STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
ACUPUNCTURE BOARD
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Draft
ACUPUNCTURE BOARD
MEETING MINUTES

DCA Headquarters 2, Sacramento

FULL BOARD MEETING
November 15, 2012

Members Present
AnYork Lee, L.Ac., Chair
Charles Kim, Public Member, Vice Chair
Michael Shi, Public Member
Paul Weisman, Public Member
George Wedemeyer, Public Member

Staff Present
Terri Thorfinnson, Executive Officer
Spencer Walker, Staff Counsel

Guest List on File

1. Call Meeting to Order and Establishment of Quorum
Quorum was established. Meeting called to order at 8:45 am.

2. Pledge of Allegiance was said

3.Approval of August 9, 2012 Meeting Minutes
A. MOTION WAS MADE BY PAUL WEISMAN AND SECONDED BY VICE CHAIR KIM TO APPROVE THE AUGUST 9, 2012 MINUTES WITH THE FOLLOWING CORRECTIONS/AMENDMENTS 5-0-0 MOTION CARRIED.
B. CORRECTIONS: Page 9 correct ACOM to ACAOM
C. CORRECTION: Page 7 correct pinion to pinyin

4. **DCA Budget Officer and DCA Update-** Taylor Schick, Budget Officer- Gave an update on a BCP that was submitted by the Executive Officer (EO) for inclusion in the fiscal year 2013-2014 Governor's Budget. Due to the constraints of the budget building process and the guidelines set forth by Department of Finance, that BCP did not meet the deadline set forth by the Department of Finance and was not submitted for inclusion in the Governor's Budget. Our recommendation to the Board would be continue to develop the BCP and prepare for fiscal year 14/15 governor's budget building process. Vice Chair Charles Kim, asked, "How we can we hire staff members to make sure we do our job if we don't the budget authority to hire?" The Budget Officer responded that there are certain constraints you have to abide by and one of them is that you have to stay within your authorized positions as set forth in the budget, however one of the options you

do have is that you have the ability and budgetary needs to hire temporary staff to fill the gaps until we can get a BCP through to add additional authorized staff in resources to our Board. The Chair gave the example that the Board needs a person to do data and research and to have the Board make good decisions. They have to be knowledgeable to make good decisions, what's your suggestion? The Budget Officer's suggestion is that the Board would already have someone on the staff that would fill in that capacity. If you don't currently, try to hire on a permanent intermittent basis. Those individuals can work up to 15,000 hours per year, which is 75% of a full time staff employee. Employ someone in such a term as PI, now that you have them you can start to build up the case and show the workload through the need of a permanent staffing person. That is the way we will move forward to submit the BCP for next year.

Reichel Everhart, Deputy Director for Board Relations added that she met with the EO regarding her concerns with staffing needs. The Department has been working with her to mitigate some of that in the meantime, while waiting to resubmit the BCP. One of the ways is, we've been working with SOLID training to do a strategic plan, maybe an organizational program so that she can put everything in proper order. Also more importantly we are setting up training for the CAS and ATS systems, which are the licensing and enforcement systems that the staff can be trained in so they can draw the input and reports so you know what's going on with your enforcement. In addition I brought with me, Deputy Director Mike Gomez and Stephanie Whitley from the Division of Investigation who are more than willing to step in and help with Enforcement in the meantime. So they are here to answer any questions. The EO asked the Budget Officer to explain what the next opportunity (in terms of the next cycle) would be. He said that typically BCP are submitted in September to the Department of Finance DOF. The Department begins working with programs around March and April, prior to that they start developing the process. They have to go through the Budget Office for review, to develop them to make sure they are justifiable, and then they go up to the Executive Office of DCA. Ultimately they would be submitted to our Agency for approval, and then submitted to DOF. If approved by DOF then it goes through the Legislative process and ultimately would be included in the Governor's Budget. The Vice Chair asked about travel budget for Board Meetings. Typically CAB meets in San Francisco, Los Angeles and San Diego for the public to attend but we have been restricted to only Sacramento. When can we start traveling again and holding our meetings outside of Sacramento and to do site visits to schools and different clinics? How and when can we be allowed to travel? Deputy Director Reichel Everhart explained that the Governor did an executive order last year that all travel that is released be mission critical which would pertain to Enforcement and Inspections of schools. Visiting for outreach purposes was not considered mission critical. In terms of where our boards Meetings are located, other Boards travel throughout the state, you can go to SF now. I think it's more of looking at that we hold meetings equally in Northern and Southern California to get the demographics addressed. DGS has a list of approved places where we can hold Board Meetings so we can work with you. CAB can work with the Boards Relation Office in this matter.

Michael Gomez, Deputy Director of Division of Investigation: He explained that he made it a priority to go out and meet with Executive Officers, and I have already met with the EO offering support services from our Enforcement Support Unit. Our Enforcement Support Unit is really our intake unit but it does have the talent, the facility, and the infrastructure to assist Executive Officers in enforcement programs and what should come to the DOI. The one thing that I would ask you to take advantage of is this travel issue is that we have field offices throughout the State of California, investigators go out in the field and work when your staff cannot travel. That's something that your Executive Officer and I would have to discuss. For

those of you who don't know, our Division is the Peace Officer Organization, and is the Division of Law Enforcement for our Department. It shares a statutory responsibility to investigate, enforce the various practice acts of all Bureaus, Boards and Commissions of our Department of Consumer Affairs. So with that, I want to do is introduce Stephanie Whitley who is a supervising investigator of our enforcement support unit. Ms. Whitley explained that this is a new part of their divisions, which is a more of a supporting role for Boards, Bureaus enforcement programs. Not what we traditionally do, which is sending out a case to ask the field to investigate. It's more of a supporting role in the start of cases. Ms. Whitley has been working really close with the EO discussing the needs of the Board and everything they can do to assist. Clerical assistance in inputting information into CAS, complaints that are coming in, cases that are coming back to the Board that have been completed out in the field, which is traditionally something they have not been able to do. Another aspect is reviewing complaints that are coming in, filtering them, and establishing the necessity to going out in the field, if there is a jurisdiction of the Board. It's a lot more wide spread then our traditional roles and responsibilities we've had in the past. It's been a pleasure to work with the current EO and former Interim EO and the Board in working as a team to help facilitate the protection of our consumers. The EO added that Ms. Whitley has filled in the gap of our one enforcement staff, who has been out on maternity leave until January. The weakness that we had was looking at not only incoming cases that are new, but dealing with some of the more serious cases that needed to go right into investigation. She has been helping me triage the serious cases that are new that can go right into investigation are not held up, and now they are offering a staff person that comes in and helps catch up with the input of data in terms of our software that tracks enforcement cases. Currently we don't have anyone that knows that and is doing that, so that is a real resource that they are stepping forward and providing for us. I really appreciate it. The Vice Chair asked if investigations are based on referrals from our Board and not initiated by DOI. Deputy Director Gomez informs Charles that, yes the Board refers and that DOI does not initiate cases. The EO stated that the significance of their initiative in reaching out to meet our needs as well as other needs is different than their traditional roles of just referral. That is helpful for particularly our Board who needs extra enforcement assistance, and they are assisting us in that. Michael Shi asks if we have started this process. The EO explained not in the early stages in terms of the data input, we still need the staff to come get trained in our specific system so the first level in data entry has not started, so that is something we would like to start over the next month depending on training for the software. What has continued is the automatic investigation, referring cases to investigation right away, that is not being held up it's just not being entered into the computer as a new case. In my prioritization, I'm getting things immediately into investigation. What I'm not able to do is the data input for them. Paul Weisman asked if there is a way to do with our Board with publicity saying that were looking into investigation efforts more, or that your office will be helping us more with investigations? Deputy Director Gomez says that he thinks that's the incremental steps we are taking now, in terms of defining what those enforcement requirements are and to find out what approach we're going to take with your EO and your enforcement staff and DOI's enforcement staff. The Vice Chair asked when you use your staff, then you charge back to us on the expenses you spent, is that correct? Mr. Gomez agreed that DOI charges back to us. The Vice Chair asked "Do you have the ability to handle increased workload?" Mr. Gomez replied, "yes." The EO indicated that we have enough in our enforcement budget that can withstand the increase. Michael Gomez says, just to clarify the Division is funded on a two-year budget, so whatever expenses you spent on the current year you will not see that in your budget for two more years. It's called a "Roll Forward", it allows flexibility for the Board's Budget, whether there's urgency or whether there's a case, to budget forward and pay for it. So it won't come out of your current allotment, it would come out of your projected allotment.

5. **Chair's Report-**

The Chair welcomes Michael Shi. Michael and I worked together in the mid-90s at an insurance company so we had the opportunity to know each other over 15 years ago. As a new Board member I would like to remind you how we govern the Board. Every decision goes through a committee first. We have 4 committees, Examination, Education, Enforcement, and Executive. I usually encourage Board Members to sit on a committee based on your personal interest and background. I also like to see effectiveness of the committee because every decision of the Board will go through the committee first. Then the Committee makes a proposal to the Board to make a decision. The Committee does a lot of research and makes the Board knowledgeable and makes good decisions. Every Board member can get some resources through the Internet, but you need professional knowledge and specific information to make the decision. It is very important that we go through the committee when the item shows up as an information item. The Board will have a discussion but will not vote on that item. So committees need to do their homework, and present to Board and after discussion can make a decision. As an effective Board I would like each committee member to do your homework and make the Board functional and effective. As a new Board Member I would like to assign you to the Examination Committee with George Wedemeyer, and you will deal with one issue, the English Only Examination. George has some information but it's not complete. During discussion we can go further. For the Acupuncture Board, I think everyone knows that Acupuncture is under the Essential Health Benefits and very soon when we see the nation become the National Health Plan, Acupuncture will become part of it. Acupuncturist will deal with the general public, not like before. Before when people came to see the acupuncturist that they would have cash to pay for service or insurance. Now everyone has access. So the Board will become more effective to deal with the challenge because we want to make sure the public is safe and also rely on the Board's basic functions: How we serve the public, how we make sure the licensure serves the public, how we enforce the rules and regulations to serve the public. I expect this Board to face a lot of challenges, and through our regulations today we have found information about the poor performance pass rate. With 22 schools approved by the Board, after approval if the school is not accountable then the Board should do something to protect those students that spend the time and money for education? Also to protect the public, we need to make sure anyone who gets a license gets entry-level knowledge to serve the public. When we get that information item, we will discuss more. There are a lot of ways to upgrade a school. I think as a Board we will not tell schools how to teach the student, we will make sure if the student gets the knowledge in their practice. The student gets the knowledge to deal with other health professions at the same level. Effective teaching, how we make sure it happens in the educational program. There are many ideas from the schools from the poor pass rate, which is the beginning step.

School accreditations in the Western Region are accredited by WASC. We have professional accreditations like ACAOM, approved by the US Department of Education. There is one concern here, the school students spend the time and money, but if they transfer, for example if one student says "I want to become a physical therapist", at this time the credit they get from the acupuncture school because that is not a WASC approved, and another WASC approved school they don't recognize the credit. So I think this is our long-term goal. I have heard some schools have set a goal, at least I know of one acupuncture school is accredited by WASC. Also I heard there are two schools they are looking for it, so I think if they become WASC approval then the students to get the equal opportunity to transfer their credits to other WASC approved schools.

6. Executive Office Report

Terri Thorfinnson gave a staffing update and went over the budget. First of all, as the new Executive Officer, I came into the position to assess in terms of resources, budget and staffing we have to perform all of our duties. I worked very close with staff and my conclusion was that we were understaffed and need additional staff. That was the basis of my submitting a BCP, as an opportunity to get more staff and as it was explained, that was not possible at this point so I will have to submit at a later date. The alternative that I have is two things. 1) It was mentioned to hire permanent intermittent staff, which is less then full time staff. It's not an ideal situation because it's temporary, so it still makes the Board and performing our responsibilities a little bit unsettled so to speak, but it's better than nothing so I am proceeding to hire temporary staff. I'm also reclassifying staff. One of the major functions that were not being done was Regulatory implementation, which is an important aspect of the Board. So I created a Regulatory Policy Coordinator, which will assist both me and the Board in creating policy changes and implementing regulatory changes in a timely manner. I think that will greatly help the Boards regulatory over sight responsibility. Thus far, we have not been timely in doing that regulatory oversight. I think having that dedicated staff person at a higher level will be helpful. I also looked at some of the other business functions and a lot of the staff is at a very low rate in state classification terms at an office technician level. The function for a regulatory oversight office should be at a higher level, so the other thing I'm looking at is being able to reclass at a higher level so that many of the functions are done at a higher level as well as having clerical support. This is a challenge with temporary staff but this is the direction I want to go. I think the biggest change would be in hiring additional temporary staff as well as hiring the Policy position. I have the job announcement out and I'm in the process of hiring in the next month the Policy position and the additional support staff that is currently vacant. I did fill the Exam Coordinator vacancy, so we do have an Exam Coordinator. What I have found is that we have the ability to continue to do our exams, thanks to OPES. We are still able to continue to conduct exams, even though many other functions may be in disarray. We are also able to issue licenses, and process fees without a hitch. What we are not able to do is anything that involves a computer system in terms of software. The Boards all operate off of the central software system, which is convenient when it all works, and everybody knows how to use it. The reality is that it's very complex, and it's old and right now nobody in CAB knows how to input and get daily reports as a simple matter of daily business. That's been a real problem, whether it's for exam break down results, creating reports, and keeping track of various licenses and enforcement cases. I hope to have somebody trained to be able to do that over the next month. In terms of looking at other areas of improvement, one of the things that the Board did bring to my attention is our phone system. I looked at how both call volume as well as how the phone tree was organized so we are in the process reorganizing our phone tree. With a small office, which is down to 6 people including myself, it has been impossible to keep up with the call volumes that we receive. In the interest of being able to serve the public and answer all the calls that we get, I'm utilizing a resource of the Department of Consumer Affairs, which is their hi-tech call center. We are in the process of connecting with the call center, which would be able to have access to our computer data. Instead of hiring additional staff at this point to handle call volume, we would be able to work through the expanded staffing of the call center, which also has access to an Interpretation Service with 180 languages. The benefit for the Board will be, I expect that once implemented, which I'm hoping it will be mid-December all calls will be answered by a live person and if they are complex they will be referred to a person who can answer the call. I will also be able to quantify call volume. In this business you need to have numbers, how many calls. This is one of the issues that was raised in asking for additional staff. Now I will be able to quantify the amount of calls coming in, the types of call then staffing needs. The other thing I'm exploring is that I'm

looking into computerizing the CALE, I am gathering information. I can arrange to have a presentation at the next board meeting. Just a quick look, it appears that it might be convenient for test takers and lower cost, and can be done in multiple languages.
The other area is school over sight. We have not been able to visit schools for school approvals. That has been related to the restriction of travel. We have received travel approval for all of our out-of-state and in state schools requesting approval. So we will proceed with site visit over the next few months.
Enforcement, as you heard from our Enforcement Deputy has been a real helpful since my staff has been out on maternity leave. Another enforcement focus, has been with respect to schools and collaborating with Bureau of Primary and Post-Secondary Education (BPPE) to look at the same schools we both oversee.
I'm beginning to work with BPPE to collaborate all of our annual visits as well as our school approval visits. I've provided a list of approved schools to them, in addition, I've also talked to the Enforcement staff about creating a collaboration model with BPPE, Acupuncture Board and Division of Investigation (DOI) to look at targeted investigations and oversight of both continuing education at schools. This is in the early stages but I just wanted to let you know that I'm trying to improve our enforcement and school oversight to fill a gap in what I perceived was our weak oversight. Oversight for the both school approval as well as enforcement is a major role of this Board and I feel that with partnering with these other organizations that I'm utilizing available resources and I'm partnering with the right people to really make our enforcement effective.
Budgets- I gave the entire budget documents since it wasn't available in August. I wanted to point out the state of our budget: do we have money for enforcement, are we running out of money, do we need to improve or apply for new fees? The answer is our budget is fine, we have room for increased enforcement, and we have room in our budget. I want to make the point that thus far the Board has been spending less money than we take in, which is generally good balance. As we start to increase both enforcement and increase staff, we may spend to our limit. Right now we are budgeted at $2.7million and that would be over the amount that's taken in terms of revenue. We do have a reserve, and that reserve is something we can use in the short term but it would be something that we could use long term. So I just wanted to make the Board aware that fiscally we're fine probably for the next couple of years. Just be mindful that, somewhere on the horizon we do need to be looking at addressing the potential structural deficit that could begin this year. But for now we have the money that we could use to fill that.

Vice Chair asks about the Governor's Office borrowing money from the Board and when will be getting it back. The Budget Officer explained that at any point in time that you need that money back, the money will be repaid. At this point, your fund is fine, you don't need the loan repaid but such a time that the loan needs to be repaid, and it will be repaid by the Department of Finance (DOF). The State's budget building is based on incremental basis, typically every time you're building a budget your starting from what your base was previous year, and then adding or subtracting from it based on various budget letters or directives that come from the Governor, or an executive order, a budget letter from DOF or a BCP those are the typical items that would incrementally increase or decrease your budget and that's how the State budget is prepared in any given year. So it's an incremental budget building process. Mr. Shi asks what is our actual reserve at this point? The Budget Officer explained that the actual reserve is actual and current year estimates on what you will be spending and what you will be bringing in as revenue, but assuming fully expend your budget this current year and you bring in revenue as projected your fund balance would be roughly $1.2 million and that would leave you at, in budget terms – Months in reserves. It would give you an operating budget that would allow you to operate for 5.4 months without bringing in any additional revenue. Mr. Shi ask if that reserve

include the loans and how much are the loans? The Budget Officer answered that the reserve at this time does not include the loans, and there is an outstanding $5 million loan outstanding to the general fund. Mr. Shi asked whether we do have a $5 million cushion beyond the $1.2 million. The explanation was that if we were to pursue a BCP and we were looking at it with putting our fund in the negative, we would build in that loan repayment to show that we have the funding to support that. The Vice Chair expressed frustration that you are not allowing us to spend money for the staffing and to allow us to do our job. At the same time, we're bringing money and there's a huge gap that exists so you're blaming us for not doing a good job, you're not allowing us to hire staff to do the job. The Vice Chair asked why the State is not allowing us to hire more staff? He explained that the State is allowing us to do that but it's a very structured process, unfortunately the BCP process that we had mentioned earlier is very structured and it is set by a set of timelines that DOF issues. We have to abide by those timelines, you submit a very justifiable BCP, and there is nothing to say you won't be able to get additional resources if they are justified. I'm not saying that you don't have the justification for additional resources; I'm just saying that within the constraints of the DOF and the structure that they provide. We are going to go forward with that BCP next year and look at hiring those temporary permanent intermittent employees to fill the gap until we can get authorized positions. Charles responded that what you're saying is that we can't do the job within the budget with the revenue we're bringing in, so your department would work with us to hire additional staff members? Yes, we'll work with your EO to make sure that the goals of the Board are achieved he responded to Vice Chair's final question.

The Chair inquired about making the CALE computerized, the EO explained that instead of one site twice a year that it would be 13 sites around the state and would be continuous testing all year round. It would no longer be group testing, it would just be continuous computerized testing all year round. There wouldn't be travel expenses for CAB staff; I think it would be a more user-friendly experience in terms of an exam. Mr. Shi inquired about how Departmental services are billed? The EO explained that our centralized administrative support, personnel, internet, database services, including our budget is all done by DCA, so each of those functions are billed out under overhead. Each of the functions are billed out based on different formulas, some can be based on a flat fee. All the data software that has the data for exams and enforcement, that's something that's centralized. Mr. Shi commented that they should know how to operate the software programs? The EO responded that they should know how the current system works but they are busy shifting over to a new computer system. They are pilot testing it now; we are in the second phase that will begin in June. As a result DCA has limited IT staff resources to assist us. Mr. Shi responded that nevertheless the Department should be able to tell us how to operate the system. The Vice Chair commented that the Department should have some IT staff that should be able to support us. The EO indicated that they do, but when she asked they had referred her to other computer experts within the Boards that have utilized the customization of the software more than the IT staff. Mr. Shi ask if the software is contracted out, then he assumes there is support for that? Would that contract be able to help us out? The EO responded that she had thought so but evidently that may not be the case. There's a claim that we customized it somehow, so only our former staff would know that, so it's an odd dilemma I find myself in. Mr. Shi commented that it's a lot of expenses for a software and computer system for us not to be able to use it. Finding someone to train CAB staff is the big barrier, to find someone to train us on the software. Mr. Shi asked if we could ask the Department to come in and help us at some point. The EO replied that she has and right now she was given a couple of IT staff to try to assist us, but they did not know how to for example, do our exam query to provide exam break downs. We're in the process of hiring our former staff that would be able to train and

know how to use the computer system because there isn't anybody in DCA that knows how to use our computer software. I have the Departments approval is to hire the retired annuitant, Janelle Wedge and Christy Loftin because they are the ones that know how to get into the software and can train our existing staff. We are currently waiting on Agency approval to hire retired annuitants.

Agenda Item 8 California Acupuncture Licensing Examination (OPES Presentation) Bob Holmgren, who works for OPES, explained that they are a component of the Department of Consumer Affairs, they are the licensure exam development services internally and our clients are the Department of Consumer Affairs regulatory agencies, the Boards, Bureaus and Committees. Business Section Code 139 authorizes the work that they do. That Regulation has 4 components to it. It says Fundamental components of licensure exams must include an occupational analysis and an examination evaluation study. It also says that the examination must meet professional standards, must be evaluated regularly and the results must be reported to the states Legislature. The mission to DCA Boards and Bureaus is to safeguard the public by regulating the practice of the profession, licensing individuals to work in the profession, monitoring the quality done by the individual and when necessary revoking licensing. So the fundamental component is protecting the public. That's an important distinction in examination in licensure from other types of examinations. This examination is specifically intended towards licensing someone in a way that will protect the public. The professional standards that we follow come from the American Physiological Association Standards for Educational and Psychological testing. This particular standard indicates that licensure tests are a type of credential exam that specifies that we must do an occupational analysis, the next is at the level at which we test. This particular standard indicates that passing scores for the licensure exam must be able to identify acceptable performance. These exams are not designed to just pick out super stars. One of the differences I would like to point out, for example in a college level exam those exams are designed to assess quality at all different levels. For licensure exams, we try to put all of the questions on the exam at that level of minimum acceptable competence. So that if you pass a particular question, the indication is that you should receive a license and that you are able to perform this profession at a level of minimum acceptable competence on the first day on a job. After the course of the entire exam, we will have number of those decisions to make and add those up and decide who will pass and who will fail. This is my way of kind of summarizing the typical procedure that my office uses for license exam development. Starting with an Occupational Exam Analysis where we will do document reviews, interview, and surveys and then it goes into a cycle of exam development that begins with basically retranslating the things that are already in the testing bank and then going through the entire cycle of exam development and item writing, item review, exam construction, adaptation, which is translation into Korean and Chinese, publishing the exam, setting the passing score and running the analysis then starting the cycle again. However, for acupuncture, what really goes on is a lot more complicated. An occupational analysis feeds into 3 exam developmental cycles simultaneously each at different levels of completion. When one of the text scores is completed it goes through the adaptation process. Once the adaptation process is completed, then the exam development process moves into exam publishing. I would like to go over the stages in a little detail to give you a flavor for all of the work that goes into creating an exam. For an occupational analysis it typically begins with reviewing the background information and studies. It is also charged with identifying changes. The reason I wanted to highlight this is at this early part of an occupational analysis where we would seek information from key stakeholders including this Board to identify changes that should occur in the current occupational analysis and to point out and highlight any changes in the laws and regulations. Also identifying any emerging trends with professions. We base our exams on how the profession is performed in the fields by the professional. Once

we have our background work done, we do one on one interviews with licensees and sometimes focus groups. The intention there is to develop and refine the job content areas, job task, job knowledge, our focus is to describe the current practice and as much as possible specify how the profession is performed in California. Sometimes there are professions that have a national licensure exam and agency will use the national licensure exam as part of the selection process, part of the licensure process. We will still do a California Occupational specific analysis; part of the process is to identify the differences. Once we have the one on one interviews completed, we will have a two-day workshop in our office. There are generally 8 individuals in the workshop who are licensees in good standing with the board, they will review the summary of the job task, refine them and develop a test on it. It's a critical component of the exam development and the occupational analysis because those task statements and those knowledge statements are used to create the test plans. The test plan describes what will be in the exam. We have a lot of technical aspects so that the task and knowledge statements, include making sure that they are all roughly equivalent level of complexity. The task levels are based on observable task, task that you actually do. Once we have those workshops, we will then verify the information that came out of these workshops by running an occupational analysis survey, we'll do it twice versus a pilot survey of maybe a couple dozen of individuals selected to help us to run through the survey to make sure it's understandable. For the pilot survey we want individuals who are willing and able to do a lot more work. It's not just simply taking a survey, it's taking it and making comments on individual components to tweak it and make it more understandable. The individual who completes the survey would come from the pool of licensees in good standing with the Board and that group is selected to be individuals who can help us the creating process. The final survey goes out to a sample of all licensees or all licensees in the state. That survey asks each individual who completes a survey to complete two ratings on each task statements. Those ratings are how important is this task for performance and how frequently do you actually do these tasks. The goal is for the final test to be based on the tasks that are both frequent and important, and tasks that prove to be very infrequent or not very important would be dropped. Generally speaking at this point, very few tasks have been dropped. The second set of ratings on the job knowledge statements and they are rated only on importance. The end result of the survey is a large database of either a sample of all licensees or as many as we can get to respond to the survey that are analyzed. We'll go through that and calculate what's called criticality index for the task, which is basically multiplying the rating of importance and frequency together to create a criticality rating in rank order in terms of criticality. Also calculate an average knowledge importance rating. Those ratings will be brought to develop a preliminary test plan that includes all of the task and the related knowledge and create a description of the practice. Once an analysis is done, those preliminary calculations are brought into another workshop. That workshop will review those analyses and actually develop the final test plan. Where they will review the analyses, with approximately 8 individuals who haven't been involved. The goal is to have as many licensees serve as subject matter experts as possible. They will review and modify these analyses and make a decision about any task that will be dropped because they are not important enough. If a task is dropped, they will relate knowledge to that task is dropped. They will also link job task with knowledge. Any job task will have associated with it a set of knowledge statements and those knowledge statements are things you need to know to perform that task. They will finalize test plans. A test plan is a document that gets included in our validation report, the test plan is typically several dozen pages long and lists all of the job content areas and the tasks that are performed within that content area and the knowledge you need to know to perform those tasks. That is included in the validation report, that report is required by both state regulations and professional standards and it establishes the job related part of the exam. That is the occupational analysis cycle the typically occurs once every 5 years, more often if the job has changed

but our recommendation is every 5 years. The current occupational analysis is from December 2008, so that will come up again. One thing I do want to point out is that entire process is completed in English. The full occupational analysis document is in English. It's not the document that the candidates see, because of the translations and adaptation issues. At the moment, to get a condensed version of that in the candidate preparation guide. Once we get the occupational analysis completed, the exam development cycle will begin. Whenever there is an occupational analysis, the exam development cycle starts with an item retranslation and review workshop, where we will go through the entire item bank, the data base that contains the test question and review them one item at a time and relink them to the new occupational analysis. So they will read the occupational analysis and read individual questions and relink it to a new task and knowledge statement. If they are able to relink it then they move forward, if it's unrelated then its unlinked and that is either flagged for deletion or marked for revision. At the end of that item, that particular workshop will have all of the items in the item bank retranslated to the new exam plan. The next step in the process and this is the typical beginning of a particular cycle, there is no new occupational analysis is item writing. An item-writing workshop is roughly a 2-day workshop; they run from 8am to 5pm. For roughly the first half of the day, 8 subject matter experts will receive training on writing multiple choice questions, then review the exam plan, then sit down and write test questions. We do focus on writing test questions to whatever gaps may appear in a particular exam plan. If previous item analysis points out those items were needed in a particular content area, we'll focus individuals working on writing text questions for the content area. Or if the new occupational analysis has added a section to the test plan then we'll write test questions there. Each question will be read by the workshop facilitator and will give feed back to the person writing the questions so they can go back and modify those. Once that's done, we will have the next workshop, which is the item review workshop. An item review workshop, we have a different pool of 8 SMEs come in. The reason why we like to have a different pool of SMEs for item review because it's very difficult to edit your own test questions. This is very much a group process; they will receive training for about a half a day for item writing and item review. They will sit down and review all of the items to be reviewed one at a time they will do a variety of task including that the item stem is clear and understandable, that the question itself is in a specific format, and the keyed response is correct. That's done one at a time. Typically what happens is we will run 2 different 2-day item review workshops, for each one workshop for item writing. It takes longer to review questions than it does to write them. The item review workshop is a group process and the end result of that are items that have been written and reviewed and deemed plausible to be in the exam. Once the review workshop is completed there is the exam construction workshop, which is a 2-day workshop. The focus is to take all of the items to that have been reviewed and are tentative to be used on the next form of the exam and go over those and pick the best items to include on the exam. That's completely driven by the test plan, which will tell you how many items in each of the content needs to be included. So the SMEs will review items that are available for a particular content area and select the items that will be included in the exam. It relies on the judgment of the subject matter experts and also on any item analysis statistics that we may have from an item being previously used. In the case of Acupuncture, once the exam is developed in English, we will have a master exam. At this point it will go to adaptation, and its roughly translation, but it's not simply translation they are adapted into Korean and Chinese. For each test question we have a team of adaptors who come in and translate those items, or adapt those items in the various languages. They also do some other things, the study, and the candidate prep guide, which is written in English. That gets adapted into Korean and Chinese as well. The oral instructions that are given at the test site are also adapted. Once we have the adaptation finished and we go through some internal review processes, we publish and administer the exam. At the moment, Acupuncture uses a paper pencil based

testing twice a year, once in Sacramento, once in Southern California and that is managed by Cooperative Personnel Services (CPS), they use scantron forms. OPES has a lot of input into that process but the process itself is managed by CPS, and OPES will typically go and monitor the process and answer any questions. A lot of our other clients use computer based testing, which is managed by OPES but ran by Psychological Services (PSI), that's open continuous testing. They have roughly 13 sites in Californian and 10 sites nation wide. The contract is being renewed so some of these testing site numbers may change for the future contract, but PSI will continue to manage computer based contract. Because of the way the Acupuncture Boards exam is administered, it is done all at the same time often times myself and the exam developer will have to go to the test site and pick up the scantron forms, one set in the morning and one set in the evening and score those test questions on the scanner and run analysis on that data. It does provide us with a unique situation because we have all of the candidates information for all of the test questions so we can run statistical item analysis on those data before doing the passing score workshop. Typically for computer based testing passing score workshops are done before the exam is administered. That information is fed into the passing score workshop. For computer based testing when these exams go live we typically run item analysis every 10-day statistics, or roughly half a month; we'll get all of the data and run an analysis on that to see how the performing is at the time. In your case, its done paper pencil, we'll do all the analysis before the passing score workshop. When we go into the passing score workshop, which is typically 2 days long with 8 SMEs, we will have those individuals sit down with a clean copy of the exam and take it as if they were candidates. We won't have them take the whole, all of the questions at once. They will do roughly 5 or 6 items at a time, roughly a printed page or two worth of questions at a time and actually score them. And we will also spend quite a bit of time discussing and calibrating the SMEs to our criteria, and our criteria that we use to set the passing scores is minimum acceptable competence. We will describe that minimum acceptable competence by looking at the occupational analysis test plan and each of those tasks and describe 3 different levels of performance. One is unqualifiable, describe how an applicant who is unqualified who should not be licensed would perform in this particular content area. We'll also describe above average, the superstar level, the high quality of a level on a particular task, then hone in on a minimum level of acceptable competence. What is it that a candidate would need to know, and would be able to do to perform this task at a level of minimum acceptable competence. They should be licensed and we'll take quite a bit of time to describe that level of minimum competence and write it down in a document. Then we'll have some set of test question that we will know what the minimum competence is by previous statistics, and we use these as training questions. We will have the raters take those questions and provide their assessments for the passing score and kind of calibrate them into the accurate known information. Once you get to the point where all of the SMEs are properly calibrated on minimal acceptable competence then we will actually jump into doing the real task. The real task is to determine the passing score on that particular form of the exam. They will take a set of questions and for each question; they will independently determine what is referred to the Modified Angoff value for that, which is a technique for setting passing scores. In this particular case, we also have the item analysis data that applications are performing on particular test questions and we can use that information to help calibrate the passing score. The end result for every item scored on the exam we will have an average value from among the raters for the percentage for minimum acceptable competence applicants will pass that item and we will average that average to get a grand average and that is the recommended passing score. That recommended passing score is sent to the Boards Staff for their review and once that value is set we can move forward with who actually passes or fails the exam.

What happens after the passing score workshop is all of the test questions that have been judged to be problematic or item analysis have point out that we need to develop more test questions. All that is fed into the next cycle, which would be creating or modifying test questions that haven't been performing at highest levels that we would want, so the cycle just starts over. In the case of Acupuncture where we have 3 cycles going on at the same time, there would be 2 levels of cycle and some level of completion that would feed into the cycle that starts up after that. For the licensure testing process to be successful requires a lot of commitment and collaboration. OPES does the technical oversight and facilitates the workshops, maintain the item banks, conduct examinations and item statistical analysis. There's a lot of contributions that need to be made and are made by the Board. One of the most important one is monitoring and reporting changes in the professions in the laws and regulations that govern the performance of the profession, we will then use that to kick off another occupational analysis cycle when that needs to be done. Boards participation is making sure there is adequate funding for all of this. One thing the Board is a doing is actively participating and having oversight over the entire process. The subject matter experts are the key group for writing the exam, SMEs are licensees in good standing with the Board and we have a large group of people that participate. They will be involved in creating the occupational analysis, insuring job relatedness, evaluating tasking and being involved in exam development, setting the passing score and adapting the exam. That's the entire process we use. The Chief of our operation is Sonya Merold. I manage the exam development staff. The individual exam developer is Cynthia Marquez who is now working on the CALE. OPES is on Del Paso Blvd, where all the workshops are conducted.

The Chair asked whether they had enough questions to avoid the repeat questions?
There was an incident that happened a while ago where we found out that these test prep guides were available. That document came to OPES, and we went through it carefully. We went through the item bank and flagged all of those questions. People would come to the test and memorize sets of test questions, and report those 5 questions to whoever they were giving that information and the entire exam would be recreated. You can buy the booklet of test questions from previous exams. The degree of accuracy in that was not perfect and because it didn't have access to the answer keys, but there was a lot of information that we found shocking so what we did for this last go around is flagged all those items and did not use them. We also identified, through looking at those documents some of the flags that we used to tell candidates what item to look for, so for example if there was a specific key word in English to describe a medication, the "cheat guide" would say "look for this word and choose this answer". OPES pulled out all of the questions that people had known about. George Wedemeyer added that this is a misdemeanor to anyone who is involved could lose their license, so I hope the schools will get that information out there. Mr. Holmgren responded that in our collaboration with CPS we have done a variety of things to try to prevent people from memorizing test questions. Mr. Wedemeyer asked if computerizing the exam would I have a better effect without memorizing the question? Mr. Holmgren responded that's a double-edged story, what you're suggesting that once you read a question. you can't go back and double-check it. You can do that but it has a repercussion, if you accidently skipped past a question you just lost it. Often times people have different strategies for taking computer based test, you have a certain amount of time and people often skip over that then the Computerized test are designed to let you know you skipped the question. If you only allow people to look at the question once, then that won't be able to happen. People can still memorize questions in a computerized based testing format. We have had some of those cases where that has been the case and we have been able to identify those cases, and DOI will do an investigation. If they deem that person actually cheated then there are consequences. Mr. Shi asked whether we know how many items are

in the bank? Mr. Holmgren did not have the exact total number right now. Mr. Shi asked if there is any mechanism that eliminates overlap of questions, or similar questions? Mr. Holmgren responded that's an on going process, its one of the tasks that is performed in the workshop used to construct the exam. People will go through the exam item by item, a pool of available items for that particular form and selecting the items that will be on the test. And when they see items that are queuing one another or asking the same question, and one will be removed. That's the last part where we do it; the software has the ability to flag that information. Mr. Shi commented that if you put the effort into item writing then you're not paying attention to what's in the bank? Bob says for item writing, the goal is to write items for the area where there are an insufficient number of items and new items that need to be written. Overlapping can occur at that point and sometimes a new item is better psychometric quality so we will allow people to write an over lapping item if the new item works better, then flag that relationship so they don't appear together. Mr. Shi commented that there is no comprehensive effort to go through the item bank. Mr. Holmgren responded that there has been no comprehensive effort to prevent overlapping items. It is one of those items we look at very carefully and so when we have our final pool of items, it should be handled at that stage in the exam development. Mr. Shi asked with all of these workshops that are on going through the process aside from the SMEs, who else are present? Bob responded that typically Board Staff come for a short amount of time at the beginning of the workshop, but our policy for our office is that certain individuals are not invited to participate in the workshop such as the Board Members. When a Board member or an educator is present in an item writing or review workshop, their presence tends to dominate and take control of the process. If you're a licensee and in good standing and a Board member is there, all those individuals listen very carefully to what the Board member has as an opinion, so instead of having separate 8 individual independent points of view, you have only one because they will listen and provide whatever that board member or educator believes. They tend to dominate and take over, so for that technical reason we have asked that Board Members and educators not be involved. Mr. Shi commented that as a Board member and a committee member, he doesn't really have any input or any information coming directly from those sessions aside from the fact that they are going on? I do have a concern there, I went to school, I studied, took my test and I keep on learning. What I realize is that our profession, unlike other professions, the study involves theoretical study but on top of that we have to have experiential study and it is not until you have the two that you become competent. My concern with the exam process at this time that we are not really testing for the experiential aspect of it, so when you go about setting up minimum requirements of practice, this is problematic. The Chair commented that in the presentation there's an Acupuncture Board contribution, as a Board member you contribute. I would like to review the item. Mr. Holmgren responded that what you're suggesting is that there's the actual minimum competence knowledge and then added on top of that is a large pool of theoretical knowledge that is built up by experience. My question back is if our charge is to license new licensees at the level minimum acceptable competence, is that a level that you would expect of new licensees? Mr. Shi responded yes, the analogy I use is if we can all study music but we are not accomplished pianist, so if I was to ask a new licensee to play the piano they can't. Mr. Holmgren asked is that person minimally competent or not? Mr. Shi said no, if they can't play the piano they can't perform. That's why historically in our profession, the apprentice or student would spend a lot of time side by side with and experience practitioner.

Mr. Wedemeyer commented that you mention gathering information from the acupuncturist who is out there practicing, which means they've experienced a lot. They've been in clinical setting and one of the big things in the schools that they are asking is why there is such a low pass rate? What you're saying for safety sake for protection of the consumer, someone has to function on this level, yet we are getting these low pass rates

where they are possibly not getting the right information or clinical setting. These are the questions the schools are asking, why there is such a low pass rate and some are looking at more clinical setting for their students. Mr. Holmgren responded that he couldn't be certain why this last form of the exam has the pass rate that it did but I think some of the issues that we were discussing would certainly impact that. The whole elimination of questions from the item bank that have been exposed and a whole variety of situations like that and I can't be certain of why the low pass rate happened, I don't know. Paul Weisman inquired about the SMEs taking the exam. Mr. Holmgren explained that one of the things that OPES does is every question is not a brand new test question. We incorporate items with known statistical qualities from one test form to another form, they are called anchor items. We can monitor over time how a test is performing. When those items have known statistical qualities are given another exam we can see whether they are performing at that level.

The Chair asked how SME get selected? Mr. Holmgren explained that they come from a list of licensees that comes to us from the Board. The Chair asked what are the criteria? Mr. Holmgren explained that in addition to being a licensee in good standing, we very much try to balance the geographic location of where they work, gender, ethnicity so we are getting a sampling of the population. We consider years of service, we include people with all different levels of years of being licensed. The new licensees are very helpful in reviewing test questions because they understand the difficulty level; they tend to be better in form to the recent law and regulation changes. The senior licensee have a perspective that the new licensee don't have they have seen licensee come and go, so we like to have as broad pool of licensees as possible.

Vice Chair commented that there's a huge discrepancies from the past examinations to the last exam, pass rate of 39% vs. 70%, it just dropped by 30%. Mr. Holmgren indicated that he I did not have an explanation for that. Mr. Wedemeyer commented that in the nursing profession they require 85% pass rate, 75% below they start putting schools on probation? Why aren't we there? Are they doing something different? Mr. Weisman commented that we have students spending years and it costs a lot of money to go to these schools, and it doesn't seem like they are going to violate anything buying these test books. When we look at our stats of negligence and different things, we see ethics issues but not competence issue so my question is your exams in the past must be fine as far as competence because we are not getting a lot of complaints on the actual practice of what people performed, so that's why I just want to reiterate my comment to you is deciding where the testing came up in this exam if so skewed seems like someone should have gone back and look at the passing scores. Mr. Shi inquired that you mention there's a 5 years cycle for the occupational analysis, are we in a new cycle at this point? Mr. Holmgren responded that he doesn't know when it will be, but it is currently going on 5 years.

Public comment for OPES Presentation:

We are profoundly concerned with the recent exam results that given historical low. The questions that I have are: what changed in the last exam? Was there a different test plan? Do you use a modified Angle? It appears that the exam pass rate was raised to 76%, and when I looked up the National commission for certification agencies, they said cut scores are modified when there's a known change in the population of candidate or eligibility criteria, such as education, training, or new examination content that has been determined both in the content and weighing a various domain within exam and you had mentioned laws. Why was the cut rate raised? Is that one of the issues that was part of it. We also wanted to know what individuals or organizations made decision to raise the pass scores. There was a problem with the cut score, the exam content, or the test plan that was not properly shared with the examinees. The chair advised that the concerns could be addressed in Item #10 Informational Issues regarding Poor Pass Rates.

Item #10 Informational Issues

Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rate

The Chair requests Mr. Wedemeyer to give us his presentation. Mr. Wedemeyer posed the question what is the purpose to changing the way CAB evaluates CALE pass rates? California State Business Professions Code Acupuncture Licensing Act Section 3934 states The Board shall study and recommend ways the frequency and consistency of their auditing and the quality in relevance of their courses. This change will evaluate how Acupuncture Schools prepare graduation students entering the profession by evaluating the results of the California Acupuncture Licensing Exam. CAB has approved approximately 36 training school programs, in which 20 of those are located in California. The CAB rarely removes training programs from its approved list, which keeps growing despite strong evidence that many of the approved schools are doing a terrible job preparing graduates to pass the CALE. There are at least 7 schools with less than half the graduates able to pass the CALE. Four of these programs have pass rates below 40%. The CAB must do more than just approve schools; the CAB must also ensure excellence in practitioner training and education. The CAB must continually evaluate how well approved schools are doing their job. Why CALE pass Rates matter, the rate at which graduates of training programs pass the licensing exam is the first and foremost indicator of the quality of their training. Most health care professions, including physical therapist, nursing, physician assistants and physicians have pass rates of 85%. The Board of Licensees mandates that all licensing programs demonstrate at least 75% of their graduates pass the licensing exam or that school is placed on probation and can be removed from the Board of nursing's list of program. The average pass rate for acupuncturist on the CALE from 2001-2010 was 61%. A pass rate this low means that passing the licensing is almost the same as flipping the coin. There's only a few explanations for a pass rate this low, the exam is too hard, or poorly constructed, it doesn't test what people study, or people taking the exam are not well prepared. The CAB has had testimonies from states own testing department, OPES that there is nothing wrong with the CALE as a measure, the test is neither irrelevant nor too hard. That leaves one conclusion, many graduates in the 40% who consistently fail are poorly prepared, at least one other conclusion, some schools don't exist to train acupuncturist. Different conclusion would merit consideration, if the evidence of academic failure amongst the many training programs where short term is sought. Here is the real question, with so much strong evidence why has the CAB failed to take any actions to protect the public? Why is that the CAB does not ensure the quality of training by removing the worst performing schools from it's list? Senate Committee of Business Professional Economic Development appears to be ready to replace the CALE with the National Certified Exam and remove the school oversight function from the CAB by deferring the National Program Accreditation Body. These are both bad ideas because they simply kick the problem down the street, or out of the state. ACAOM and NCCAOM serve the various schools that are problems in the state and if the CAB wants to avoid the removal of it's licensing and approval functions then the CAB has to begin functioning according to its mission and initiate a program that uses CALE data to guide a school approval process. AAAOAM made the following recommendation as May 2012. AAAOAM review of its second draft standards for it's first professional doctorate in AOM accreditation "Programs must provide annual outcome data for pass rate of graduates who take licensing exam discriminating between first and repeat takers. Total graduates to each year and total that sit for the licensing exam within 3 years. With regards to pass rates ACAOM should set a standard that allows for progressively achieving criteria level for par with other health care professions annually working towards 0.5 deviation, approximately 67 percentile above the mean within two year moving average until the criteria level of 85% is attained. The CAB does not use it's own information on it's own website to function independently and responsibly. Here are recommendations for the CALE committee and recommendations to the Board for a

new policy for evaluating currently approved schools and new schools that are applying for approval using the following recommendations of frame work: 1) New schools can only receive provisional approval for more than 3 years, the school must achieve a 70% pass rate by year two and maintain it in year 3. All concurrently approved schools must achieve a 70% pass rate by 2014. The Board will place a program on probation with intent to revoke the program approval, and may vote approval if a program fails to maintain the minimum pass rate. A program exhibiting the pass rate below 70% for first time candidates in academic years should conduct a comprehensive program assessment to identify variable contributions to the standard pass rate and will submit a written report to the Board. The report shall include findings of the assessment and a plan for increasing the pass rate including specific corrective measures to be taken, resources and time frame.

Chair suggested that this issue go back to the Exam Committee, which includes Mr. Wedemeyer and Mr. Shi, and present before the Board for the next meeting for discussion and conclusion and vote in regards to poor performance.

Public Comment for poor pass rate:

1. Attorney representing several Acupuncture Colleges. Compares 68% pass rate for attorneys to acupuncture pass rate and adds that to conclude that acupuncturists must achieve a passing rate of 70% is an incorrect assumption. What I suggest that a detailed analysis and more information should be gathered before you move forward on this. All professions have different passing rates. A lot of times you have to look at, for example the law profession. You may have new schools on board that are not accredited, so at that point there are steps that are taken to ensure they are meeting certain standards so that those law schools for example in the first year, you have to take a different exam. That is different from law schools. Also I will add that starting to put schools on probation at 70% when the passing rate has been around 68% to 76% over the years, your going to ensure that every college will be on probation. I have reviewed over the past couple of years all of the enforcement actions taken by this Board. It's a rare occurrence when it's based upon competency or harm on patients, and I think we have to take that into account when we look at this issue.

2. Are committee members open to the public and the public can't give information on this? Board responded that it asks repeatedly for the public to submit written comments but we rarely receive any. Board Counsel stated that the Committees do not meet publicly, they are made up of only 2 individuals; however Committee Members are always encouraged to meet with stakeholders. You can send information directly to the Executive Officer or you can request to meet with committee members so you can provide input. The Chair requested members of the public provide input to make it effective, I like you to not repeat what others suggest.

3. Korean Association representative comments about poor passing rate. He has been working as a Subject Matter Specialist for 10 years; I actually participate in all the workshops. First of all questions are not hard enough, and every question is straight forward there is no confusion. Problem is some schools they don't teach right. I heard rumors that many students register for school they don't attend. Students don't work hard enough; they register for school and don't go. Board Members need to work to find out those things. Schools don't teach right, and the students don't study enough to pass the exam. Seven schools, their passing rate is less than 70%, some may be 68%...but compared to other professions that are 85% passing rate. Find out why the pass rate is so low, that's your job.

4. Faculty member comments on the CALE pass rate agreed with prior comments. She saw at her school many students didn't attend class, and there are problem with some of the schools. They don't have any accountability what these students are learning; there is no accountability for those schools to provide

patients for clinical hours. If a student signs up for 12 hours for clinical week, and they have one patient then they still get credit for those hours. They pay for the time but they are not getting the experience, so Acupuncture Schools do need to be held to a higher standard in education. Hands on clinical experience is extremely important, that's where you're getting your experience. You put it all together, you practice what you learn, you gain experience and then you're better prepared to answer these questions. I think there is a problem with the writing of the test. I don't know how PA or Nursing exams are written, is it with the same testing company? Do they go through the same process? Then I would only say that in Acupuncture that it's theoretical, or when I'm getting tested for the Dental exam or Nursing exam it's not a lot about theory, it's a lot about facts. How do you make sure your test questions are being sure that they are not being ambiguous, there can be more than one answer. The student can ask what book are they taking this question from. It's an insane amount of material to remember and trying to keep them distinguished and not fair. The students, the test the schools and I think they are all contributing factors to this problem and I would love for the Committee to have a more public discussion about this.

5. I run a Board review class TC in review, we don't collect questions we actually teach the students how to pass and know their material. The testing agency back in 2007 thought their test was compromised. They took every step they could to make sure their test was not compromised. Now we have the flip situation where this exam we dropped 30% and these students are being held up, are not getting their license and being able to practice and more importantly being able to pay their student loans. We're not given the same consideration that there is a situation with this exam. No one has taken the time or the effort from this organization to see if there is actually something going on. From what I understand they automatically assumed that it's because they taken the question out that they think people have harvested and gathered and that all of us are cheating and I feel that is absolutely ridiculous and needs to be addressed.

6. I am a SME at the National (NCCOAM) Board exam, I've been in very similar situations like we are discussing here. My biggest concern is why wasn't a red alert raised during this process? I've been in situations where the test scores where the results were not as high as we thought they were. They were way better then a 30% drop in the pass rate and we were concerned about the pass rate at that point. There was huge amount of discussions about how, what and how will we address this and looked at it statistically and actually made the determination based on statistics for how we were going to deal with this situation. I have no problem if a SME said that there was a huge drop we've looked at it and we are fine with the way it is. I disagree with that, but that's there decision to be made, what I don't understand is why were the scores not even discussed before the scores went out. The next step should be an investigation of why this happened.

7.California State of Oriental Medical Association commented on agenda item #10 placement of Acupuncture Training Approvals on Probation for poor pass rates. Mr. Wedemeyer stated that the pass rate 2001-2010 was approximately 61%, yet I'm hearing that probationary cut off at about 70% and there seems to be a disconnect in that number. Someone feels that rather then setting a hard and fast pass rate determination that we index it to the standard deviation for the past 2-3 years of the CALE and having a floating pass score determination for school performance, would reflect changing pass rates in the CALE, historically it's been 61% and the past exam was down 30% if we have a hard and fast score cut off it doesn't look like changes and fluctuations in the exam. Also for schools that had a very small number of test takers, i.e. out of state schools that doesn't allow a larger sample size for them, that they have one test taker and that one test taker happens to fail the exam we don't believe that they should be put on probation for the performance of the very small percentage. The Chair clarified that it's not Board's opinion, it was a presentation. The representative continued that if we're going to be placing schools on probation for poor performance on the CALE, we want to index it to the standard deviation from the aggregate for the past 2 -3

years of the exam rather then having a flat cut-off. The second comment is in relationship to the most recent CALE, we had submitted a public record request for detailed information related to test item development methodology, cut score determination methodology, pass rates for the test for the past several years an aggregate for all test takers and also a pass rate breakdown by school. We were informed that we were told that we were probably not going to be able to get by school numbers because of limitations and proficiencies in house. It hasn't been generated on the website. We were made aware of the technical limitation prior to our executive director going out of town we have not received that data. Today looking at the memo that was circulated regarding August 2012 CALE this is the first time were able to look real and actual numbers. The EO asked if he hasn't received the package? He hasn't received the request for the public records. The EO responded that the entire package was sent out weeks ago. He continued that once we have a chance to look at the appropriate data and determine our own statistical analysis to see if there is a significant deviation from the current pass scores, then at that time we would issue an official position or recommendation. Taking a look at it doesn't pass the "sniff test" today, and I think we will probably soon be issuing a very a public recommendation that this should be looked into further.

8. The test developers do not have an explanation for the low pass rate. I would like to make a formal request that CAB do an investigation of what happened here because everyone I talked to says it there was a problem with the exam, or the cut score, why was it raised and it shouldn't have been raised. There is a problem with the test plan, it shouldn't have been changed. We did a thorough internal investigation of all of our students, we looked at all of our students for the last several years on what their GPA are, how they did on their comprehensive exams, do we have any major mission change, any faculty changes, curriculum changes. There is no possible explanation on why there is such a significant drop in this last pass rate. Board Counsel explained that you could ask the Chair and Executive Officer to take a look at this and work with those and report back at the next meeting. The Chair stated that we will get all the questions and the EO will work with OPES and conduct a formal investigation.

9. My past college covered a broad spectrum of areas. I have to commend the exam and Board over the last 35 years; things have really improved a lot even though we've hit many bumps over the years. I've taken the first exam that was administered in 1977 so I've seen a lot of positive changes. The main question I have is this English Language, Chinese and Korean language distinction. According to what I saw in the presentation, we do not have the stats of the different languages by the last exam. By not having that we do not know, seems to me most is the English program that has gone down. Chair Lee says that we have had post in the past, but recently the person who knows how to function the software system has retired. The question remains, if this went up for the last 10 years as being in the 72 range, if the cut rate went up to 76% the majority of our students the majority of our students form our institution from some colleagues of mine seemed to have failed in that range that low 70s to mid 70s which is minimal competency range that has proven effective for the last 3 decades. Now it's up to 76%. Is it due to the high extreme pass rate in the Korean and Chines exams? And if that's the case, are those exams the same as the English exam? Korean? Seems over the years always over the years that the Chinese and Korean do better. When the discrepancies get so big, are those questions the same rate of difficulty in the three languages and does that make a difference?

10. Request for more information how the cut score was determined and why the pass rate was so significantly changed from the last pass rate.

11. Eight schools that raised flags about the scores before we received initial data in requesting the data with the CAB EO we were told the test is solid and you need more evidence in order to present your case. Our request for evidence was also denied, we asked continually for the exam past rate to be published and I

recognize that there is under staffing and a problem with statistical analysis of our students in 3 hours using excel. I feel like this sort of data is mission critical. If you expect us to adapt and change our curriculum that data is also necessary for us to get quickly. I will say just anecdotally, traditionally when we look at scores over the past, 3 years of test the passing score is ranged between 70% and 72%. This score was 76% as the passing score. If we had adjusted our student's data to a 76% pass score we would have had an 80% pass rate, versus a 39% pass rate. I just wanted to point that out; I think it's important to show the difference that it could potentially be a problem with the cut score. I also wanted to advocate for the students. Mr. Weisman asked for him to explain this analysis you did from the cut rate going from 72% to 76%. Students had to pass 133 out of 175 questions in this exam to pass, which is 76%. Historically it's been 70% to 72% over the last 10 years. When I looked at my student's scores, any student that fails gets their score break down; they know how many they got correct. If I looked at those about 70% of the scores correct, 80% of our students passed as opposed to 39%. That's why we are hammering down the issue of how the passing score was set, so I would encourage the Board to find out specifically how that was determined.
Mr.Weisman asked if there has ever been cut scores at 76% in the past? Another comment: it has to do with the cut score being so high that it's pretty obvious that the Chinese and Korean pass rate was extremely high, it doesn't make sense. Very high performing students didn't have any difficulty, the top students pass but the range of 70% to 76% and could have brought those up. The Chinese and Korean must have had extremely high pass rates on those exams. All the English-speaking students were not able to achieve those high scores.
12. Supports need for investigation. Why did cut score change dramatically? Why was decision made? What were the documented decisions? Look at items in item bank? How many in item bank? The number in the bank is the essential part of ensuring of a sensible, accurate examination. There was no appeal process. Our accreditation requires that we have an appeal process. We believe it is critical to the integrity of the organization and exam the appeal process itself helps ensure that we investigate our exam. When a candidate appeals we are forced to get our SME together and look at the appeal very closely and look at the merits and we have to look at the items in our exam. That in itself helps us to ensure the integrity of the exam. One more thing, it's about the investigation and the passing cut score. The NCCOM uses criteria-reference scoring, as does CALE. In our case it is not affected by a pool of candidates in any one administration of the exam. Because we use a computer adaptive examination our cut score is determined prior to anybody taking the exam. It is not changed after or before the exam until after there is a major occurrence that was substantiated looking at change in that cut score. Typically an occurrence is every 5 years when we do a job task analysis. These are questions are extremely importance. When a cut score is changed there has to be a very clear and significant explanation for it.

Update on English-Only Exam

George Wedemeyer reads and discusses from Agenda Material "CALE should be provided solely in English Discussion and Action. He states that he's been told that ACOAM has been moving in this direction of the English Language and training, and AAAOM endorses this also. He asked Chair that he would like to make a motion and we put it up in discussion. Chair replies that we can discuss, but we will not vote. It should go back to the Exam Committee, then come back to next meeting. Board Counsel stated that this issue was assigned to the committee, and because of that assignment you would have to come to the Board as a recommendation to repeal the section. The Chair says that any public Member can email to the Board and the EO will forward to the Committee. Paul Weisman asked that the exam committee following up on

whether the Chinese and Korean exam results impacted the cut score. Find out if the exams and in Korean and Chinese are easier or more difficult than English, and would like the Exam Committee to look into that. Public Comment: Wasn't this issue raised before the board a couple of years ago? Yes, the proposal was to go to an English only exam dissolve the tutorial training program but it did not pass in a board vote. NCCAOM is considering going to an English Only Exam, not ACOAM. The pass rate issue and ethics was raised in past board discussion suggesting that increasing English fluency could reduce ethical issues.
The Board asked the public to put input in writing in send to us and participate as our partners.
Another comment highlighted the fact that the TOEFLE exam doesn't have medical terminology section and people can pass the exam but not have any knowledge of medical terminology, and also no laws and ethics knowledge. CSOMA is in agreement with all of the issues you outlined related to safety, ethics concerns. CSOMA's position if we move to an English only exam we want to see 3 features: 1. Preserve Traditional TCM Terminology with representation with Chinese characters, Korean and Pinyin characters as well as Latin pharmaceutical. 2. Students that have currently matriculated into a Chinese or Korean program are able to finish those programs and sit for the exam that they believe would be available to them. 3. We would like to extend the guest acupuncture period for extended up to 2 years to allow California Schools to attract high quality educators from Asia and give them the time to acquire the language skills necessary to pass and English CALE. Another comment supports idea for English test for the public safety issue and the communication for the patient and healthcare provider, the language is very important. Another comment indicated that the passing rate, and budget cost should not be a reason why we do and English Only exam. We have to learn our own language so we can serve our patients better. Vice Chair-We are not saying that you have to learn in English Only, we saying the test will be English Only. When you pass the TOEFLE, the reading part is not a problem, right? It's written in English so most have no problem. Chair asks to please write down your comment and send to the Board and we will refer to the Exam Committee. EO clarifies that when you email her to specifically say that the email is to go to the Board. Mr. Shi says that the most important thing for new licensees is that you still have to keep studying. The most important ideas are embedded in the source language. There are two issues, which language do we ask the questions in, and technical terminology. Technical terminology is all-important. We have to get the basic definition down. We have to ensure high quality. Public commented that there's no other professional exams given in multiple languages. No accommodations are made for language. It's a safety issue, and we have to be up to par and that would be to have the exam in English only. Another comment 50% of the Acupuncture students support for the English-only test. We should have ESL just like the Universities. Another comment was against the English only exam. I'm teaching an English class, I use two textbooks, English and Chinese and translation is a huge problem. I think the English test translation is a barrier, if we do English only the English barrier will be a problem. Chair Lee again urged the public to write to the Board with their comments. Another comment talked about not understanding why there would be a low passing rate. By taking the test in just English doesn't guarantee the capability of communication. If you really promote safety, then I think you have to do something different then just in English. Someone responded that the word adaptation should replace translation.
Vice Chair did some studies using the website and found that there are over 14,000 licensees and 4,500 were Korean surnames. He tried to find out where they practice, and the biggest was Orange County and LA County, which is 75% Korean. There are so many Korean acupuncturists, and they don't compete they kill each other. This shows that many Korean and Chinese only practice in Korean town and China town, they are not competing outside of their area. Too much competition, it will be harder to find a job. This shows that many Korean and Chinese are not going outside of their territories, not only for the patients to provide

services. You graduate college, take test and pass then become licensees and can't get a job. The integrity of this profession, you have to be serious about it. This is a health profession, if you can't communicate how can you treat people? The first thing we have to consider is public protection. Get rid of schools that are not interested in producing quality acupuncturist. Public comment: most of the textbooks used in the US are from China or Korea. If we do English test only, there is no chance for in the future. If we go to English Only, it doesn't make sense to the Korean and Chinese. Chair says that when the test is in English, the school has to decide how to teach their students they can teach in Korean and Chinese, but the Exam is in English Only. Another comment said the problem with providers that open clinics and don't speak English that it is encouragement not an English issue. The claim is that it is a health care issue, but acupuncture is the safest treatment. Cosmetology uses an English only exam, but now they have a Korean exam approved? Why do we have to give up? Mr. Weisman responded that the schools that are only teaching Korean should get someone there to teach in English in case the Board goes that direction. People are on notice now that this Board is looking at that. I also want to look at it from the fairness of the exam. He expressed concern if there is a difference in exams.

Mr. Wedemeyer pointed out that Business and Profession Code Section 11 requires that all writing including records to be in English. This is what the schools should be observing and looking into it. Vice Chair added that if that's the law then that's the law and we should go by the law. Public comment wondered why the exam was in three languages and that acupuncture is the only healthcare field at a master's degree level and above that is not in English-only. Another comment added that the English, Chinese and Korean are not the original exam. The exam was given in 5 languages, which also included Japanese and Vietnamese. We are talking about English Only. This is not an English issue; the medical terminology is Latin and Greek so it's way beyond the English comprehension of a TOEFLE exam. They are going to have to know the root words, so the medical terminology is really important for safety issues. Vice Chair, the Board made the decision a long time ago that's why we are here to change it. You may want to take a look at the code first. Public comment explained that the Board's mission is to protect the public. In the consumer guide to acupuncture and medicine it makes it clear that acupuncture is a healthcare profession that stands on its own and its practitioners are able to treat common illnesses. On page 2, it states that it's one of the newest primary professions. If we are going to be representing ourselves as primary healthcare profession, then we need to be on the same levels as other healthcare professions, and they all give their exams in English only. Cosmetology is not a healthcare profession.
Another comment referred to the Vice Chair's point that it's crowded in Korea town already. If I speak and understand Korean when I'm sick, and if I can't communicate I will give up. We are talking about professional protection here. Another added that you really have to have good English levels, and the skills to do the acupuncture. In the trainings in school, language and skill abilities need to be emphasized. Chair states that we have another long conversation for the Committee and we will compile all of the concerns and studies and comment to the Board. Vice Chair says that we've been discussing this for last several meetings. I hope we can come out with a language that we can pass next Board meeting so we can discuss. Public comment added that it's not a decision that you can make overnight because you have to look at many different aspects. You mentioned about public safety, but if the Board decides to offer English Only exam, it will cause a decrease in Chinese and Korean speaking practitioners. What about the public safety for those patients that can only speak Chinese or Korean? What if the patient has to go to a practitioner that can only speak English? Mr. Wedemeyer assured that there is there will continue to be practitioners that speak Chinese, Korean and can speak English. 50% or the graduates don't practice in the profession; they

can't find jobs or can't operate. Chair states that today is just information, it's a transitional period. Usually it takes 4 years for transitions. Mr. Weisman comments that there are a lot of Chinese speaking doctors and they take the medical exam in English and serve Chinese and Korean communities. The CALE shouldn't be any different. We are saying 4 years out, so the communities better get ready in the schools because if this Board votes that way, then everyone should be prepared. Vice Chair added that if Medical Doctors can take test in English and can provide services in different languages, then why can't Acupuncturists? Public comment emphasized that it was a transition period. You don't have to be Chinese to practice Tai Chi or Martial arts, you learn it.

School Approvals and Proposal to Collaborate with the ACAOM to Approve Acupuncture Schools and Training Programs (Tabled by Chair due to no board member present to make presentation).

7. **Proposed Continuing Education Ethics Requirement Language.** Vice Chair ask that we make a motion. Preliminary discussion requested that the word "medical" be removed because it is too limiting. "Professional ethics was suggested as replacement language. Board Counsel advises that there will need to be a motion to change Medical to Professional. Mr. Weisman makes a motion to change Medical Ethics to Professional Ethics, Second by Vice Chair. Motion carries 5-0. Vice Chair makes a motion to direct the Executive Officer to commence the regulatory process and for the Board to delegate the authority to make non-substantial changes to the regulatory language. Mr. Shi seconds, Motion carries 5-0.

9. **Legislation Update**

EO gives updates on the subject and whether they are active.

a) AB 1889 (Fong) – Practical Examination did not get passed and is inactive. Issue failed due to cost initially.
b) SB 1488 (Yee) – Traditional Chinese Medicine Traumatologist Certification is inactive, however the author has indicated that he wants to bring that bill back in the beginning of the session. EO gave the language to the Board to familiarize them with it because the Senator wants the Board to revisit the issue.
c) SB 1236 (Price) – Sunrise Legislation is the bill that authorizes the Board to extend their practice for another 2 years. The sunset review committee is usually a process that reviews the Boards and their practice to either terminate or extend their function. The traditional customary is 4 years; CAB was only given 2 years. The new date would be January 2014.
d) SB 628 (Yee) – Restricts the use of the title "Doctor" by Acupuncturists, this bill also had Traumatology in there in terms of the title but it was in the end of the session stripped from the bill and it became in the end use the title "Doctor" and it was signed by the Governor. Basically it's the same thing we have in our codes limiting the use of "Doctor."This bill codifies an existing code section and thus we would have to repeal that code section to be in compliance. However, the Senator has indicated that he wants to modify it further so we will hold off on making regulatory changes until we know what additional modifications are made to the statute. This is the only bill that survived and did get signed and changed drastically.

11. **Public Comment for Items not on the Agenda**

1. Public comment from a student of Acupuncture at South Baylo University who will be sitting for the CALE this February. She expresses appreciation to the Board for taking our concerns seriously. I want to emphasize that I am not here to make accusations. I believe the members of this board aim to protect

both the public and support acupuncture students and schools while providing a fair & accurate assessment of competency. Ultimately, we believe it is within our rights to ask for an open and consistent line of communication between the CAB & CA Acupuncture schools, as well as transparency in the development and scoring of the CALE. In response to this historically low passing rate, we have initiated a petition through Change.Org; in just 3 days we have approximately 805 signatures: http://www.change.org/petitions/california-acupuncture-board-reform-re-evaluation-of-california-acupuncture-licensing-exam-cale

ISSUE #1: Communication Between the CAB & CA Acupuncture Schools

A. First, there are serious concerns regarding the level communication between the CAB and the CA Acupuncture schools, which ultimately interferes with the standard of education we receive. The CAB & the schools should be in support of one another in training us for our medicine.

B. It is the CAB's responsibility to provide ardent regulation of the standard & continuity of education across schools. It is the schools' responsibility to provide that education with proficiency. It is the students' responsibility to learn this information, apply it, and conduct themselves with integrity. The only way to achieve this is to maintain a consistent and open line of communication with the schools; this should include: Changes in curriculum requirements or the standard of education to ensure continuity across schools Changes in policy & legislation with regards to education, examination, regulation; Publication of exam results & their breakdowns. Simply telling the schools to update themselves by checking your website is not sufficient, especially since the website is not consistently updated. By working together, the CAB & California acupuncture schools can ensure excellence in practitioner training and education and ultimately push schools to maintain the intended 70% passing rate.

ISSUE #2: Exam Preparation & Peer Review According to your website, there is an extensive content validation strategy that goes into creating the CALE. The Occupational Analysis Study (last done in 2008) provides the outline, and Subject Matter Experts use that information to develop questions. These questions are evaluated for technical accuracy & revised before being added to a large question pool. However we have several concerns in this procedure that we are asking the CAB to consider when investigation OPES. The Occupational Analysis study includes approximately 30 interviews LAcs, and approximately 400 admissible surveys. How is this considered and adequate sample from a population of acupuncturists in California that is in the tens of thousands? How does OPES select it's Subject Matter Experts (SME's)? Is primary language a consideration? Why is there a regulation against using educators as SMEs? What materials and references are the SME's using to write their questions from, especially pertaining to western medicine questions? Why is the CAB not permitted to provide input during development of CALE questions? How does OPES objectively define the use of "best" when selecting the "best questions" written by the SMEs to add into the question pool? Does OPES use item-analyses to assess the validity of an exam question? Why does OPES place more value on quality of questions rather than quantity? How many questions are in this "question pool", how does OPES use the pool to select its questions each time (i.e random selection? Categorical selection?) How are the exam's translated into the three different languages and is there an objective measure to determine exam reliability & validity after it's translated? Is the final exam subject to extensive peer review or any internal quality control procedures before it's admitted? Peer review is absolutely essential to prevent the use of arbitrary questions and ensuring that individuals who pass will be competent, safe & effective practitioners. The exam preparation guide, which included a book reference list appears to have been removed from your website. Without this guide to direct us, how can we be sure that our schools are providing us with the same material that the Subject Matter Experts are using to create our exam? If this exam is designed to measure competency, there needs to be continuity between the CAB & CA Acupuncture schools so students know what information they should be responsible for. This connects to my previous point regarding communication between the CAB & CA Acupuncture Schools.

ISSUE #3: Criterion-Referenced Scoring We understand the passing score on the CALE is determined by SME's under the direction of OPES utilizing a criterion-referenced method. The criterion defines the minimum acceptable level of competence required in California for the safe and effective practice of acupuncture. The supposed advantage to this is to account for the varying level of difficulty of an exam, thereby making the passing score of a difficult exam lower, and an easier exam higher. This draws several concerns: On what level of standardization you objectively assess the level of difficulty of an exam? Measuring the level of difficulty is an extremely abstract construct, and there is no transparency from OPES regarding how they decide how difficult or easy an exam is. The passing score of this exam was set at approximately 76%, which is historically one of the higher passing scores, since they usually hover around 70%. According to your scoring procedure, this higher passing score should indicate that the exam was "easier" compared to past exams. But if this is the case, why did so many students fail the exam (61%)? An easier exam, even with a higher passing score, should still produce a substantial amount of passing students and yet this was the lowest to date? Why were no red flags raised when the CAB became aware of such a dismal passing rate (39%)? The acupuncture board has not posted exam results since August 2011, and in order for us to fully understand what happened during the last exam, these results need to be published. We believe it is within our rights to request this kind of transparency. In the end, we know that it is your goal to help us become competent & safe practitioners. We are willing to do our part to support you in any way we can, and we want to work together to create a future where acupuncture is effectively regulated and accepted as an essential form of healthcare in the United States.

Other public comments included:

- if this exam was easier then why there such a low passing rate? Full contents of passing grades have not been published since Aug 2011.
- One clarification on the references books you mentioned, that you deleted that list for the simple reason there was 15,000 pages that the students were responsible for plus you had 35,000 pages added, which would make the exam like a trivia pursuit, not for public safety. It needs to be a fair exam and you can't expect the students to be responsible for 18,500 pages, it's not fair or right.
- Criticized interagency agreement with OPES as outsourcing and wants Board to go with ACAOM for school approvals and NCCAOM for licensing exams because it's being done all over the country and being done very well by them.
- Student who failed the exam in August (74%) believed exam was not fair because she should have passed.
- Student pointed out that different textbooks give different answers. It is not clear what the students need to know and study and there are too many sources. Thinks exam is not fair.
- Student believes the exam is not fair. Need to find out the reason why the English has a lower passing right. Need to find out what the students are learning in school. Focus should be on the practical part, like practical skills to get clear questions and answers that will improve the test of the scores of the students. For English based CALE need to consider consumer protection and increasing of the populations like the Korean or Chinese. We know this is a transition stage; we need to reconcile the levels and languages and consider just doing an English Only Exam.
- Concerned about exam and loss pass rate and asks for investigation of exam. I'm hoping there will be a rapid investigation and correction of it. There should be a process for investigating when exam scores are low.
- Recent graduate. Would like for the committee to see if exam is fair. We're not failing by that much, we are 70% or 72%, we know our stuff there is something wrong.

- How are those 8 acupuncturists that are brought on to evaluate the test, take the test and determine what questions are on the test? You're not testing the people's background to make sure they are competent test takers, to come up to determine whether the questions are fair are not. What is the criteria? I think it should be transparent, we should have an idea who these people are, and if they are competent.
- Educators should be Subject Matter Experts. Educators are the professions who are teaching the students, they are the experts in designing test questions; they see all levels of competence. Almost impossible to have a fair exam without having educators being involved.
- NCCAOM investigates what goes wrong, and how we can correct it. As it occurs, that there are other models of approving schools and giving exams. 45 states have chosen to have ACAOM for school approval and NCCAOM to do the exam process. Neither of those organizations have had any kind of problem that the CAB is having. Do an analysis of the percentage of those schools that are ACAOM accredited, which are not? Look at other models to see what is working and find out what may have broken down in this model.

12. Future Agenda Items

Paul Weisman- For enforcement, can we regulate advertising by requiring license numbers be included. I would like to have a discussion on that. Would like OPES to come back again. Board Counsel says that EO would have to conclude investigation first.
Vice Chair- Moratorium on school approval. Ask Chair to talk to EO about upgrading the computer system. Asked Education Committee to come out with their recommendation for English Only exam as an action item.
Jacque Mora Marco- Mistranslated Bloodletting

The Board entered into Closed Session and meeting adjourned at 4:15pm.

ACUPUNCTURE BOARD - 0108
BUDGET REPORT
FY 2012-13 EXPENDITURE PROJECTION
Dec-2012

FISCAL MONTH 6

OBJECT DESCRIPTION	FY 2011-12 ACTUAL EXPENDITURES (MONTH 13)	FY 2011-12 PRIOR YEAR EXPENDITURES 12/31/2011	FY 2012-13 BUDGET ACT 2012-13	FY 2012-13 CURRENT YEAR EXPENDITURES 12/31/2012	FY 2012-13 PERCENT SPENT	FY 2012-13 PROJECTIONS TO YEAR END	FY 2012-13 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	234,574	122,319	**304,191**	119,318	39%	**258,122**	46,069
Statutory Exempt (EO)	115,012	39,607	**75,564**	33,058	44%	**71,398**	4,166
Temp Help Reg (Seasonals)	13,164	4,142		5,451		**12,183**	(12,183)
BI 12-03 Blanket							
Temp Help (Exam Proctors)							0
Board Member Per Diem	2,400	1,100	**7,463**	700	9%	**3,000**	4,463
Committee Members (DEC)							0
Overtime	2,449	77		210		**1,000**	(1,000)
Staff Benefits	133,452	66,487	**215,592**	56,933	26%	**113,866**	101,726
TOTALS, PERSONNEL SVC	501,051	233,732	**602,810**	215,670	36%	**459,569**	143,241
OPERATING EXPENSE AND EQUIPMENT							
General Expense	15,062	3,994	**70,400**	4,032	6%	**25,000**	45,400
Fingerprint Reports	3,490	1,020	**20,045**	1,568	8%	**5,000**	15,045
Minor Equipment	1,554	1,554	**3,800**		0%	**3,800**	0
Printing	7,375	276	**19,331**	1,266	7%	**9,000**	10,331
Communication	4,228	1,618	**16,958**	502	3%	**7,500**	9,458
Postage	23,745	11,456	**32,773**	8,564	26%	**25,000**	7,773
Insurance			**0**				0
Travel In State	26,474	10,916	**34,652**	12,048	35%	**30,000**	4,652
Travel, Out-of-State			**6,000**		0%	**6,000**	0
Training	88	88	**1,129**		0%	**1,000**	129
Facilities Operations	97,901	57,741	**65,195**	112,214	172%	**112,886**	(47,691)
Utilities			**0**				0
C & P Services - Interdept.	0		**11,264**		0%		11,264
C & P Services - External	651		**23,965**	20,436	85%	**23,965**	0
DEPARTMENTAL SERVICES:							0
Departmental Pro Rata	90,657	42,102	**108,660**	55,068	51%	**108,660**	0
Admin/Exec	71,722	36,062	**76,146**	39,018	51%	**76,146**	0
Interagency Services			**650**		0%	**650**	0
IA w/ OER	210,824	210,824	**333,119**	210,824	63%	**210,824**	122,295
DOI-ProRata Internal	2,417	1,486	**3,083**	1,560	51%	**3,083**	0
Public Affairs Office	4,825	2,522	**4,361**	2,210	51%	**4,361**	0
CCED	5,034	2,605	**5,277**	2,668	51%	**5,277**	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	242	173	**2,604**	36	1%	**1,500**	1,104
DP Maintenance & Supply			**3,494**		0%	**1,500**	1,994
Central Admin Svc-ProRata	102,748	51,374	**114,637**	57,319	50%	**114,637**	0
EXAM EXPENSES:							0
Exam Supplies							0
Exam Freight			**25**				25
Exam Site Rental							0
C/P Svcs-External Expert Administrative	289,498	289,498	**286,772**	296,720		**296,720**	(9,948)
C/P Svcs-External Expert Examiners			**83,944**	14,532		**14,532**	69,412
C/P Svcs-External Subject Matter	26,351	14,190					0
ENFORCEMENT:							0
Attorney General	162,549	81,027	**379,123**	33,638	9%	**120,000**	259,123
Office Admin. Hearings	41,032	5,824	**106,670**	5,796	5%	**40,000**	66,670
Court Reporters	3,387	1,081		80		**2,500**	(2,500)
Evidence/Witness Fees	14,550	9,450	**10,795**	1,921	18%	**7,000**	3,795
DOI - Investigations	201,728	104,846	**342,919**	174,164	51%	**417,994**	(75,075)
Major Equipment							0
Special Items of Expense							0
Other (Vehicle Operations)			**2,650**				2,650
TOTALS, OE&E	1,408,132	941,727	**2,170,441**	1,056,184	49%	**1,674,535**	495,906
TOTAL EXPENSE	1,909,183	1,175,459	**2,773,251**	1,271,854	84%	**2,134,104**	639,147
Sched. Reimb. - External/Private	(23,000)	(1,430)		(1,420)			0
Sched. Reimb. - Fingerprints		(1,530)	**(22,000)**	(2,107)	10%	**(22,000)**	0
Sched. Reimb. - Other			**(1,000)**			**(1,000)**	0
Unsched. Reimb. - Other		(26,446)		(17,003)			0
NET APPROPRIATION	1,886,183	1,146,053	**2,750,251**	1,251,324	45%	**2,111,104**	**639,147**
						SURPLUS/(DEFICIT):	**23.2%**

0108 - Acupuncture
Analysis of Fund Condition

Prepared 12/6/2012

(Dollars in Thousands)

13-14 Gov Budget Final Galley	ACTUAL 2011-2012	CY 2012-2013	Governor's Budget BY 2013-2014	BY+1 2014-15	BY+2 2015-16
BEGINNING BALANCE	$ 5,764	$ 1,367	$ 1,255	$ 1,102	$ 906
Prior Year Adjustment	$ 66	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 5,830	$ 1,367	$ 1,255	$ 1,102	$ 906
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 48	$ 42	$ 42	$ 42	$ 42
125700 Other regulatory licenses and permits	$ 748	$ 817	$ 817	$ 817	$ 817
125800 Renewal fees	$ 1,588	$ 1,780	$ 1,780	$ 1,780	$ 1,780
125900 Delinquent fees	$ 12	$ 12	$ 12	$ 12	$ 12
141200 Sales of documents	$ -	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ 2	$ 2	$ 2	$ 2	$ 2
150300 Income from surplus money investments	$ 7	$ 4	$ 3	$ 3	$ 2
150500 Interest Income From Interfund Loans	$ -	$ -	$ -	$ -	$ -
160400 Sale of fixed assets	$ -	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 1	$ 1	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ -	$ -	$ -	$ -	$ -
Totals, Revenues	$ 2,406	$ 2,658	$ 2,657	$ 2,657	$ 2,656
Transfers from Other Funds					
Proposed GF 11-12 Loan Repayment					$ 5,000
Transfers to Other Funds					
GF Loan per item 1110-011-0108, Budget Act of 2011	$ -5,000				
Totals, Revenues and Transfers	$ -2,594	$ 2,658	$ 2,657	$ 2,657	$ 7,656
Totals, Resources	$ 3,236	$ 4,025	$ 3,912	$ 3,759	$ 8,562
EXPENDITURES					
Disbursements:					
0840 - SCO	$ 3	$ 4			
8880 FISCAL	$ 6	$ 15	$ 13		
1110 Program Expenditures (State Operations)	$ 1,860	$ 2,751	$ 2,797	$ 2,853	$ 2,910
Total Disbursements	$ 1,869	$ 2,770	$ 2,810	$ 2,853	$ 2,910
FUND BALANCE					
Reserve for economic uncertainties	$ 1,367	$ 1,255	$ 1,102	$ 906	$ 5,652
Months in Reserve	5.9	5.4	4.6	3.7	22.9

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2014-15

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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ACUPUNCTURE BOARD
1747 N. Market Blvd, Suite 180, Sacramento, CA 95834
Phone: (916) 515-5200 Fax: (916) 928-2204 www.acupuncture.ca.gov

Dear Exam Applicant:

Enclosed is an application packet for the **August 13, 2013** California Acupuncture Licensing Examination (CALE). Please note the following dates relating to the filing of an application (all dates are subject to change):

April 12, 2013

Complete applications*, necessary documents, and a **$75.00** application fee must be **postmarked no later than April 12. 2013**. Any applications postmarked after this date will not be accepted. In addition, all required forms requesting **special accommodations** must also be filed by **April 12, 2013.** (**No exceptions made**) Forms are available on our website at www.acupuncture.ca.gov/students/spec_accom.shtml.

April 19, 2013

Deadline for approved acupuncture training programs to have transcripts, transfer credit forms and courses in progress forms to the Board.

Week of May 20, 2013

The Acupuncture Board will notify you as to whether you qualify or do not qualify for the August 13, 2013 CALE. Preparation guides will only be sent to those applicants who qualify. At this time you will be asked to submit the $550.00 examination fee.

June 14, 2013

$550.00 examination fee for all examination candidates **must** be postmarked no later than **June 14, 2013.** Fees received with a postmark after this date will be returned and your application will be rejected.

June 28, 2013

All final transcripts with a completion date must be received by June 28, 2013. It is also the schools responsibility to notify the Acupuncture Board of any student that did not complete their coursework.

Week of July 15, 2013

Examination information on the test site and scheduling will be mailed to exam candidates who have met all requirements.

Tuesday August 13, 2013

Written Examination – **Sacramento Convention Center**

* Any applications received without the required fee or any fee received without the required application, will be returned the same day it is received.

ACUPUNCTURE BOARD

AUGUST 2012 EXAMINATION RESULTS
(by language group)

FIRST TIME TAKERS ONLY

	English	Chinese	Korean	TOTAL
# Passed	100	34	31	165
# Failed	35	9	5	49
TOTALS	135	43	36	214
PASS %	74%	79%	86%	77%

RE-EXAMINEES ONLY

	English	Chinese	Korean	TOTAL
# Passed	1	2	1	4
# Failed	118	59	44	223
TOTALS	119	61	45	225
PASS %	1%	3%	2%	2%

OVERALL

	English	Chinese	Korean	TOTAL
# Passed	101	36	32	169
# Failed	153	68	49	270
TOTALS	254	104	81	439
PASS %	40%	35%	40%	38%

AUGUST 2012 EXAMINATION RESULTS - STATISTICS BY SCHOOL

SCHOOL	1st TIME TAKERS			OVERALL (includes re-examinees)		
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
Academy of Chinese Culture & Health Sciences	5	3	63%	5	13	28%
Acupuncture & Integrative Medicine College, Berkeley	10	0	100%	10	5	67%
Alhambra Medical University	6	2	75%	6	7	46%
American College of Acupuncture & Oriental Medicine	N/A	N/A	N/A	0	2	0%
American College of Traditional Chinese Medicine	10	7	59%	11	18	38%
Bastyr University	N/A	N/A	N/A	0	1	0%
California Trinity University (formerly Kyung San)	N/A	N/A	N/A	0	3	0%
Dong-guk University, California	15	2	88%	15	20	43%
Emperor's College of Traditional Oriental Medicine	9	2	82%	9	6	60%
Five Branches University	15	2	88%	15	13	54%
Kyung San University	N/A	N/A	N/A	0	1	0%
Life University	1	0	100%	1	1	50%
NACES	N/A	N/A	N/A	0	2	0
National College of Naturopathic Medicine	1	0	100%	1	2	33%
New England School of Acupuncture	1	0	100%	1	2	33%
Nine Star University of Heatlh Sciences	3	0	100%	3	0	100%
Oregon College of Oriental Medicine	0	3	0%	0	4	0%
Pacific College of Oriental Medicine	24	7	77%	24	22	52%
Samra University	1	0	100%	1	8	11%
Santa Barbara College of Oriental Medicine	N/A	N/A	N/A	0	2	0%
South Baylo University	25	7	78%	25	45	36%
Southern California University of Health Sciences	3	1	75%	3	15	17%
Southern CA Univ. School of OM & Acupuncture	N/A	N/A	N/A	0	3	0%
Stanton University	3	1	75%	3	5	38%
University of East West Medicine	12	2	86%	13	11	54%
YoSan University of TCM	9	3	75%	9	5	64%
Tutorials	0	2	0%	0	6	0%
Foreign Equivalency	12	5	71%	14	48	23%
GRAND TOTAL	165	49	77%	169	270	38%

ACUPUNCTURE BOARD

FEBRUARY 2012 EXAMINATION RESULTS

(by language group)

FIRST TIME TAKERS ONLY

	English	Chinese	Korean	TOTAL
# Passed	168	57	39	264
# Failed	34	13	8	55
TOTALS	202	70	47	319
PASS %	83%	81%	83%	83%

RE-EXAMINEES ONLY

	English	Chinese	Korean	TOTAL
# Passed	46	29	23	98
# Failed	59	21	32	112
TOTALS	105	50	55	210
PASS %	44%	58%	42%	47%

OVERALL

	English	Chinese	Korean	TOTAL
# Passed	214	86	62	362
# Failed	93	34	40	167
TOTALS	307	120	102	529
PASS %	70%	72%	61%	68%

FEBRUARY 2012 EXAMINATION RESULTS - STATISTICS BY SCHOOL

SCHOOL	1st TIME TAKERS			OVERALL (includes re-examinees)		
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
Academy of Chinese Culture & Health Sciences	6	1	86%	8	6	57%
Academy of Oriental Medicine at Austin	0	1	0%	0	1	0%
Acupuncture & Integrative Medicine College, Berkeley	14	2	88%	23	2	92%
Alhambra Medical University	8	0	100%	10	1	91%
American College of Traditional Chinese Medicine	29	4	88%	30	5	86%
Bastyr University	5	1	83%	6	2	75%
California Trinity University (formerly Kyung San)	N/A	N/A	N/A	0	3	0%
Dong-guk University, California	17	4	81%	25	14	64%
Emperor's College of Traditional Oriental Medicine	10	0	100%	12	1	92%
Five Branches University	18	6	75%	22	8	73%
Kingston University	N/A	N/A	N/A	2	0	100%
Kyung San University	N/A	N/A	N/A	0	3	0%
Life University	1	0	100%	2	1	66%
New England School of Acupuncture	1	0	100%	1	1	50%
Northwest Institute of Acupuncture & Oriental Medicine	N/A	N/A	N/A	1	0	100%
Oregon College of Oriental Medicine	2	1	67%	4	1	80%
Pacific College of Oriental Medicine	35	7	83%	41	12	77%
Samra University	0	2	0%	5	11	31%
Santa Barbara College of Oriental Medicine	N/A	N/A	N/A	3	2	60%
Seattle Institute of Oriental Medicine	N/A	N/A	N/A	1	0	100%
South Baylo University	48	6	89%	63	35	64%
Southern California University of Health Sciences	21	2	91%	21	10	68%
Southern CA Univ. School of OM & Acupuncture	5	2	71%	12	5	71%
Southwest Acupuncture College	3	0	100%	3	0	100%
Stanton University	N/A	N/A	N/A	0	2	0%
St. Luke	N/A	N/A	N/A	1	0	100%
University of East West Medicine	9	2	82%	11	10	52%
YoSan University of TCM	9	1	90%	11	2	85%
Tutorials	1	0	100%	3	2	60%
Foreign Equivalency	22	13	63%	41	27	60%
GRAND TOTAL	264	55	83%	362	167	68%

ACUPUNCTURE BOARD

FEBRUARY 2011 EXAMINATION RESULTS
(by language group)

FIRST TIME TAKERS ONLY

	English	Chinese	Korean	TOTAL
# Passed	173	38	31	242
# Failed	27	13	39	79
TOTALS	200	51	70	321
PASS %	87%	75%	44%	75%

RE-EXAMINEES ONLY

	English	Chinese	Korean	TOTAL
# Passed	60	18	2	80
# Failed	46	26	40	112
TOTALS	106	44	42	192
PASS %	57%	41%	5%	42%

OVERALL

	English	Chinese	Korean	TOTAL
# Passed	233	56	33	322
# Failed	73	39	79	191
TOTALS	306	95	112	513
PASS %	76%	59%	29%	63%

FEBRUARY 2011 EXAMINATION RESULTS - STATISTICS BY SCHOOL

SCHOOL	1st TIME TAKERS			OVERALL (includes re-examinees)		
	# Passed	# Failed	PASS %	# Passed	# Failed	PASS %
Academy of Chinese Culture & Health Sciences	7	0	100%	10	4	71%
Acupuncture & Integrative Medicine College, Berkeley	12	1	92%	18	3	86%
Alhambra Medical University	6	0	100%	6	1	86%
American College of Traditional Chinese Medicine	18	1	95%	20	2	91%
American College of Acupuncture & Oriental Medicine	N/A	N/A	N/A	1	0	100%
Atlantic Institute of Oriental Medicine	1	0	100%	1	0	100%
Bastyr University	2	1	67%	2	3	40%
California Trinity University (formerly Kyung San)	1	0	100%	1	3	25%
Dong-guk University, California	8	12	40%	13	18	42%
Emperor's College of Traditional Oriental Medicine	9	1	90%	17	2	89%
Five Branches University	37	0	100%	42	1	98%
Life University	0	4	0%	1	4	20%
Kingston University	0	1	0%	0	1	0%
Kyung San University	N/A	N/A	N/A	1	5	17%
National College of Naturopathic Medicine	N/A	N/A	N/A	3	0	100%
New England School of Acupuncture	N/A	N/A	N/A	0	1	0%
Oregon College of Oriental Medicine	1	0	100%	1	0	100%
Pacific College of Oriental Medicine	42	4	91%	51	9	85%
Samra University	11	7	61%	20	13	61%
Seattle Institute of Oriental Medicine	1	0	100%	1	0	100%
South Baylo University	24	24	50%	32	59	35%
Southern California University of Health Sciences	9	3	75%	12	8	60%
Southern CA Univ. School of OM & Acupuncture	8	8	50%	8	13	38%
Southwest Acupuncture College	1	0	100%	3	0	100%
Stanton University	2	1	67%	2	4	33%
St. Luke University	0	1	0%	1	3	25%
University of East West Medicine	11	3	79%	15	8	65%
YoSan University of TCM	11	0	100%	13	1	93%
Tutorials	2	2	50%	2	4	33%
Foreign Equivalency	18	5	78%	25	21	54%
GRAND TOTAL	242	79	78%	322	191	63%

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To: Members, California Acupuncture Board
From: CAB staff

RE: Possible 2013 legislation regarding Acupuncture advertising

Problem:
The prevalence of fraudulent acupuncture clinics and offices that are fronts for prostitution has grown to an alarming rate that some cities such as Redondo Beach ban new acupuncture offices or clinics from opening because they cannot tell legal from illegal operations. Acupuncture is a noble profession that has been tainted by an increased number of illegal operations that pose as acupuncture businesses but are really illegal prostitution operations, for example.

It has become difficult for both the public and law enforcement to distinguish the legitimate acupuncture businesses from the illegal ones. This continued unchecked plague taints the profession and impacts the services offered to the public.

Proposal:
One easy way to solve this problem is to help law enforcement and the public distinguish legal from illegal acupuncture businesses by requiring all acupuncture advertising must include the license number of the licensee who owns the business. If there are more than one licensee, then each of their numbers must be displayed after their names.

Since the public can obtain a licensee's license number on the board's website or by requesting it pursuant to the Public Records Act, it wouldn't be difficult to justify the promulgation of a regulation or enactment of a statute that would require acupuncturists to include their license number in all forms of advertising. This would enable a consumer to quickly identify an acupuncturist who is advertising for his or her services, without being required to determine which acupuncturist who shares the same first and last name with other acupuncturists in a city is the correct one. It would also curb the opening of fraudulent acupuncture and massage clinics. Possible fines and or sanctions against these violations could be in the form of fines, suspension or denial of license renewals.

Recommendation:
CAB searches for potential author for a bill that would create this proposed mandate for acupuncture advertising to include the license number of the licensee owner.

Relating to Acupuncturists, California Code of Regulations (CCR) sections
1399.455 (advertising) currently states:

1. *(a) A licensed acupuncturist may advertise the provision of any acupuncture services authorized to be provided by such licensure in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.*
2. *(b) It is improper advertising as provided in Section 4955 of the code to disseminate any advertising which represents in any manner that the acupuncturist can cure any type of disease, condition or symptom.*
3. *(c) It is improper advertising as provided in Section 4955 of the code to disseminate any advertising of a practice, technique or procedure which is not within the scope of the practice of acupuncture as defined in Section 4927 and 4937 of the code and which is the unlawful practice of medicine.*

Specifically for Acupuncturists, in CCR 1399.455 (advertising) the following language could be added:

4. *(d) An acupuncturist who advertises his or her services shall hold a current, active license issued by the California Acupuncture Board, and shall include his or her license number, the name and license number of the establishment at which he or she is employed, and the name of the city or community where the business is located on any television and print advertising including, but not limited to, telephone and other directory listings, business cards and newspaper and magazine advertisements."*

Discussion:

Several other professional licensing boards have similar advertising requirements. CAB board would not be the first to require a license number to be included in all forms of advertising. The Cemetery and Funeral Bureau, Optometry Board, Board of Behavioral Sciences, and the Contractors State License Board require it. For example, contractors are subject to the provisions of **Business and Professions Code section 7030.5**, which provides as follows:

"Every person licensed pursuant to this chapter shall include his license number in: (a) all construction contracts; (b) subcontracts and calls for bid; and (c) all forms of advertising, as prescribed by the registrar of contractors, used by such a person."

The Cemetary and Funeral Bureau has similar language. In California Code of Regulations (CCR) Section 1211 provides in part that a funeral Establishment shall include its name and license number, exactly as shown by the Bureau's records, and city or community where located in all television and print advertisements, including but not limited to telephone and other directory listings, television, newspaper, and magazine advertisements.

CCR Section 1204(d) further states; *"A funeral director who advertises his or her services shall hold a current, active license, and shall include his or her license number, the name and license number of the funeral establishment at which he or she is employed, and the name of the city or community where the funeral establishment is located on any television and print advertising including, but not limited to, telephone and other directory listings, and newspaper and magazine advertisements."*

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California Acupuncture Board
Discussion items
ACUPUNCTURE SCHOOL ADVERTISING

1. Should we require all ads to include the CAB license number?

2. Also require their webpage ad to include the direct link to CAB website?

3. Violation possibilities: First violation - warning letter; Second violation/no correction - automatic probation for 6 month; third violation/no correction - automatic suspension of license till the correction is made.

4. Minimum advertisement font size - 12 point or larger?

5. Do we need to develop a specific guideline for the school advertising?

6. Should the school advertising must include the status of the CAB approval date?

Staff comment: The viability of some above items may be dependent upon CAB staff resources.

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California Acupuncture Board
Discussion items
ACUPUNCTURE SCHOOL REPORTING AND AUDITS

1. Annual report: if not filed on time, the Education coordinator to send a notice to submit the report within two weeks? The schools can then ask for extension up to one month.

2. After one month, the school will be placed on the audit list and a full CAB audit should be scheduled.

3. After two months and the audit, the education committee will hold a hearing for the school to appear and explain why.

4. CAB should audit the school regularly at least once every 2-3 years?

5. If the schools audit score is below 70%, those schools must be re-audited within six months.

6. If acschools fail the second and follow-up audit, then the school should be probation and the full Board should consider the revocation and the suspension of the school permit.

7. For a newly approved schools - mandatory three year probation and annual audit every year until the end of the probation. If failed to correct the violation the school application will be reviewed by the enforcement staff and the Board education committee for re-consideration of the Board approval.

8. Minimum requirement - CAB must develop a list of minimum requirements like number of students, rooms, faculty staffs, library and the list of books, reserve fund/bond, etc., etc. for the schools.

Staff comment: The viability of some above items may be dependent upon CAB staff resources.

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California Acupuncture Board
Discussion items
ACUPUNCTURE CLINIC ENFORCEMENT

1. Should we require random clinic inspection and audits—up to 5% of Acupuncturists?

2. Mandatory wall posting of wall licenses. Should CAB setup website address for complaints and questions?

Staff comment: The viability of some above items may be dependent upon CAB staff resources.

ASSEMBLY BILL No. 1

Introduced by Assembly Member John A. Pérez
(Coauthor: Assembly Member Pan)

January 28, 2013

An act to amend Section 12698.30 of the Insurance Code, and to amend Sections 14005.31, 14005.32, 14132, and 15926 of, to amend and repeal Sections 14008.85, 14011.16, and 14011.17 of, to amend, repeal, and add Sections 14005.18, 14005.28, 14005.30, 14005.37, 14007.1, 14007.6, and 14012 of, and to add Sections 14005.60, 14005.62, 14005.63, 14005.64, 14005.65, and 14132.02 to, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1, as introduced, John A. Pérez. Medi-Cal: eligibility.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application

of MAGI. The bill would also add, commencing January 1, 2014, benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States Secretary of Health and Human Services, to the schedule of Medi-Cal benefits.

Because counties are required to make Medi-Cal eligibility determinations and this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature finds and declares all of the
2 following:
3 (a) The United States is the only industrialized country in the
4 world without a universal health insurance system.
5 (b) (1) In 2006, the United States Census reported that 46
6 million Americans did not have health insurance.
7 (2) In California in 2009, according to the UCLA Center for
8 Health Policy Research's "The State of Health Insurance in
9 California: Findings from the 2009 California Health Interview
10 Survey," 7.1 million Californians were uninsured in 2009,
11 amounting to 21.1 percent of nonelderly Californians who had no
12 health insurance coverage for all or some of 2009, up nearly 2
13 percentage points from 2007.
14 (c) On March 23, 2010, President Obama signed the Patient
15 Protection and Affordable Care Act (Public Law 111-148), which
16 was amended by the Health Care and Education Reconciliation
17 Act of 2010 (Public Law 111-152), and together are referred to as
18 the Affordable Care Act of 2010 (Affordable Care Act).
19 (d) The Affordable Care Act is the culmination of decades of
20 movement toward health reform, and is the most fundamental

(b) Beneficiaries receiving Medi-Cal through Aid for Adoption of Children Program.

(c) Beneficiaries who have a public guardian.

(d) Medically indigent children who are not living with a parent or relative and who have a public agency assuming their financial responsibility.

(e) Individuals receiving minor consent services.

(f) Beneficiaries in the Breast and Cervical Cancer Treatment Program.

(g) Beneficiaries who are CalWORKs recipients and custodial parents whose children are CalWORKs recipients.

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 25. Section 14012 of the Welfare and Institutions Code is amended to read:

14012. *(a)* Reaffirmation shall be filed annually and may be required at other times in accordance with general standards established by the department.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 26. Section 14012 is added to the Welfare and Institutions Code, to read:

14012. (a) This section implements Section 435.916(a)(1) of Title 42 of the Code of Federal Regulations, which applies to the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using modified adjusted gross income (MAGI) based income.

(b) To the extent required by federal law or regulations, the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using a MAGI-based income shall be renewed once every 12 months, and no more frequently than every 12 months.

(c) This section shall become operative on January 1, 2014.

SEC. 27. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) (1) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(2) For Medi-Cal fee-for-service beneficiaries, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph shall not be construed to change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, "emergency services and care" and "emergency medical condition" shall have the same meanings as those terms are defined in Section 1317.1 of the Health and Safety Code.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.

(d) (1) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

(2) Purchase of drugs used to treat erectile dysfunction or any off-label uses of those drugs are covered only to the extent that federal financial participation is available.

(3) (A) To the extent required by federal law, the purchase of outpatient prescribed drugs, for which the prescription is executed by a prescriber in written, nonelectronic form on or after April 1, 2008, is covered only when executed on a tamper resistant prescription form. The implementation of this paragraph shall

SENATE BILL No. 1

Introduced by Senators Hernandez and Steinberg

January 28, 2013

An act to amend Section 12698.30 of the Insurance Code, and to amend Sections 14005.31, 14005.32, 14132, and 15926 of, to amend and repeal Sections 14008.85, 14011.16, and 14011.17 of, to amend, repeal, and add Sections 14005.18, 14005.28, 14005.30, 14005.37, 14007.1, 14007.6, and 14012 of, and to add Sections 14005.60, 14005.62, 14005.63, 14005.64, 14005.65, and 14132.02 to, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Hernandez. Medi-Cal: eligibility.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI. The bill would also add, commencing January 1, 2014,

benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States Secretary of Health and Human Services, to the schedule of Medi-Cal benefits.

Because counties are required to make Medi-Cal eligibility determinations and this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature finds and declares all of the
2 following:
3 (a) The United States is the only industrialized country in the
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6 million Americans did not have health insurance.
7 (2) In California in 2009, according to the UCLA Center for
8 Health Policy Research's "The State of Health Insurance in
9 California: Findings from the 2009 California Health Interview
10 Survey," 7.1 million Californians were uninsured in 2009,
11 amounting to 21.1 percent of nonelderly Californians who had no
12 health insurance coverage for all or some of 2009, up nearly 2
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(b) Beneficiaries receiving Medi-Cal through Aid for Adoption of Children Program.

(c) Beneficiaries who have a public guardian.

(d) Medically indigent children who are not living with a parent or relative and who have a public agency assuming their financial responsibility.

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(f) Beneficiaries in the Breast and Cervical Cancer Treatment Program.

(g) Beneficiaries who are CalWORKs recipients and custodial parents whose children are CalWORKs recipients.

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 25. Section 14012 of the Welfare and Institutions Code is amended to read:

14012. *(a)* Reaffirmation shall be filed annually and may be required at other times in accordance with general standards established by the department.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 26. Section 14012 is added to the Welfare and Institutions Code, to read:

14012. (a) This section implements Section 435.916(a)(1) of Title 42 of the Code of Federal Regulations, which applies to the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using modified adjusted gross income (MAGI) based income.

(b) To the extent required by federal law or regulations, the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using a MAGI-based income shall be renewed once every 12 months, and no more frequently than every 12 months.

(c) This section shall become operative on January 1, 2014.

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14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) (1) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(2) For Medi-Cal fee-for-service beneficiaries, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph shall not be construed to change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, "emergency services and care" and "emergency medical condition" shall have the same meanings as those terms are defined in Section 1317.1 of the Health and Safety Code.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.

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(2) Purchase of drugs used to treat erectile dysfunction or any off-label uses of those drugs are covered only to the extent that federal financial participation is available.

(3) (A) To the extent required by federal law, the purchase of outpatient prescribed drugs, for which the prescription is executed by a prescriber in written, nonelectronic form on or after April 1, 2008, is covered only when executed on a tamper resistant prescription form. The implementation of this paragraph shall

SENATE BILL No. 28

Introduced by Senators Hernandez and Steinberg

December 3, 2012

An act to amend Section 12698.30 of the Insurance Code, and to amend Sections 14005.31, 14005.32, 14132, and 15926 of, to amend and repeal Sections 14008.85, 14011.16, and 14011.17 of, to amend, repeal, and add Sections 14005.18, 14005.28, 14005.30, 14005.37, and 14012 of, to add Sections 14005.60, 14005.62, 14005.63, 14005.64, 14132.02, and 15926.2 to, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 28, as introduced, Hernandez. Medi-Cal: eligibility.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI. The bill would also add, commencing January 1, 2014, benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States

Secretary of Health and Human Services, to the schedule of Medi-Cal benefits.

Because counties are required to make Medi-Cal eligibility determinations and this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature finds and declares all of the
2 following:
3 (a) The United States is the only industrialized country in the
4 world without a universal health insurance system.
5 (b) (1) In 2006, the United States Census reported that 46
6 million Americans did not have health insurance.
7 (2) In California in 2009, according to the UCLA Center for
8 Health Policy Research's "The State of Health Insurance in
9 California: Findings from the 2009 California Health Interview
10 Survey," 7.1 million Californians were uninsured in 2009,
11 amounting to 21.1 percent of nonelderly Californians who had no
12 health insurance coverage for all or some of 2009, up nearly 2
13 percentage points from 2007.
14 (c) On March 23, 2010, President Obama signed the Patient
15 Protection and Affordable Care Act (Public Law 111-148), which
16 was amended by the Health Care and Education Reconciliation
17 Act of 2010 (Public Law 111-152), and together are referred to as
18 the Affordable Care Act of 2010 (Affordable Care Act).
19 (d) The Affordable Care Act is the culmination of decades of
20 movement toward health reform, and is the most fundamental
21 legislative transformation of the United States health care system
22 in 40 years.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 21. Section 14012 is added to the Welfare and Institutions Code, to read:

14012. (a) This section implements Section 435.916(a)(1) of Title 42 of the Code of Federal Regulations, which applies to the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using modified adjusted gross income (MAGI) based income.

(b) To the extent required by federal law or regulations, the eligibility of Medi-Cal beneficiaries whose financial eligibility is determined using a MAGI-based income shall be renewed once every 12 months, and no more frequently than every 12 months.

(c) This section shall become operative on January 1, 2014.

SEC. 22. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) (1) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(2) For Medi-Cal fee-for-service beneficiaries, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph shall not be construed to change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, “emergency services and care” and “emergency

California Association of Health Plans

FACT SHEET

Essential Health Benefits: The Basics

October 2012

What are "essential health benefits"?

At the end of the 2011-12 California legislative session, Governor Jerry Brown signed AB 1453 (Monning) and SB 951 (Hernandez), bills that select the benchmark plan for purposes of establishing California's set of Essential Health Benefits per the Affordable Care Act and related federal guidance. Following is more detailed information on California's new Essential Health Benefit package.

Beginning in 2014, the Affordable Care Act (ACA) requires most individual and small group health plans to offer an essential health benefits (EHBs) package. The EHBs must provide a comprehensive level of coverage that mirrors the benefits offered by a typical employer plan. The EHBs refer to covered benefits only and do not relate to cost-sharing (copays, deductibles, and coinsurance).

The EHBs must provide basic health coverage in each of ten categories:

- ambulatory care (outpatient services)
- hospitalization (inpatient services)
- emergency services
- maternity and newborn care
- mental health and substance use disorder including behavioral health treatment
- prescription drug coverage
- rehabilitative and habilitative services and devices
- laboratory services
- preventive/wellness services and chronic disease management, and pediatric services including vision and oral health

The ACA also offers federal subsidies for individuals to purchase coverage through states health insurance exchanges. These subsidies will apply toward the cost of benefits included in the EHBs but not to additional benefits that go beyond the scope of the EHBs (see "What else is covered?" below).

Which plans are required to cover the EHBs?

The EHBs will apply to non-grandfathered plans in the individual and small group markets inside and outside California's Health Benefit Exchange, non-benchmark Medicaid (Medi-Cal) plans, and the Basic Health Program (if California chooses to have one). Medicaid benchmark and benchmark-equivalent plans are required to cover the EHBs, but the state Medicaid agency will select the plan. Self-insured and large group health plans, Medicare supplement plans, specialized health care service plans, and grandfathered health plans are not required to cover the EHBs.

How are the EHBs set?

The ACA requires each state to select a benchmark plan to serve as the basis for the EHBs and to add any additional benefits not already covered by that plan. California recently passed, and the Governor signed, legislation designating the December 31, 2011, version of the Kaiser Small Group HMO 30 Health Plan as the state's benchmark plan for plan years 2014 and 2015. (Thereafter, the benchmark plan will be selected on an annual basis.)

What else are plans required to cover besides the EHBs?

The benchmark benefits required by the legislation also include coverage for certain services and items mandated by existing state law as of December 31, 2011. Under the ACA, states are required to cover the costs of any new state-mandated benefits that exceed the EHBs. That means that the federal subsidies to purchase insurance from the state's health benefit exchange only apply to benefits included in the EHBs; the state will be responsible for paying for the portion of subsidies associated with the costs of any state-mandated benefits enacted after December 31, 2011, that exceed the EHBs.

How will the EHBs affect premiums?

An expansion of benefits beginning in 2014 will impact overall health care costs, and health plans will have to adjust premiums to reflect the cost increase of covering those benefits. Many people will be eligible for federal subsidies to purchase insurance. And, at least 80 cents of every health care premium dollar will continue to go to direct medical goods and services.

So what exactly is included?

The following page provides an *overview* of some of the benefits that are included in the EHB package.

Professional Services (office visits)

- Most primary care and specialty care consultations, exams, and treatments
- Routine physical maintenance exams
- Well-child preventive exams
- Family planning counseling
- Scheduled prenatal care exams and first postpartum follow-up consultation and exam
- Eye exams
- Hearing exams
- Urgent care consultations, exams, and treatment
- Physical, occupational, and speech therapy

Ambulatory Care (outpatient services)

- Outpatient surgery and certain procedures
- Allergy injections
- Most immunizations
- Most x-rays and laboratory tests
- Certain preventive X-rays, screenings, and laboratory tests
- MRI, most CT, and PET scans
- Health education programs and counseling

Hospitalization (inpatient services)

- Room and board, surgery, anesthesia, X-rays, laboratory tests, and drugs

Emergency & Ambulance Services

- Emergency department visits
- Ambulance services

Prescription Drug Coverage

- Generic and brand-name items according to health plan formulary

Durable Medical Equipment

- Some durable medical equipment

Mental Health Services

- Inpatient psychiatric hospitalization
- Individual outpatient mental health evaluation and treatment
- Group outpatient mental health treatment

Chemical Dependency Services

- Inpatient detoxification
- Individual outpatient chemical dependency evaluation and treatment
- Group outpatient chemical dependency treatment

Home Health Services/Other

- Home health care
- Skilled Nursing Facility care
- Hospice care

State-Mandated Benefits
(as of 12/31/11)

- Medically necessary basic health care services as defined in the Knox-Keene Act
- Preventive services for children
- Prescription contraceptives
- AIDS vaccines (when available)
- HIV testing
- Diabetes education, management and treatment
- Alpha feto protein testing
- Prosthetics for laryngectomy
- Maternity hospital stay
- Breast cancer screening, diagnosis, mastectomy, reconstructive surgery
- Prostate, cervical cancer screening
- Osteoporosis diagnosis, treatment, management
- Surgical procedures for jaw bones
- Anesthesia for dental services
- Conditions attributable to "DES"
- Hospice care
- Certain cancer clinical trials
- Emergency response ambulance or ambulance transport services
- Sterilization operations or procedures
- Inpatient hospital and ambulatory maternity services
- PKU screening for newborns
- Organ transplant for HIV
- Mental health services in parity with other medical services
- Autism/behavioral health treatment

Other Benefits in the Legislation

- **Pediatric vision care** equal to that provided by the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2012
- **Pediatric dental care** equal to that provided by the dental plan available to subscribers of the Healthy Families Program 2011-12, including medically necessary orthodontic care
- Mental health including behavioral health and substance abuse disorder services will be covered in parity with benefits for other medical conditions
- **Habilitative services** will be covered in parity with rehabilitative services and refer to medically necessary health care services and devices that assist an individual in partially or fully acquiring or improving skills and functioning and that are necessary to address a health condition and needed for functioning in interaction with an individual's environment. They do not include respite care, day care, recreational care, residential treatment, social services, custodial care, or education services/vocational training.

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California Association of Health Plans • 1415 L Street, Suite 850 • Sacramento, CA 95814 • 916.552.2910 • www.calhealthplans.org
The California Association of Health Plans (CAHP) is a statewide trade association representing 39 full service health care plans. Through legislative advocacy, education, and collaboration with other member organizations, CAHP works to sustain a strong environment in which our member plans can provide access to products that offer choice and flexibility to the more than 21 million Californians they serve.

KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.
Northern California Region

A nonprofit corporation

Kaiser Permanente for Small Businesses
Evidence of Coverage for
SAMPLE GROUP AGREEMENT GRP SMALL NONM - PLAN 1637 PLAN 30-N; OPT

$30 Copayment Plan
Group ID: 999999901 *EOC* Number: 4

Note: This is a sample Evidence of Coverage (EOC) document. EOCs that are issued as part of a specific customer's Group Agreement will differ from this sample. For example, this EOC does not include customer-specific coverage and eligibility information, and the sample EOC may be updated at any time for accuracy, to comply with laws and regulations, or to reflect changes in how coverage is administered. The terms of any contract holder's coverage are governed by the Group Agreement issued to that customer by Kaiser Foundation Health Plan, Inc.

Highlights	
Deductible for certain drugs	$250 per calendar year
Copayments and Coinsurance	
Most consultations, exams, and treatment	$30 per visit
Hospital inpatient care	$400 per day
Outpatient surgery	$200 per procedure
Emergency Department visits	$100 per visit
Most generic drugs	$10 for up to a 100-day supply
Most brand-name drugs	$35 for up to a 100-day supply after $250 Deductible for certain drugs

January 1, 2012, through December 31, 2012

Pending regulatory approval

Member Service Call Center
Weekdays 7 a.m.–7 p.m.; weekends 7 a.m.–3 p.m.
(except holidays)
1-800-464-4000 toll free
1-800-777-1370 (toll free TTY for the hearing/speech impaired)
kp.org

- cholesterol tests (lipid panel and profile)
- diabetes screening (fasting blood glucose tests)
- fecal occult blood tests
- HIV tests
- prostate specific antigen tests
- certain sexually transmitted disease (STD) tests

Outpatient Care

We cover the following outpatient care subject to the Cost Sharing indicated:

- Primary and specialty care consultations, exams, and treatment (other than those described below in this "Outpatient Care" section): **a $30 Copayment per visit**
- Preventive Care Services:
  - routine physical maintenance exams, including well-woman exams: **no charge**
  - well-child preventive exams for Members through age 23 months: **no charge**
  - family planning counseling, or consultations to obtain internally implanted time-release contraceptives or intrauterine devices (IUDs) prescribed in accord with our drug formulary guidelines: **no charge**
  - after confirmation of pregnancy, the normal series of regularly scheduled preventive prenatal care exams and the first postpartum follow-up consultation and exam: **no charge**
  - alcohol and substance abuse screenings: **no charge**
  - developmental screenings to diagnose and assess potential developmental delays: **no charge**
  - immunizations (including the vaccine) administered to you in a Plan Medical Office: **no charge**
  - flexible sigmoidoscopies: **no charge**
  - screening colonoscopies: **no charge**
- Allergy injections (including allergy serum): **a $5 Copayment per visit**
- Outpatient surgery: **a $200 Copayment per procedure** if it is provided in an outpatient or ambulatory surgery center or in a hospital operating room, or if it is provided in any setting and a licensed staff member monitors your vital signs as you regain sensation after receiving drugs to reduce sensation or to minimize discomfort. Any other outpatient surgery is covered at **a $30 Copayment per procedure**
- Outpatient procedures (other than surgery): **a $200 Copayment per procedure** if a licensed staff member monitors your vital signs as you regain sensation after receiving drugs to reduce sensation or to minimize discomfort. All outpatient procedures that do not require a licensed staff member to monitor your vital signs as described above are covered **at the Cost Sharing that would otherwise apply for the procedure** in this "Benefits and Cost Sharing" section (for example, radiology procedures that do not require a licensed staff member to monitor your vital signs as described above are covered under "Outpatient Imaging, Laboratory, and Special Procedures")
- Voluntary termination of pregnancy: **a $30 Copayment per procedure**
- Physical, occupational, and speech therapy: **a $30 Copayment per visit**
- Physical, occupational, and speech therapy provided in an organized, multidisciplinary rehabilitation day-treatment program: **a $30 Copayment per day**
- Urgent Care consultations, exams, and treatment: **a $30 Copayment per visit**
- Emergency Department visits: **a $100 Copayment per visit**. The Emergency Department Copayment does not apply if you are admitted directly to the hospital as an inpatient for covered Services, or if you are admitted for observation and are then admitted directly to the hospital as an inpatient for covered Services (for inpatient care, please refer to "Hospital Inpatient Care" in this "Benefits and Cost Sharing" section). However, the Emergency Department Copayment does apply if you are admitted for observation but are not admitted as an inpatient
- House calls by a Plan Physician (or a Plan Provider who is a registered nurse) inside our Service Area when care can best be provided in your home as determined by a Plan Physician: **no charge**
- Acupuncture Services (typically provided only for the treatment of nausea or as part of a comprehensive pain management program for the treatment of chronic pain): **a $30 Copayment per visit**
- Blood, blood products, and their administration: **no charge**
- Administered drugs (drugs, injectables, radioactive materials used for therapeutic purposes, and allergy test and treatment materials) prescribed in accord with our drug formulary guidelines, if administration or observation by medical personnel is required and they are administered to you in a Plan Medical Office or during home visits: **no charge**
- Some types of outpatient consultations, exams, and treatment may be available as group appointments, which we cover at **a $15 Copayment per visit**