

TITLE 16. ACUPUNCTURE BOARD

NOTICE IS HEREBY GIVEN that the Acupuncture 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 the **Sportsman's Lodge located at 12825 Ventura Blvd, Studio City, CA, on February 23, 2007, at 9:00 a.m.** 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 5:00 p.m. on **February 23, 2007**, 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 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 Section 4933 of the Business and Professions Code, and to implement, interpret or make specific Sections 462, 4938, 4945, 4949 and 4955 of the Business and Professions Code, the board is considering changes to Division 13.7 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 4945 of the Business and Professions Code requires the Acupuncture Board to establish standards for continuing education for acupuncturists. As a result of legislation ([AB 1943](#) and [SB 1951](#) – Statutes of 2002, and [AB 1114](#) – Statutes of 2005) and several studies/group panel meetings, the board determined the following amendments were necessary to establish current standards for continuing education.

1. Amend Section 1399.480

Existing law requires the board to establish standards for continuing education (CE). Current regulations establish definitions used for continuing education. This regulatory proposal would amend Section 1399.480 by making minor cleanup to existing language.

2. Amend Section 1399.481

Current regulations establish the criteria for provider approval including acupuncture schools and colleges that have been approved by the board under Section 4949 of the code. The board proposes to amend Section 1399.481 to make minor cleanup and technical changes to existing language and reference the correct citation to approved schools.

3. Amend Section 1399.482

Current regulations establish requirements for providers of continuing education relative to records that must be kept, information that must be provided to attendees of approved courses, and what to do should a course be cancelled or changed. The board proposes to amend Section 1399.482 to

make minor cleanup to existing language; amend language regarding forms that are to be submitted to the board; and move language regarding changes to approved courses that should more appropriately be referenced in Section 1399.484.

4. Amend Section 1399.483

Current regulations specify what types of coursework can be approved for continuing education, establishes requirements for course evaluations, and establishes criteria for independent and home study courses. Based on the newly enacted requirement in AB 1114 (Yee, Chapter 648, Statutes of 2005) that divides continuing education into two categories, the board proposes to amend Section 1399.483 to classify continuing education courses submitted for approval into said categories. The board also proposes to prohibit practical or hands-on techniques for independent or home study courses and to require a self-assessment by the licensee for courses approved for independent or home study. Additionally, this proposal would prohibit providers from selling or discussing name brand products during a course.

5. Amend Section 1399.484

Current regulations establish requirements for continuing education course approval such as what information needs to be submitted to the board. The board proposes to amend Section 1399.484 to make minor cleanup and technical changes to existing language. Additional language is being proposed requiring providers to include information on which category of CE their course falls under (per proposed new language in Section 1399.483); and adding revised language from 1399.482 which is more appropriate for this section.

6. Amend Section 1399.485

Current regulations establish experience criteria for instructors of continuing education, both for acupuncturists and non-acupuncturists. The board proposes to amend Section 1399.485 to be more specific as to the type of discipline an instructor must be free of and make more specific the amount of experience an instructor must have.

7. Amend Section 1399.486

Current regulations establish requirements for publicizing continuing education courses. The board proposes to amend Section 1399.486 to impose stricter guidelines in advertising by requiring that course titles reflect course content without market language, state which category of CE their courses fall under (per proposed new language in Section 1399.483), and state a full disclosure of all products that will be for sale after completion of a course.

8. Amend Section 1399.487

Current regulations establish requirements for the denial, withdrawal and appeal of approval for CE providers or CE provider applicants. The board proposes to amend Section 1399.487 to make minor cleanup to existing language so the language flows better and more understandable and expand the reasons for denial or withdrawal of approval of a provider.

9. Amend Section 1399.488

Current regulations, in conforming to the previous Permit Reform Act, establish minimum, medium and maximum processing times for a continuing education provider application and/or course

approval. The board proposes to amend Section 1399.488 to delete the requirements of the Permit Reform Act, which has been repealed.

10. Amend Section 1399.489

Current regulations establish a breakdown of the number of continuing education hours a licensee must complete as a condition of renewal and also establishes for the random audit by the board of licensees to see they have complied with the CE requirements. Per AB 1114 (Yee, Chapter 648, Statutes of 2005), the board proposes to amend Section 1399.489 to change the number of CE hours that must be completed every two years from 30 to 50 hours and to revise the pro-rata breakdown of CE requirements for initial licenses that have been issued for less than two years; clarify the number of hours that can be completed in each of the two categories of CE (per proposed new language in Section 1399.483) as well as independent or home study courses; and add language allowing acupuncturists who participate in the occupational analysis or examination development session to receive limited CE credit.

11. Amend Section 1399.489.1

Current regulations establish requirements for inactive licensees who wish to restore their inactive license to active, including the completion of continuing education hours. The board proposes to amend Section 1399.489.1 to make a technical non-substantive change and to require licensees as a condition to restore their license from an inactive status, to complete specified hours in the two categories of continuing education (per proposed new language in Section 1399.483).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Cost or Savings to State Agencies

Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency or School District for Which Government Code Section 17561

Requires Reimbursement: None

Business Impact:

The board has determined that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Businesses:

The board is not aware of any cost impacts that a representative private person or business

would necessarily incur in reasonable compliance with the proposed action.

Effects on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations affect on small businesses is unknown at this time. The increase in continuing education hours as a condition of renewal could impact the practices of licensees as there will be an increase in their expenses. Additionally, since they may have to abandon their practice for a day or so to attend courses, their income will be impacted as well.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

The board invites any interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Acupuncture Board has prepared an initial statement of 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 the information upon which this proposal is based, may be obtained at the hearing or prior to the hearing upon request by contacting Mary Howard, (916) 445-3021, at the Acupuncture Board, 444 North 3rd Street, Suite 260, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF 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.

CONTACT PERSON

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

Janelle Wedge, Executive Officer
444 North 3rd Street, Suite 260
Sacramento, CA 95814
(916) 445-3021
FAX: (916) 445-3015
E-Mail: Janelle_Wedge@dca.ca.gov

The backup contact person is:

Mary Howard, Administrative Coordinator
444 North 3rd Street, Suite 260
Sacramento, CA 95814
(916) 445-3021
FAX: (916) 445-3015
E-Mail: Mary_Howard@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to one of the contact persons named above.

Website Access: Materials regarding this proposal can be found at www.acupuncture.ca.gov