaidman, President & CEO

cc: Members, California State Senate
California Acupuncture Board
Bill Gage, Consultant, Senate Business & Professions Committee
Gareth Elliot, Legislative Affairs, Governor Brown's Office

AMERICAN
COLLEGE
OF
TRADITIONAL
CHINESE
MEDICINE



May 1, 2012

Senator Leland Yee
State Capitol, Room 4074
Sacramento, CA 95814

RE: SB 1488 (Yee) – OPPOSE

Dear Senator Yee:

The American College of Traditional Chinese Medicine (ACTCM) opposes **bill SB 1488.** We fully agree with the other acupuncture and Asian medicine colleges and professional organizations that oppose SB 1488. We oppose SB 1488 for the following reasons:

- TCM Traumatology is part of Traditional Chinese Medicine. Traumatologists use the TCM Theories, Diagnosis, Tui-Na/Massage skills and Herbs in their practice. Therefore, this health care profession should **not** be separated from the current acupuncture license system by the California Acupuncture Board.

- Under the California Acupuncture Board Law and Regulation Title 16, Article 3.5 Acupuncture Training Programs 1399.434. Criteria for Approval of Acupuncture and Oriental Medicine Training Programs (effective 1/1/05) (b)(1)(F), it clearly indicates that Traumatology is part of AOM/TCM practice and all AOM schools must cover this topic. SB 1488 also identifies this group as Traditional Chinese Medicine Traumatology practitioners. It clearly indicates that the TCM Traumatology is part of Traditional Chinese Medicine (Acupuncture & Oriental Medicine in California). The TCM Traumatology practice should be covered

under AOM practice in California, and only Licensed Acupuncturists (L.Ac) can practice TCM Traumatology.

- The creation of a Traumatology Committee within the California Acupuncture Board will undermine the integrity of the existing licensed acupuncture profession by introducing a certification title which is likely to cause confusion among consumers, and by placing the committee under the control of medical doctors who are not regulated by the Acupuncture Board. In addition, this bill sets a very disconcerting precedence for other similar actions.

- Currently, the TCM traumatology practitioners in California lack educational standards, accreditation, and rigorous examinations found throughout all other health care professions. In fact, there are currently no standards for training, certification, or practice. By giving certificates to these TCM Traumatology practitioners without a standard education, evaluation and license examination, SB 1488 poses a significant threat to the health and safety of California consumers.

- SB 1488 appears to be focused upon satisfying the needs of a special interest group that is unable or unwilling to obtain licensing or certification through existing means. The bill does not contribute a sustained, long-term health care option for the California consumer.

The American College of Traditional Chinese Medicine (ACTCM) is located in San Francisco, California. The mission of the American College of Traditional Chinese Medicine is to provide exemplary professional education and quality patient care in acupuncture and Traditional Chinese Medicine. We are a full accredited college that offers both a masters and doctoral degree in acupuncture and Asian medicine.

For the reasons stated above, we must oppose SB 1488 when it is heard in the Assembly Business & Professions Committee.

Sincerely,

Lixin Huang, MS, President

cc: Members, California State Senate
California Acupuncture Board
Bill Gage, Consultant, Senate Business & Professions Committee
Gareth Elliot, Legislative Affairs, Governor Brown's Office

Pacific College of Oriental Medicine

May 1, 2012

Senator Leland Yee
State Capitol, Room 4074
Sacramento, CA 95814

RE: SB 1488 (Yee) – OPPOSE

Dear Senator Yee:

Pacific College of Oriental Medicine opposes **SB 1488.** We fully agree with the other acupuncture and Asian medicine colleges and professional organizations that oppose SB 1488. We oppose SB 1488 for the following reasons:

- TCM Traumatology is part of Traditional Chinese Medicine. Traumatologists use the TCM Theories, Diagnosis, Tui-Na/Massage skills and Herbs in their practice. Therefore, this health care profession should **not** be separated from the current acupuncture license system by the California Acupuncture Board.

- Under the California Acupuncture Board Law and Regulation Title 16, Article 3.5 Acupuncture Training Programs 1399.434. Criteria for Approval of Acupuncture and Oriental Medicine Training Programs (effective 1/1/05) (b)(1)(F), it clearly indicates that Traumatology is part of AOM/TCM practice and all AOM schools must cover this topic. SB 1488 also identifies this group as Traditional Chinese Medicine Traumatology practitioners. It clearly indicates that the TCM Traumatology is part of Traditional Chinese Medicine (Acupuncture & Oriental Medicine in California). The TCM Traumatology practice should be covered under AOM practice in California, and only Licensed Acupuncturists (L.Ac) can practice TCM Traumatology.

- The creation of a Traumatology Committee within the California Acupuncture Board will undermine the integrity of the existing licensed acupuncture profession by introducing a certification title which is likely to cause confusion among consumers, and by placing the committee under the control of medical doctors who are not regulated by the Acupuncture Board. In addition, this bill sets a very disconcerting precedence for other similar actions.

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Chicago Campus: 3646 N. Broadway, 2nd Floor • Chicago, IL 60613 • 888/729-4811 • 773/477-4822 • Fax 773/477-4109
www.PacificCollege.edu

- Currently, the TCM traumatology practitioners in California lack educational standards, accreditation, and rigorous examinations found throughout all other health care professions. In fact, there are currently no standards for training, certification, or practice. By giving certificates to these TCM Traumatology practitioners without a standard education, evaluation and license examination, SB 1488 poses a significant threat to the health and safety of California consumers.

- SB 1488 appears to be focused upon satisfying the needs of a special interest group that is unable or unwilling to obtain licensing or certification through existing means. The bill does not contribute a sustained, long-term health care option for the California consumer.

For the reasons stated above, we must oppose SB 1488.

Sincerely,

Jack Miller
President/CEO

cc: Members, California State Senate
Janelle Wedge, Executive Officer, California Acupuncture Board
Bill Gage, Consultant, Senate Business & Professions Committee
Gareth Elliot, Legislative Affairs, Governor Brown's Office

SB 1239 (Price)

Sunrise Legislation

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL No. 1239

Introduced by Senator Price

February 23, 2012

An act to amend Sections 4928~~and~~, 4934, *and 4939* of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1239, as amended, Price. Acupuncture.

Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Existing law authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of these provisions until January 1,~~2017~~ *2015*. The bill would instead specify that the board would be subject to review by the appropriate policy committees of the Legislature.

Existing law requires the board, on or before January 1, 2004, to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist. Under existing law, within 3 years of initial approval by the board, each program approved by the board is required to receive full institutional approval by the Bureau for Private Postsecondary Education, which is responsible for, among other things, providing approval to operate private postsecondary institutions according to specified minimum operating standards.

This bill would provide the board with ongoing authority to establish those standards. The bill would also update references to provisions providing for the approval by the bureau to operate private postsecondary institutions.

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

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

1 SECTION 1. Section 4928 of the Business and Professions
2 Code is amended to read:
3 4928. The Acupuncture Board, which consists of seven
4 members, shall enforce and administer this chapter.
5 This section shall remain in effect only until January 1, ~~2017~~
6 *2015*, and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, ~~2017~~ *2015*, deletes or extends
8 that date.
9 Notwithstanding any other ~~provision of~~ law, the repeal of this
10 section renders the board subject to review by the appropriate
11 policy committees of the Legislature.
12 SEC. 2. Section 4934 of the Business and Professions Code is
13 amended to read:
14 4934. (a) The board, by and with the approval of the director,
15 may employ personnel necessary for the administration of this
16 chapter, and the board, by and with the approval of the director,
17 may appoint an executive officer who is exempt from the
18 provisions of the *State* Civil Service Act *(Part 2 (commencing*
19 *with Section 18500) of Division 5 of Title 2 of the Government*
20 *Code)*.
21 (b) This section shall remain in effect only until January 1, ~~2017~~
22 *2015*, and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, ~~2017~~ *2015*, deletes or extends
24 that date.
25 *SEC. 3. Section 4939 of the Business and Professions Code is*
26 *amended to read:*
27 4939. (a) ~~On or before January 1, 2004, the~~ *The* board shall
28 establish standards for the approval of schools and colleges offering
29 education and training in the practice of an acupuncturist, including
30 standards for the faculty in those schools and colleges and tutorial

programs, completion of which will satisfy the requirements of Section 4938.

(b) Standards for the approval of training programs shall include a minimum of 3,000 hours of study in curriculum pertaining to the practice of an acupuncturist. This subdivision shall apply to all students entering programs on or after January 1, 2005.

(c) Within three years of initial approval by the board, each program so approved by the board shall receive full institutional approval under Article ~~3.5 (commencing with Section 94760) of Chapter 7 of Part 59~~ *6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3* of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article ~~3.5 (commencing with Section 94760) of Chapter 7 of Part 59~~ *6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3* of the Education Code, or the board's approval of the program shall automatically lapse.

O