



1625 North Market Blvd., Suite N-219  
Sacramento, CA 95834  
P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



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

**April 7, 2023  
9:00 a.m. to 5:00 p.m. or upon completion of business**

**Location: WebEx Teleconference**

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mcac6fa19b0c3d49495bad44c41f7b3a8>

If joining using the link above  
Webinar number: 2496 786 4195  
Webinar password: ACUP04072023

If joining by phone  
+1-415-655-0001 US Toll  
Access code: 249 678 64195  
Passcode: 22870407

**Pursuant to Government Code section 11133, no physical meeting location will be provided.**

**Important Notice to the Public**

**The Acupuncture Board (Board) will hold a public meeting via WebEx Events. To access and participate in the meeting, please log on to the website listed under Location on the day of the meeting. Instructions to connect to the meeting can be found at the end of this agenda.**

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

**Members of the Board**

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

- 1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, President)**
- 2. President's Remarks (Harabedian)**
- 3. Review and Possible Approval of the December 2, 2022, Board Meeting Minutes (Harabedian)**

#### **4. Executive Management Report**

- (A) Strategic Plan Announcement
- (B) Budget Update
- (C) Staffing Update
- (D) Business Modernization Update
- (E) Licensing Report Q2 2022-23
- (F) Enforcement Report Q2 2022-23

#### **5. Legislative Report (Brothers)**

- (A) 2023-24 Legislative Session Summary
  - i) AB 883 (Mathis) Business licenses: United States Department of Defense SkillBridge program
  - ii) AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy
  - iii) AB 1028 (McKinnor) Reporting of crimes: mandated reporters
  - iv) AB 1264 (B&P Committee) Acupuncture
  - v) AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law
  - vi) AB 1751 (Gipson) Opioid prescriptions: information: nonpharmacological treatments for pain
  - vii) SB 259 (Seyarto) Reports submitted to legislative committees
  - viii) SB 345 (Skinner) Health care services: legally protected health care activities
  - ix) SB 372 (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes
  - x) SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing
  - xi) SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction

#### **6. Regulatory Report**

- (A) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure (Title 16 CCR section 1399.469)
- (B) Align Curriculum Standards and Approval Related Regulations with Statute (Title 16 CCR sections 1399.415, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439)
- (C) Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service (Adopt Text to Add Sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4, and Amend sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419 419 in Title 16 of the CCR)
- (D) Application for Retired Status; Retired Status (Title 16 CCR section 1399.419.3)
- (E) Continuing Education Requirements (Title 16 CCR sections 1399.483, 1399.489)
- (F) Standards of Practice for Telehealth Services (Title 16 CCR section 1399.452.1)
- (G) Hand Hygiene Requirements (Title 16 CCR section 1399.451)

#### **7. Discussion and Possible Approval of 2023 Background Paper for the Sunset Report (Bodea)**

#### **8. Announcement of Election of Officers at Next Board Meeting**

## **9. Public Comments for Items Not on the Agenda (Harabedian)**

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

## **10. Future Agenda Items (Harabedian)**

## **11. Closed Session**

Pursuant to Government Code Section 11126(a)(1), the Board will convene to  
Conduct the Evaluation of the Performance of the Executive Officer

## **12. Adjournment (Harabedian)**

### Informational Notes:

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

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

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

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please follow the log-in instruction listed above. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact the Board at (916) 515-5200; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

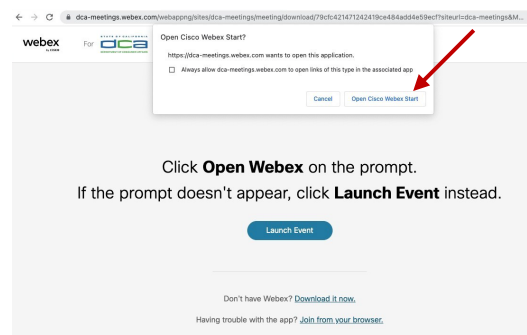
Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names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

### If joining using the meeting link

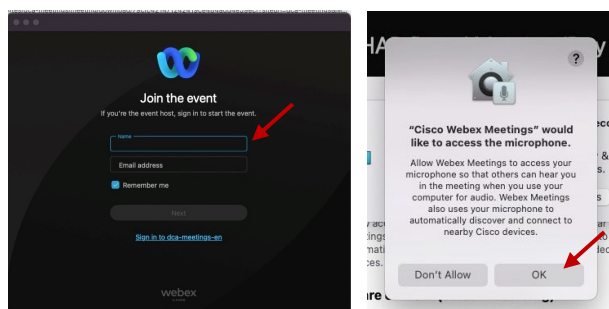
1 Click on the meeting link. This can be found in the meeting notice you received.

2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click “Open Cisco Webex Start” or “Open Webex”, whichever option is presented.

DO NOT click “Join from your browser”, as you will not be able to participate during the meeting.



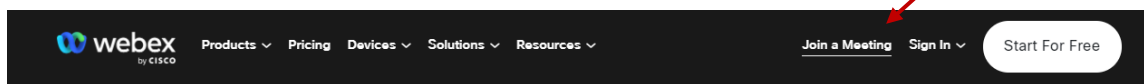
3 Enter your name and email address. Click “Join as a guest”. Accept any request for permission to use your microphone and/or camera.



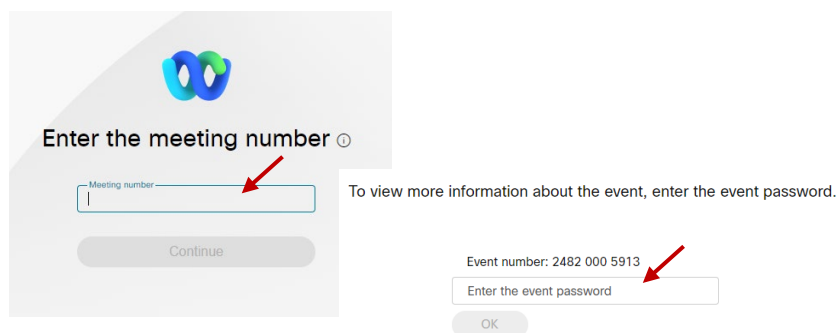
OR

### If joining from Webex.com

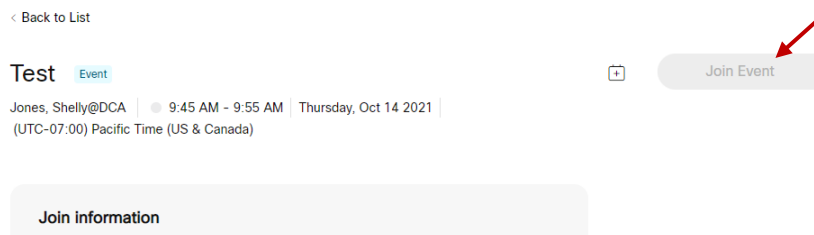
1 Click on “Join a Meeting” at the top of the Webex window.



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



3 The meeting information will be displayed. Click “Join Event”.



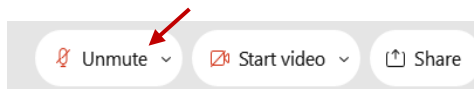
OR

### Connect via telephone:

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

### Microphone

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

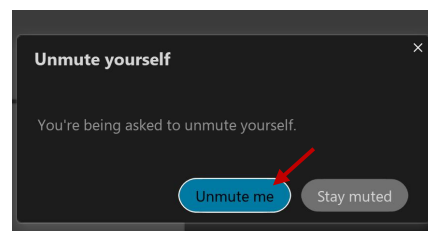


Green microphone = Unmuted: People in the meeting can hear you.



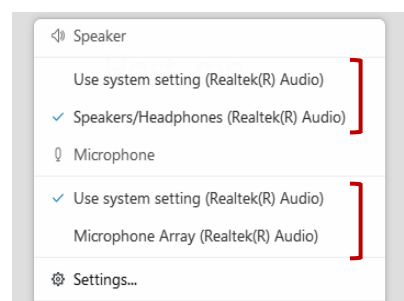
Red microphone = Muted: No one in the meeting can hear you.

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



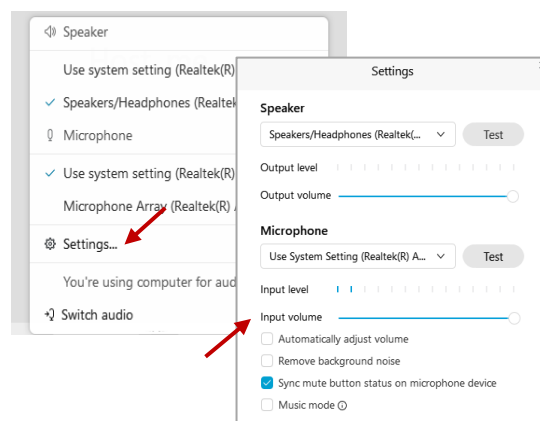
### If you cannot hear or be heard

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



### If your microphone volume is too low or too high

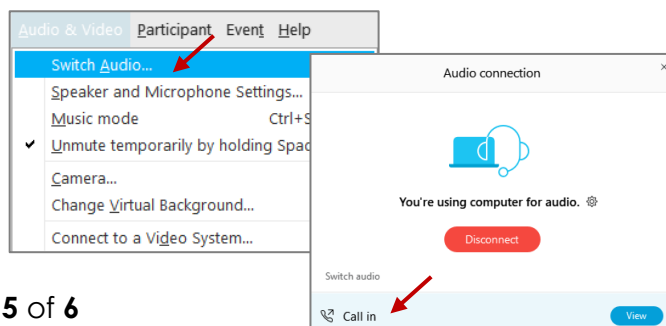
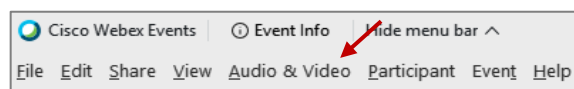
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
  - Click on “Settings...”:
  - Drag the “Input Volume” located under microphone settings to adjust your volume.



### Audio Connectivity Issues

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

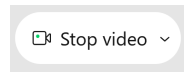
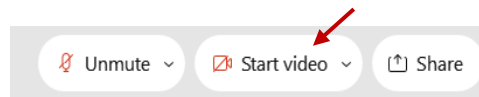
- 1 Click on “Audio & Video” from the menu bar.
- 2 Select “Switch Audio” from the drop-down menu.
- 3 Select the “Call In” option and following the directions.



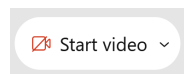
### Web Camera

Only panelists (e.g. staff, board members, presenters) can access the web camera feature.

Camera control (Start Video/Stop Video button) is located on the command row.



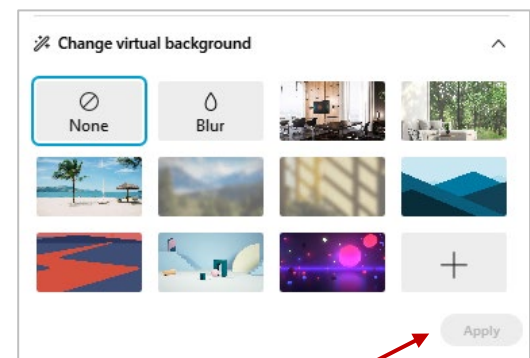
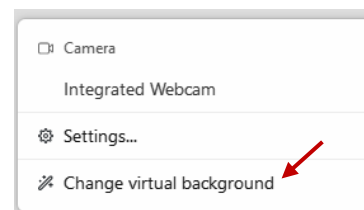
Green dot in camera = Camera is on: People in the meeting can see you.



Red dot in camera = Camera is off: No one in the meeting can see you.

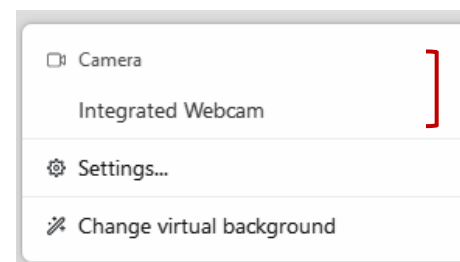
### Virtual Background

- 1 To access virtual backgrounds, click on the bottom facing arrow located on the video button.
- 2 Click on "Change Virtual Background".
- 3 From the pop-up window, click on any of the available images to display that image as your virtual background and click "Apply".



### If you cannot be seen

- 1 Locate the command row – click on the bottom facing arrow located on the video button.
- 2 From the pop-up window, select a different camera from the list.





## BOARD MEETING MINUTES December 2, 2022

### LOCATION:

Web Ex Teleconference

#### Staff Present

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

#### Members of the Board

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

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

Meeting commenced at 9:08 a.m.

Roll call taken. All members present. Quorum established.

### Item 2 – President's Remarks

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

### Item 3 – Approval of Minutes

Board members reviewed the minutes from the August 2022 meeting.

### MOTION

Hyun "Francisco" Kim motioned to approve the August meeting minutes.

Dr. Chen seconded it.

No public comment.

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

**Motion Passes**

### Item Number 4 - Executive Management Report

#### (A) Budget Update

Based on estimations from the third fiscal month, the Acupuncture Board's (Board) funds are in good condition with a healthy reserve.

### **(B) Staffing Update**

The Board has filled vacancies for the enforcement analyst and administrative analyst positions. The administrative analyst position was a lateral from within the office. The Board is now advertising for the second vacant enforcement analyst position. Additionally, the licensing office technician position is now vacant, and the Board is taking steps to fill this position.

### **(C) Business Modernization (BizMod) Update**

The Board continues to work with the DCA's Office of Information Services, inLumon Software vendor, and board staff to develop and refine the Connect licensing management system. The Board has continued to refine exam and wall license renewal processes where a new print vendor processes the automated printing of the pocket and wall licenses. Also, recent efforts resulted in a limited release of the continuing education management system where CE providers can apply for new provider, provider renewal, and course applications online.

Board Member Kim asked if there is more traffic on the website compared to last year and Mr. Herdt responded that the Board is getting about seventy percent user adoption rate in terms of renewals.

### **(D) Licensing Report Q1 FY 2022-23**

Mr. Herdt reviewed the data for Licensing, Continuing Education, Tutorial, training programs, and exam results. Mr. Herdt noted that the total active wall licenses are lagging behind what the Board expects. The Board will do outreach to improve compliance in that regard.

### **(E) Enforcement Report Q1 FY 2022-22**

Executive Officer (EO) Bodea reviewed the complaints/convictions and investigations data for quarter one of 2022-23 Fiscal Year (July 1 – September 30, 2022). Board Member Matecki asked a question about the use of the title doctor and EO Bodea responded that the Board can create outreach material to inform the licensee population of any misunderstanding as well as reach out to their member organizations to ensure that they are using the title appropriately when they practice. EO Bodea also noted that this might be an excellent item for the strategic plan. Board Member Kim asked if the number of complaints decreased since the pandemic. EO Bodea confirmed.

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

EO Bodea reviewed bills that have passed or been chaptered. There were no bills that required a new position.



## **Item 6 – Discussion and Possible Approval of 2022 Sunset Report**

EO Bodea reviewed the 2022 Sunset Report along with the Board Members. Edits were made to the following Sections:

- a) Section 4: Legal Counsel proposed the edit on Question 21 to clarify that the Board has not denied a license based on a failure to disclose prior discipline as opposed to the Board cannot deny a license based on failure to disclose prior discipline.
- b) Section 10: Legal counsel proposed the edit on Question 69 regarding the waiver of the regulatory requirement that acupuncture students receive their clinical education in-person. Instead of “the board did not receive a response”, Legal Counsel proposed for the statement to read “the request was not approved but the matter can be appropriately handled through enforcement of curriculum requirements”, and,
- c) Section 12: Legal Counsel proposed the edit on Item 2 to include the word massage in the final sentence. The term “Asian Massage” in the scope includes “manual therapy and massage. This is being inclusive to inform the Legislature about what issues the Board are hearing.

### **MOTION**

Hyun “Francisco” Kim motioned to approve the 2022 Sunset Review Report.

Dr. Matecki seconded it.

No public comment regarding the report.

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

### **Motion Passes**

## **Item 7 – Public Comments for Items Not on the Agenda**

A public comment identified that acupuncture has evolved to be a more accepted and respected health care option.

Another public comment asked the Board to review the tutorial program.

Board Member Matecki mentioned that acupuncture is covered by Medicare, and we will see more and more acupuncturists working in the hospital environment and communicating with other multi-disciplinary teams.

Board Member Kim stated that maybe the Board can have a more detailed look into the tutorial program and other requirements for curriculum review.

Board Member Chen agrees to review the tutorial program and do some comparison and to check the competency between different program licensees.

EO Bodea suggested that the topics raised during public comment, namely degree titles, the tutorial program, English competency, and acupuncture medical terminology, be considered for the strategic plan.

**Item 8 – Future Agenda items**

A public comment was received that the notion that English is related to competence is not correct. EO Bodea and Mr. Herdt addressed the issue stating that the public tends to speak English and medicine is generally delivered in English.

Board Member Kim asked that Dao (Knife) Needle be included as a future agenda item. He stated it is getting popular in Korea and China and that its use is spreading to the US.

**Item 9 – Closed Session**

There was not enough time for the Board to initiate the annual evaluation of the performance of the Executive Officer prior to the Board meeting and therefore this item was tabled to the next meeting.

**Item 10 – Adjournment**

President Harabedian Adjourned the meeting.

Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Fiscal Month: 7

Fiscal Year: 2022 - 2023

PERSONAL SERVICES

Fiscal Code	Line Item	PY YTD + Encumbrance	PY FM13	Budget	YTD	Encumbrance	YTD + Encumbrance	Projections to Year End	Balance
5100	PERMANENT POSITIONS	\$507,711	\$831,242	\$876,000	\$418,860	\$0	\$418,860	\$802,238	\$73,762
5100	TEMPORARY POSITIONS	\$61,700	\$90,079	\$19,000	\$0	\$0	\$0	\$41,000	-\$22,000
5105-5108	PER DIEM, OVERTIME, & LUMP SUM	\$6,777	\$7,271	\$12,000	\$0	\$0	\$0	\$7,000	\$5,000
5150	STAFF BENEFITS	\$300,767	\$486,394	\$539,000	\$235,072	\$0	\$235,072	\$473,241	\$65,759
	<b>PERSONAL SERVICES</b>	<b>\$876,954</b>	<b>\$1,414,985</b>	<b>\$1,446,000</b>	<b>\$653,933</b>	<b>\$0</b>	<b>\$653,933</b>	<b>\$1,323,479</b>	<b>\$122,521</b>

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	Line Item	PY YTD + Encumbrance	PY FM13	Budget	YTD	Encumbrance	YTD + Encumbrance	Projections to Year End	Balance
5301	GENERAL EXPENSE	\$2,857	\$30,172	\$57,000	\$7,571	\$9,658	\$17,229	\$33,539	\$23,461
5302	PRINTING	\$15,610	\$13,300	\$18,000	\$6,413	\$4,429	\$10,842	\$17,318	\$682
5304	COMMUNICATIONS	\$330	\$6,343	\$18,000	\$1,630	\$0	\$1,630	\$11,100	\$6,900
5306	POSTAGE	\$2,014	\$6,562	\$6,000	\$1,030	\$0	\$1,030	\$4,343	\$1,657
5308	INSURANCE	\$0	\$22	\$0	\$0	\$0	\$0	\$22	-\$22
53202-204	IN STATE TRAVEL	\$5,263	\$5,263	\$34,000	\$3,860	\$0	\$3,860	\$9,431	\$24,569
5322	TRAINING	\$4,380	\$4,405	\$4,000	\$0	\$0	\$0	\$4,000	\$0
5324	FACILITIES	\$60,738	\$123,398	\$65,000	\$57,553	\$0	\$57,553	\$211,468	-\$146,468
53402-53403	C/P SERVICES (INTERNAL)	\$79,602	\$166,602	\$502,000	\$99,710	\$0	\$99,710	\$217,786	\$284,214
53404-53405	C/P SERVICES (EXTERNAL)	\$218,200	\$314,408	\$557,000	\$125,567	\$135,292	\$260,858	\$319,644	\$237,356
5342	DEPARTMENT PRORATA	\$770,250	\$849,568	\$926,000	\$654,750	\$0	\$654,750	\$926,000	\$0
5342	DEPARTMENTAL SERVICES	\$109,570	\$260,678	\$334,000	\$102,811	\$0	\$102,811	\$242,960	\$91,040
5344	CONSOLIDATED DATA CENTERS	\$282	\$11,628	\$4,000	\$334	\$0	\$334	\$20,349	-\$16,349
5346	INFORMATION TECHNOLOGY	\$106,467	\$67,692	\$36,000	\$5,070	\$0	\$5,070	\$59,419	-\$23,419
5362-5368	EQUIPMENT	\$3,362	\$7,707	\$0	\$5,526	\$0	\$5,526	\$12,652	-\$12,652
5390	OTHER ITEMS OF EXPENSE	\$0	\$0	\$3,000	\$528	\$0	\$528	\$660	\$2,340
54	SPECIAL ITEMS OF EXPENSE	\$1,011	\$2,047	\$0	\$3,007	\$0	\$3,007	\$4,510	-\$4,510
	<b>OPERATING EXPENSES &amp; EQUIPMENT</b>	<b>\$1,379,938</b>	<b>\$1,869,793</b>	<b>\$2,564,000</b>	<b>\$1,075,360</b>	<b>\$149,379</b>	<b>\$1,224,739</b>	<b>\$2,095,200</b>	<b>\$468,800</b>

<b>OVERALL TOTALS</b>	<b>\$2,256,892</b>	<b>\$3,284,779</b>	<b>\$4,010,000</b>	<b>\$1,729,292</b>	<b>\$149,379</b>	<b>\$1,878,671</b>	<b>\$3,418,680</b>	<b>\$591,320</b>
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14.75%

**0108 - Acupuncture Fund Analysis of Fund Condition**  
**(Dollars in Thousands)**

Prepared Date – 3.16.2023

**2023-24 Governor's Budget**

Fiscal Year	Actual 2021-22	CY 2022-23	BY 2023-24	BY +1 2024-25	BY +2 2025-26
<b>BEGINNING BALANCE</b>	\$ 3,189	\$ 3,648	\$ 4,443	\$ 4,065	\$ 3,581
Prior Year Adjustment	\$ 288	\$ 0	\$ 0	\$ 0	\$ 0
Adjusted Beginning Balance	\$ 3,477	\$ 3,648	\$ 4,443	\$ 4,065	\$ 3,581
<b>REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>					
Revenues					
4121200 - Delinquent fees	\$ 43	\$ 61	\$ 41	\$ 41	\$ 41
4127400 - Renewal fees	\$ 2,811	\$ 3,607	\$ 2,806	\$ 2,806	\$ 2,806
4129200 - Other regulatory fees	\$ 277	\$ 273	\$ 247	\$ 247	\$ 247
4129400 - Other regulatory licenses and permits	\$ 728	\$ 599	\$ 675	\$ 675	\$ 675
4163000 - Income from surplus money investments	\$ 14	\$ 34	\$ 40	\$ 53	\$ 44
4171400 - Escheat of unclaimed checks and warrants	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4
Totals, Revenues	\$ 3,877	\$ 4,578	\$ 3,813	\$ 3,826	\$ 3,817
Operating Transfers To General Fund 0001 per EO E 21/22-276 Revised (AB 84)	\$ -121	\$ 0	\$ 0	\$ 0	\$ 0
Totals, Transfers and Other Adjustments	\$ -121	\$ 0	\$ 0	\$ 0	\$ 0
<b>TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>	\$ 3,756	\$ 4,578	\$ 3,813	\$ 3,826	\$ 3,817
<b>TOTAL RESOURCES</b>	\$ 7,233	\$ 8,226	\$ 8,256	\$ 7,891	\$ 7,398
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 3,194	\$ 3,349	\$ 3,957	\$ 4,076	\$ 4,198
9892 Supplemental Pension Payments (State Operations)	\$ 43	\$ 43	\$ 43	\$ 43	\$ 0
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 348	\$ 391	\$ 191	\$ 191	\$ 191
<b>TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>	\$ 3,585	\$ 3,783	\$ 4,191	\$ 4,310	\$ 4,390
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 3,648	\$ 4,443	\$ 4,065	\$ 3,581	\$ 3,008
Months in Reserve	11.6	12.7	11.3	9.8	8.2

**NOTES:**

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

## FY 2022/23 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
Clear	11803	11677	n/a	n/a
Active	7753	7473	n/a	n/a
Inactive	2380	2395	n/a	n/a
Delinquent	1670	1809	n/a	n/a
Cancelled	70	52	n/a	n/a
Initial AC License Applications Approved	77	76	n/a	n/a
Initial AC License Applications Denied	0	0	n/a	n/a
AC License Renewals	1576	1669	n/a	n/a
Active Wall Licenses	3438	3867	n/a	n/a
Initial Wall Licenses	485	538	n/a	n/a
Wall License Renewals	65	119	n/a	n/a

## FY 2022/23 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun
New CE Provider Applications Approved	5	*	n/a	n/a
CE Provider Applications Denied	0	*	n/a	n/a
Course Applications Received	564	*	n/a	n/a
Course Applications Approved	532	*	n/a	n/a
Course Denials	32	*	n/a	n/a
Total Number of Active CE Providers	344	*	n/a	n/a
Total CE Provider Numbers Issued	1759	*	n/a	n/a

## FY 2022/23 Acupuncture Educational and Training Programs

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

## FY 2022/23 Acupuncture Tutorial Training Programs

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

**EXAMINATION RESULTS STATISTICS - FIRST TIME AND OVERALL**

**7/1/2022 - 12/31/2022**

APPROVED ACUPUNCTURE AND EDUCATIONAL TRAINING PROGRAMS	1ST TIME TAKERS			OVERALL (Includes Re-Takers)		
	#PASS	#FAIL	PASS %	#PASS	#FAIL	PASS %
Academy of Chinese Culture & Health Sciences	10	1	91%	12	3	80%
Acupuncture & Integrative Medicine College, Berkeley	10	1	91%	10	3	77%
Alhambra Medical University	14	4	78%	15	4	79%
American College of Traditional Chinese Medicine at CIIS	3	1	75%	3	1	75%
Bastyr University	1	0	100%	2	2	50%
California Trinity University*	0	0	0%	0	1	0%
California University - Silicon Valley	1	0	100%	1	0	100%
Dongguk University Los Angeles	16	2	89%	19	6	76%
Emperor's College of Traditional Chinese Medicine	11	4	73%	11	4	73%
Five Branches University	5	3	63%	6	4	60%
Golden State University*	0	1	0%	0	1	0%
National University of Natural Medicine	2	0	100%	4	1	80%
Oregon College of Oriental Medicine	0	1	0%	0	1	0%
Pacific College of Health and Science	25	12	68%	26	16	62%
South Baylo University	18	14	56%	21	21	50%
Southern California University of Health Sciences	1	1	50%	1	2	33%
Southwest Acupuncture College	0	1	0%	0	1	0%
University of East West Medicine	7	5	58%	8	6	57%
University of Herbal Medicine*	0	1	0%	1	2	33%
Whitewater University	3	0	100%	3	0	100%
Yosan University	4	5	44%	4	6	40%
Tutorials	4	2	67%	5	2	71%
Foreign	5	5	50%	6	6	50%
<b>GRAND TOTAL</b>	<b>140</b>	<b>64</b>	<b>69%</b>	<b>158</b>	<b>93</b>	<b>63%</b>

\*Formerly Approved Training Program

**EXAMINATION RESULTS STATISTICS - BY LANGUAGE****1/1/2022 - 6/30/2022**

<b>LANGUAGE</b>	<b>#PASS</b>	<b>#FAIL</b>	<b>PASS %</b>
Chinese	42	21	<b>67%</b>
English	91	61	<b>60%</b>
Korean	25	11	<b>70%</b>
<b>GRAND TOTAL</b>	<b>158</b>	<b>93</b>	<b>63%</b>



1625 N. Market Blvd., Suite N-219  
 Sacramento, CA 95834  
 P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



<b>DATE</b>	<b>April 7, 2023</b>
<b>TO</b>	<b>Board Members</b>
<b>FROM</b>	<b>Benjamin Bodea, Executive Officer</b>
<b>SUBJECT</b>	<b>Enforcement Statistics for Quarter 2 FY 2022/2023: 10/1/22 – 12/31/22</b>

**COMPLAINTS/CONVICTIONS & ARRESTS**

DCA Category		Received
<b>Unprofessional Conduct</b>	<b>Sub-Total</b>	<b>9</b>
• Patient Abandonment	2	
• Patient Harm	5	
• False Advertisement	1	
• Use of the title Dr.	1	
<b>Unlicensed/Unregistered</b>		<b>0</b>
<b>Criminal Charges/Convictions**</b>		<b>2</b>
• Applicants	0	
• Licensees	2	
<b>Sexual Misconduct</b>		<b>2</b>
<b>Fraud</b>		<b>1</b>
<b>Non-jurisdictional</b>		<b>1</b>
<b>Incompetence/Negligence</b>		<b>5</b>
<b>Unsafe/Unsanitary Conditions</b>		<b>1</b>
<b>Other</b>		<b>0</b>
<b>Substance Abuse/Drug &amp; Mental/Physical Impairment</b>		<b>0</b>
<b>Discipline by Another State Agency</b>		<b>0</b>
<b>Total</b>		<b>21</b>

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

**INVESTIGATIONS\***

DCA Category	Initiated	Pending **	Closed
Unprofessional Conduct	9	95	0
Unlicensed/Unregistered	0	28	1
Criminal Charges/Convictions (includes pre-licensure)	2	27	1
Sexual Misconduct	2	12	0
Fraud	1	42	0
Non-jurisdictional	1	6	0
Incompetence/Negligence	5	53	0
Unsafe/Unsanitary Conditions	1	7	0
Other	0	8	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	0	1	0
<b>Total</b>	<b>21</b>	<b>279</b>	<b>2</b>

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

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



## Enforcement Statistics Report

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

Complaint/Convictions Received	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM1: Total Complaints Received	108	26	19			45	↓ -58%
PM1: Total Convictions/Arrest Received	35	2	2			4	↓ -89%
PM1: Total Received	143	28	21			49	↓ -66%

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

Intake Cycle Time (Target: 10 Days)	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM2: Intake/Avg. Days	5	3	3			3.0	↓ -40%

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

Investigation Cycle Time (Target: 200 Days)	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM3: All Investigations Closed	113	6	2			8	↓ -93%
PM3: Average Cycle Time Investigations	416	36	233			135	↓ -68%

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

	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	41%	6	1			88%	↑ 47%
91 - 180 Days	5%	0	0			0%	↓ -5%
181 Days - 1 Year (364)	10%	0	0			0%	↓ -10%
1 to 2 Years (365-730)	15%	0	1			13%	↓ -3%
2 to 3 Years (731- 1092)	13%	0	0			0%	↓ -13%
Over 3 Years (1093 +)	16%	0	0			0%	↓ -16%

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

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

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

Transmittals to Attorney General (AG) Target: 540 Days	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
PM4: Volume AG Cases	3	1	1			2	↓ -33%
PM4: Total Cycle Time	622	1748	1264			1506	↑ 142%

	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
AG Cases Initiated	11	0	0			0	↓ -100%
AG Cases Pending	21	18	16			16	↓ -24%
SOIs Filed	0	0	0			0	⇒ 0%
Accusations Filed	7	2	0			2	↓ -71%
Total Closed after Transmission	5	1	1			2	↓ -60%
Revoked	0	0	0			0	⇒ 0%
Voluntary Surrender	0	2	1			3	#DIV/0!
Probation	3	0	0			0	↓ -100%
License Denied	0	0	0			0	⇒ 0%
Public Reprimand	0	0	0			0	⇒ 0%
Closed w/out Disciplinary Action	0	1	0			1	↑ 100%

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

Total Orders Aging/Final Decision	FY 2021/22	Fiscal Year 2022/23					Yr/Yr Change
	YTD	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 Apr - Jun	YTD	
Up to 90 Days	0%	0	0			0%	⇒ 0%
91 - 180 Days	0%	0	0			0%	⇒ 0%
181 Days - 1 Year (364)	0%	0	0			0%	⇒ 0%
1 to 2 Years (365-730)	33%	0	0			0%	↓ -33%
2 to 3 Years (731- 1092)	0%	0	0			0%	⇒ 0%
Over 3 Years (1093 +)	67%	1	1			100%	↑ 33%

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



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<b>DATE</b>	April 7, 2023
<b>TO</b>	Acupuncture Board Members
<b>FROM</b>	Kristine Brothers, Policy Coordinator
<b>SUBJECT</b>	2023 - 2024 Pending CA Legislation of Interest as of March 29, 2023

### [Assembly Bill 883:](#)

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

**Status:** Amended on March 23, 2023.

Re-referred to Committee on Appropriations.

#### **Existing Law:**

- Establishes the Department of Consumer Affairs, which sets forth its powers and duties relating to the administration of various boards that license and regulate various professions and vocations.
- Requires a board to expedite and assist in the initial licensure process for an applicant who has served as an active-duty member of the Armed Forces of the United States and was honorably discharged.
- Authorizes a board to adopt regulations necessary to administer the provisions of 115.4.

#### **Summary of Bill:**

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

#### **Board Impact:**

Existing law of Business and Professions Code section 115.4 currently does not impact the Board to a great extent. The Board receives approximately one (1) to two (2) applications for license annually from honorably discharged active-duty members of the Armed Forces. With the expansion of the bill to also include applicants who are active-duty members of the Armed Forces enrolled in the DOD SkillBridge program, staff estimates very little acupuncture license applicants who will meet this criterion. The DOD SkillBridge program is an opportunity offered to Service members during their last 180 days of service that allows members to gain valuable civilian work experience through specific industry training and internships.

Staff conducted a search of DOD SkillBridge employers on its website which produced only 50 organizations that offer work experience within the healthcare system in California. Zero results were produced when the keywords acupuncture and acupuncturist were searched through

the SkillBridge employers' opportunities. Given the low demand and use of acupuncture offered in the military as well as through the DOD program, staff projects little impact by AB 883.

**Fiscal Impact:**

One of the minor impacts of this bill would require staff to update the Board's licensing process to ensure applicants who meet the DOD SkillBridge program criteria can get their license application expedited. This would require the exam and license application forms to be updated providing a way for applicants to indicate they are a SkillBridge program enrollee. The new form requirement would need to be updated through the regulatory process. This would add to the Board's rulemaking workload. The entire rulemaking process on one package can take approximately 40 hours of AGPA time annually, as well as the Board's time for review and discussion.

Staff projects there will not be an increase in licensing workload related to the new provisions of this bill.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 883 (Mathis), as amended on March 23, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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

**Status:** Amended March 27, 2023.

Referred for hearing with the Committee on Business and Professions. Hearing cancelled at the request of the author.

**Existing Law:**

- Establishes various entities (boards) within the department for the licensure and regulation of various professions and vocations.
- Several entities require licensees to satisfy continuing education (CE) course requirements.

**Summary of Bill:**

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

**Board Impact:**

Staff asserts the provisions of AB 996 do not impact the Board because the Board's regulations already provide a conflict-of-interest policy prohibiting CE providers from selling, advertising or promoting any named brand product or service during a course. The Board's existing regulation (California Code of Regulations section 1399.483 (e)) complies with the section of law proposed by the bill.

**Fiscal Impact:**

Staff projects a very minimal fiscal impact by AB 996. The only change staff would need to do is technical in nature, adding proposed Business and Professions Code section 36 as a new reference section to the Board's existing regulation. This can be done through a Government Code section 100 change which quickly makes technical changes to regulations to align with authorizing statutes. Section 100s do not require Board approval and take approximately 8 hours of policy staff time at the AGPA level.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 996 (Low), as amended on March 27, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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**Assembly Bill 1028: Reporting of crimes: mandated reporters - McKinnor**

**Status:** Introduced February 15, 2023

Referred to Committee on Public Safety for hearing on 3/28/23.

**Existing Law:**

- Requires a health practitioner, as defined in subdivision (a) of Penal Code (PC) section 11162.5, to make a report to law enforcement when they suspect a patient has suffered physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct, including elder abuse, sexual assault, or torture. A violation of these provisions is punishable as a misdemeanor.
- Defines "assaultive or abusive conduct" to include 22 PC sections of crime, e.g., murder, battery, rape, child abuse, etc.

**Summary of Bill:**

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

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

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

In connection with AB 1028, the Legislature finds that recognizing that abuse survivors often need to access health care and medical treatment apart from police reporting and criminal

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

**Board Impact:**

The major impact of this bill is related to the health practitioners affected as mandated reporters. Under AB 1028, a healthcare practitioner cannot be criminally charged for failing to report to law enforcement a patient who has physical injury caused by assaultive or abusive conduct. The removal of this reporting requirement means that this cause for criminal action will no longer be something the Board would receive on a licensee on a subsequent arrest notification through the Department of Justice. However, AB 1028 would now make it a criminal offense for a healthcare practitioner to not comply with the requirement to provide brief counseling, education, or other support, and a warm handoff or referral to local and national domestic violence or sexual violence advocacy services.

Although AB 1028 would remove the cause for criminal action for failure to report to law enforcement a patient who has physical injury caused by assaultive or abusive conduct, it now adds another cause for criminal action if a healthcare practitioner does not provide the necessary counseling, education, or referral imposed by the bill.

It is difficult to ascertain how many subsequent arrest notifications the Board has received in prior years for licensees who failed to comply with the specific mandated reporting requirements of PC section 11160. Staff estimates none to very few. In addition, the volume of subsequent arrest notifications expected to be received on violation of these new mandated counseling, education, and referral requirements for physical injuries related to domestic violence is estimated to be none to very few.

**Fiscal Impact:**

Given the small volume of arrest notifications related to the new mandated reporting requirements and provisions by AB 1028 anticipated to be received, staff does not expect any significant increase or decrease in the volume of complaints. Any changes in volume of complaints (arrest notifications) that may occur as a result of the bill's provisions should be able to be managed by current Enforcement staff and budget resources.

The only additional step required by AB 1028 is an update of mandated reporting information included on the Board's website for licensees. This is something that can be done by staff and is supported by the Board's current pro rata costs to DCA.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 1028 (McKinnor), as amended on March 27, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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

**Status:** Introduced February 16, 2023

**Existing Law:**

- The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture.
- Requires the Acupuncture Board, consisting of seven members, to enforce and administer the act, and repeals this provision on January 1, 2024.
- The repeal renders the board subject to review by the appropriate policy committees of the Legislature.
- Makes the protection of the public the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions.
- Authorizes the board, by and with the approval of the Director of Consumer Affairs, to appoint an executive officer who is exempt from the State Civil Service Act, and repeals this provision on January 1, 2024.

**Summary of Bill:**

AB 1264 is the Acupuncture Board's Sunset Review bill. In its current state, the bill only reorganizes and makes non-substantive changes to sections 4928, 4928.1, and 4934 of the Acupuncture Licensure Act. This bill will have further amendments later in the year to bring to the Board. A position can be taken at that time.

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

**Status:** Amended March 16, 2023.

Re-referred to Committee on Business and Professions.

**Existing Law:**

- Establishes various boards within the Department of Consumer Affairs to license and regulate various health professionals.
- Prohibits the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline upon a licensee because the person was disciplined in another state in which they are licensed solely for performing an abortion in that state or because the person was convicted in another state for an offense related solely to performing an abortion in that state.

**Summary of Bill:**

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

**Board Impact:**

The current language of this bill under proposed section 850.1 of the Business and Professions Code (BPC) is quite broad. Another state's law interfering with a person's right to receive care that would be lawful if provided in California could encompass many varying types of services,

concerning a wide variety of health conditions. Therefore, it is difficult to estimate the potential impact of this bill.

In FY 2021/2022, the Board received one (1) complaint related to discipline from another state. Out-of-state convictions appearing on an applicant's record is not incredibly common. In FY 2021/2022, the Board received seven (7) out-of-state convictions.

Pursuant to BPC section 480, the Board is already limited to denying a license to an applicant on the basis of a conviction that is, 1.) substantially related to the qualifications, functions, or duties of the business or profession, and 2.) occurred in the last seven (7) years. Therefore, if the applicant was convicted of an act that interferes with a person's right to receive care that would be considered lawful in California, then the crime or act would not be deemed substantially related. Under existing law, the Board likely would not deny or discipline a license on the basis of the proposed law under AB 1707. No impact to the Board is expected.

**Fiscal Impact:**

No fiscal impact is anticipated by AB 1707.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 1707 (Pacheco), as amended on March 16, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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**[Assembly Bill 1751](#): Opioid prescriptions: information: nonpharmacological treatments for pain - Gipson**

**Status:** Introduced February 17, 2023

This bill is assigned to Assembly Committees on Health and Business and Professions.

**Existing Law:**

- Requires a prescriber, with certain exceptions, before directly dispensing or issuing for a minor the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss specified information with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment.
- Makes an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic intractable pain, as specified.
- The federal Patient Protection and Affordable Care Act (PPACA), requires a health benefit plan issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined.

**Summary of Bill:**

AB 1751 would extend the requirement upon prescribers to discuss the dangers and risks associated with the use of opioids to apply to any patient, not only a minor, under certain circumstances. In addition to discussion of dangers and risks, AB 1751 would also require the prescriber to discuss the availability of nonpharmacological treatments for pain.

This bill would also remove the exception to the requirement for the prescriber in the case of a patient who is being treated for a chronic intractable pain diagnosis. Instead, would make an



exception in the case of a patient who is currently receiving hospice care. Additionally, AB 1751 would require the prescriber, after discussing the information, to offer, as deemed appropriate by the prescriber, a referral for a provider of nonpharmacological treatments for pain, and to obtain consent from the patient, a minor patient's parent or guardian, or another authorized adult, as specified. The bill defines "nonpharmacological treatments for pain" to include, but not be limited to, acupuncture, chiropractic care, physical therapy, occupational therapy, and licensed mental health provider services.

Finally, this bill would make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benefits benchmark plan.

**Board Impact:**

This bill is almost identical to AB 888 introduced by Assemblymember Evan Low in the 2019/2020 Legislative session. The bill is in response to the Legislature's declaration that an opioid crisis exists within California. Urgent discussion has been prompted regarding the risks of addiction associated with overreliance on prescription medication for pain management.

Research indicates that, for many patients, nonpharmacological therapies can be equally or more effective for treating pain, without the risks of addiction or overdose associated with pharmaceutical painkillers. This bill increases the awareness and access to nonpharmacological treatments such as acupuncture.

This bill would spread awareness to consumers of acupuncture's availability and benefits. It would also expand medical doctor's referrals and acupuncture's relevancy in the medical industry.

This bill is not expected to impact the Board in a substantial way. It is possible that if patients who are currently managing pain through opioids are referred to nonpharmacological treatment through acupuncture instead, the volume of complaints could see an increase. However, the increase would be difficult to quantify as the increase in demand for acupuncture treatments within California is also difficult to quantify based on this legislation.

**Fiscal Impact:**

It is projected that a possible increase in the volume of complaints could occur as a result of an increase in the public accessing more acupuncture treatments stemming from this Legislation. However, whatever workload increase the Board may see would likely be absorbable within the Board's existing staffing and budget resources.

**Staff Recommendation:**

Support

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on AB 1751 (Gipson), as introduced on February 17, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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

**Status:** Introduced January 30, 2023

This bill passed out of the Senate Committee on Governmental Organization and is now getting re-referred to the Appropriations Committee with a recommendation: To Consent Calendar.

**Existing Law:**

- Requires a state agency that is required or requested by law to submit a report to the Members of either house of the Legislature generally to submit the report in a specified manner and to post the report on the state agency's internet website.

**Summary of Bill:**

SB 259 would add section 9796 to the Government Code. This bill would additionally require a state agency to post on its internet website any report that the state agency submits to a committee of the Legislature. Any report is defined as an audit, study, or any report identified in the Legislative Analyst's Supplemental Report of the Budget Act.

According to the author's office, "inconsistency in agency reporting requirements has created a situation in which constituents lack access to information that their representatives base their decision-making on. Constituents cannot know if their members are effectively representing them if those constituents lack the information necessary to determine their best interests. Expanding existing agency reporting requirements to encompass all legislative reports is a small adjustment that will go a long way to ensure all Californians have equal access and opportunity to evaluate the same information legislators use to make important policy decisions. This in turn, will enable Californians to better inform legislators of their priorities and needs."

**Board Impact:**

The Board currently posts all of its reports and studies on its website. The Department of Consumer Affairs (DCA) posts the annual report of all programs on its website. Going forward, a link directing to a report involving the Board will be placed on the Board's website, such as the Department's Annual Report. There is not a significant impact anticipated by this legislation given that the Board is generally already in compliance with the proposed requirement.

**Fiscal Impact:**

The Board already contributes to pro rata services provided by DCA which includes website maintenance by the Office of Information Services (OIS). There is no fiscal impact expected by the provisions of SB 259.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on SB 259 (Seyarto), as introduced on January 30, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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**Senate Bill 345: Health care services: legally protected health care activities - Skinner**

**Status:** Amended March 16, 2023.

Re-referred to Senate Committee on Rules.

**Existing Law:**

- Provides for the licensure and regulation of healthcare professionals by boards under the Department of Consumer Affairs (DCA).
- Makes specified actions by licensed healthcare professionals unprofessional conduct and, in certain cases, a criminal offense
- Defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought.
- Creates an exemption for a person who commits an act that results in the death of a fetus under specific circumstances, including if the act is solicited, aided, abetted, or consented to by the mother of the fetus.
- Prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of an abortion or for obtaining an abortion, if the abortion is lawful in this state.
- Prohibits a state or local public agency from cooperating with or providing information to an individual or agency from another state or a federal law enforcement agency, as specified, regarding a lawful abortion.
- Refers to “unborn children” and “unborn persons” in various contexts

**Summary of Bill:**

The most relevant section of the bill that relates to licensed acupuncturists is the addition of Business and Professions Code (BPC) section 852. Proposed Section 852 would prohibit a board from suspending or revoking the license of a healing arts licensee solely for providing a legally protected healthcare activity.

The bill defines “Legally protected healthcare activity” to mean specified acts, including exercising rights related to reproductive health care services or gender-affirming health care services secured by the Constitution or the provision of insurance coverage for those services.

SB 345 would also prohibit a board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline on a licensed person because they were disciplined or convicted of an offense in another state, if that disciplinary action was for providing a legally protected health care activity. The bill would further provide that the performance, recommendation, or provision of a legally protected health care activity by a health care practitioner acting within their scope of practice for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected healthcare activity is illegal, does not, by itself, constitute professional misconduct, upon which discipline or other penalty may be taken.

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

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

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

**Board Impact:**

It is estimated a substantial portion of the licensee population provides acupuncture services that would fit the bill's definition of "reproductive healthcare services." SB 345 defines "reproductive health care services" to include all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, assisted reproduction, contraception, miscarriage management, the termination of a pregnancy, or self-managed terminations.

According to the Board's 2021 Occupational Analysis, of the licensees who completed the survey regarding their primary focus of practice, 28% focused on women's health, 13.2% focused on fertility, and 4.5% focused on endocrine health. This means that approximately close to half of the California acupuncturist population focus on reproductive healthcare services.

If providing reproductive healthcare services is common among California acupuncturists, then complaints received by the Board related to these services is probably more common. However, the Board does not have any law or regulation that identifies such services as a cause for discipline currently. Therefore, the Board would not take discipline on a licensee solely for providing a legally protected healthcare activity. Complaints such as these would be investigated on a case-by-case basis to determine if the subject deviated from the standard of care.

**Fiscal Impact:**

The Board received one (1) complaint related to discipline from another state in FY 2021/2022. Since SB 345 would prohibit the Board from denying an application for licensure or imposing discipline on a licensee for out of state discipline or conviction for providing a legally protected healthcare activity, it is likely this would not be a very large impact to the Board.

It is difficult to ascertain how many criminal records and convictions received on applicants / licensees involving a legally protected healthcare service based on the current enforcement IT system. However, it is estimated to be very few or none. Any increase in complaint volume as a result of this legislation would be minor and would be able to be managed through existing Enforcement staffing and budget resources.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on SB 345 (Skinner), as amended on March 16, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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

**Status:** Amended March 20, 2023.

Re-referred to the Committee on Business, Professions and Economic Development.

**Existing Law:**

- Establishes the Department of Consumer Affairs, which is composed of various boards, bureaus, committees, and commissions.
- Establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations.
- Defines "board" for purposes of the Business and Professions Code to include bureau, commission, committee, department, division, examining committee, program, and agency.

**Summary of Bill:**

SB 372 would require boards to update a licensee's records, including records contained within an online license verification system, to include the licensee's updated legal name or gender upon receipt of government-issued documentation, as specified, that demonstrates a legal name or gender change for the licensee.

The bill would also require the Board to remove the licensee's former name or gender from its online license verification system and treat this information as confidential. The bill also requires the Board to establish a process for providing a licensee's former name and gender upon receipt of request that is related to a complaint against that licensee.

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

**Board Impact:**

This bill does not change or impact the Board's current process around name change requests as it presently follows the requirements of the proposed law. The Board currently does not collect information about an applicant or licensee's gender. Therefore, there are no documents in a licensee's record to update if there is a change.

One estimated impact of this new bill is related to the Board's IT system. Currently, when a name is changed in the Board's system, the license verification system results on the online DCA search will show a licensee's record with the new name as well as any previous name records within the system. However, SB 372 requires the removal of the licensee's former name from its online license verification system. If passed, the new provisions would require the Board to no longer display a licensee's former name. Additionally, it is possible that every publicly facing record in the system will need to be updated to the new name. This causes concern regarding public safety specific to transparency in having access to a licensee's previous legal name they may have practiced under in the past. For enforcement purposes, it is important to retain a licensee's name history internally and this can be programmed as such. But it is also important for the public to be able to have access to this information for consumer protection.

In addition, if SB 372 is passed and if a licensee requests a re-issuance of documents conferred upon the licensee with the licensee's updated legal name, this could potentially eradicate the person's prior name from their complete license file. Without more specificity in the language identifying the types of documents the Board would be required to reissue, applying the proposed law is problematic. Additionally, the lack of access and availability to the licensee's prior name is concerning for public protection.

**Fiscal Impact:**

Staff does not expect a significant fiscal impact effectuated by this bill given that the Board's current processes related to name changes meet the requirements of the bill. Additionally, the Board already receives a fairly low volume of name change requests at roughly 144 a year. The Board's Office Technician (OT) processes these requests routinely, taking about 15 minutes on each application. If a licensee requests that all documents conferred upon them be updated, this will add an additional 30 minutes of OT time to identify the applicable documents, prepare the documents to comply, and an additional 15 minutes from the Board's Licensing Manager for review and approval. Reissued pocket and wall licenses are \$50 each when a licensee requests a name change. The volume and revenue related to name change requests will not be changed by the provisions of this bill.

Staff would need to make changes to the current name change request form to add the forms of identification listed by the bill. The requirements and elements of the form will need to be placed in regulation. In addition, the bill would require the board to establish a process in regulation for providing a licensee's former name upon receipt of a request that is related to a complaint against the licensee. This would add to the Board's rulemaking workload. The entire rulemaking process on one package can take approximately 40 hours of AGPA time annually, as well as the Board's time for review and discussion.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on SB 372 (Menjivar), as amended on March 20, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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**Senate Bill 544: Bagley-Keene Open Meeting Act: teleconferencing - Laird**

**Status:** Amended on March 20, 2023.

Referred to Committee on Rules.

**Existing Law:**

Bagley-Keene Open Meeting Act requires:

- All meetings of a state body be open and public
- All persons be permitted to attend any meeting of a state body

Bagley-Keene Open Meeting Act authorizes state bodies to:

- Meet through teleconference subject to specified requirements, including but not limited to:
  - Post agendas at all teleconference locations
  - Each teleconference location be identified in the notice and agenda of the meeting or proceeding
  - Each teleconference location be accessible to the public
  - The agenda provide opportunity for the public to address the state body directly at each teleconference location
  - At least one member of the state body be physically present at the location specified in the notice of the meeting

**Summary of Bill:**

SB 544 would amend section 11123 of the Government Code (GC). Currently, to allow state bodies to meet remotely during the state of emergency, existing law related to specified teleconference requirements are suspended until after July 1, 2023. This bill would indefinitely remove said specified teleconference requirements, including:

- A state body post agendas at all teleconference locations
- Each teleconference location be identified in the notice and agenda of the meeting
- Each teleconference location be accessible to the public

Additionally, the bill would require a state body to provide:

- Means for the public to remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting
- Teleconference phone number, website, or other online platform posted on the agenda
- Physical address for at least one site
- Access, if applicable, equivalent to the access for a member of the state body participating remotely
- Teleconference phone number, website, or other online platform, and physical address on any notice and how the public can access the meeting remotely

Lastly, the bill would require that if a state body holds a teleconference meeting, it shall also:

- Continue the requirement that a Board member or staff person be physically present at the physical location specified in the notice
- Implement a procedure for receiving and resolving requests for reasonable modification or accommodation from individuals with disabilities consistent with the federal Americans with Disabilities Act of 1990
- Include the procedure of how the public may observe the meeting and offer public comment on each notice

The Legislature notes the act protects the personal, private information of public officials and their families while preserving the public's right to access information by removing the requirement for agendas to be posted at the location of each public office participating remotely. Often public officials are meeting from their private home or hotel room so this bill addresses that concern.

The Legislature has also declared that audio and video teleconference meetings were widely used in lieu of physical locations during the COVID-19 emergency. Those meetings have been productive, increased public participation, increased the pool of people who are able to serve on the state bodies, protected the health and safety of civil servants and the public, and have reduced travel costs and work hours spent traveling. Teleconference meetings enhance public participation and the public's right of access to meetings of the public.

**Board Impact:**

The Board has conducted all of its public meetings by teleconference through an online WebEx platform and accessible by telephone since June 2020. Currently, under GC section 11133 certain teleconference requirements have been suspended. The provisions of SB 544 are essentially allowing the Board to conduct meetings how we have been since 2020. Staff and

Board members have remarked about the benefits remote meetings have provided, including cost savings, increased participation from the public, and ease and convenience.

There are two new provisions from SB 544 that are different from GC 11133 that would create new processes. SB 544 requires there be one physical location for a public meeting open to the public and provided on the notice. Additionally, the bill requires that one Board member or staff person be physically present at this location. These two provisions will require staff to reserve a meeting room large enough to accommodate for an unknown number of public attendees as well as be accessible in line with the federal Americans with Disabilities Act of 1990. Since the bill allows for at least one staff person physically present and does not specify a region of the state for the physical location, then meeting these minimum requirements should still afford the same cost savings and convenience staff has observed with remote meetings.

**Fiscal Impact:**

Staff reports cost savings in the amount of \$8,000 since meetings have been held remotely. If SB 544 is passed, the Board can continue to have decreased expenditures related to travel required by in-person meetings. Staff would also need to update the Board's Administrative Manual which currently states meetings shall be conducted at least once in northern California and once in southern California each calendar year.

**Staff Recommendation:**

Support

**Recommended Motion Language:**

I move the Acupuncture Board take a [support] position on SB 544 (Laird), as amended on March 20, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.

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

**Status:** Introduced February 17, 2023

This bill is assigned to Senate Rules Committee.

**Existing Law:**

- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.
- Authorizes a board to deny a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified.
- Authorizes a board to deny a license on the grounds that the applicant was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified.
- Requires a board to notify the applicant in writing if a board decides to deny an application for licensure based solely or in part on the applicant's conviction history.

**Summary of Bill:**

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

**Board Impact:**



This bill does not change or impact the Board's current process around applicant denials as it is already policy of the Board's enforcement unit to issue denials of licensure in writing within 30 days of the Executive Officer making that decision.

**Fiscal Impact:**

Being that current policy and procedures comply with the provisions of SB 802, staff estimates no fiscal impact related to SB 802.

**Staff Recommendation:**

Watch

**Recommended Motion Language:**

I move the Acupuncture Board take a [watch] position on SB 802 (Roth), as introduced on February 17, 2023, for the reasons discussed by members and staff and as reflected in the staff memo.



<b>DATE</b>	April 7, 2023
<b>TO</b>	Acupuncture Board Members
<b>FROM</b>	Board Staff
<b>SUBJECT</b>	Regulatory Update

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

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
11/28/2018	2012	N/A	3/28/19	6/2019		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. Following review from Legal Affairs Division, the Board will consider revised language at an upcoming Board meeting.

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
11/28/2018	2/2019	N/A	3/28/19	6/2019		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

Following review from Legal Affairs Division, the Board will consider revised language at an upcoming Board meeting.

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
2/11/19	2/11/19	6/13/19	8/15/19; 3/26/21	1/21/21		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board approved additional regulatory language at the March 2021 Board meeting. Regulatory package is currently under staff development.

**4. 16 CCR 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, 1399.419: Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service:**

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
11/28/18	2018/2019	3/25/21	08/26/21	12/20/21		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board reviewed regulatory language at the March 2021 Board meeting and approved language changes at the March and August 2021 Board meetings. The regulatory package was submitted to the Regulatory Unit December 20, 2021, and is currently in its final review stage.

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
1/2020	4/2019	6/13/19	8/16/19	1/07/21		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board approved regulatory language in August 2019, and the package is currently under development by staff and legal counsel.

**6. 16 CCR 1399.483, 1399.489: Continuing Education Requirements**

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
1/2020	3/2019	3/29/19	3/26/21	3/26/21		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff. The regulatory package was submitted to the Regulatory Unit March 9, 2023, and is currently in its initial review stage.

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
1/1/21	12/20	12/17/20	3/26/21	3/26/21		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff. Following review from Legal Affairs Division, the Board will consider revised language at an upcoming Board meeting.

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

Added to Rulemaking Calendar	Researching & Development	Language taken to Committee	Board Approval	Staff & Legal Counsel Draft Package	Notice Published by OAL	45-Day Comment Period Ended
n/a	2013	1/2014	2/2014	2014		
Hearing Held	Board Final Approval	15-Day Notice of Modified Text	Submitted to Agency for Review	Submitted to OAL for Review	Filed with Secretary of State	Effective Date

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

## RESPONSES TO CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA ACUPUNCTURE BOARD

### ISSUE #1: FEE FOR CURRICULUM REVIEW. Should the CAB assess a fee for the review of curriculum?

**Staff Recommendation:** *The CAB should describe the workload associated with a typical curriculum review and whether the CAB intends to establish a curriculum review fee.*

Board authority to assess a fee for curriculum review is reasonable and responsible to cover the cost of the work required to be completed by Board staff. The cost is currently being covered by the licensing fees.

The workload consists of a Board analyst reviewing an educational and training program's proposed curriculum. The syllabi for all proposed courses are reviewed to ensure they address the minimum 3,000-hour content areas identified in the Board's codes for detailed compliance with BPC section 4927.5 and CCR section 1399.434.

Findings are identified to management in noncompliance reports for final review and approval or denial. If an application is denied the deficiencies are identified. The estimate for staff time to complete a curriculum review is 40 hours for the analyst review and report, one (1) hour for management review, and one (1) hour of technician time to cashier and update records.

The Board has statutory and regulatory requirements to complete the curriculum review in 30 days. Incomplete applications require resubmission to address any identified deficiencies. In the last five years, the Board has received an average of 12 Applications for Board Approval of Curriculum per year. A school degree program generally takes two (2) to three (3) submissions before achieving a complete application.

### ISSUE #2: CONTINUING EDUCATION (CE) PROVIDER FEES. Should the CAB CE provider fees be restructured?

**Staff Recommendation:** *The CAB should discuss its implementation of the new CE course fees, describe the workload associated with reviewing and approving individual CE courses, and discuss noticeable impacts on the CE provider population throughout the COVID-19 pandemic, including any observed trends.*

The increased CE Provider fees are new and beginning to pay for a greater share of the cost of running the Continuing Education program, as well as the monitoring and enforcement of the providers and courses. The fees should not be restructured.

The Board received authority to implement Continuing Education course fees at a rate of \$10 for every unit (hour) of Continuing Education the provider is seeking

to have approved for California acupuncture licensees. These fees were implemented January 1, 2021.

CE Course application reviews consist of a Board Analyst ensuring that:

- courses meet administrative regulatory requirements, such as submission date vs Course date, appropriate fees, attestation of compliance with submission requirements
- course material complies with scope requirements
- course material complies with regulatory requirements.

In addition, a Board Analyst carries out the following tasks:

- confirms content hours
- notifies providers of course request approval or denial, including specific details when denying a course.
- coordinates with the manager and Subject Matter Experts to review possible non-compliant course content or course application denial appeal requests.
- updates and maintain the Connect online CE management system and legacy database of all CE providers and course materials and schedules.
- provides a report listing of approved courses that is available to licensees and stakeholders to view on the Board's website.

There is additional workload involved for administration and enforcement processes for CE.

Prior to this fee change, the Board did not collect enough fees to address the current volume of CE Providers and courses. This resulted in an overloaded, but underfunded, CE Desk with licensees underwriting the approval and monitoring of the very courses the licensees were required to take.

The table below identifies the fees collected per application type since the fees were instituted on January 1<sup>st</sup>, 2021.

Year	Provider Initial App Fees	Provider Renewal Fees	Course Approval Fees	Year Total
2021	\$14,500.00	\$75,950.00	\$206,558.00	\$297,008.00
2022	\$8,500.00	\$80,500.00	\$242,533.00	\$331,533.00

CE providers were affected by the COVID related waiver allowing licensees to renew their license without the need to satisfy their CE requirements. Additionally, during the pandemic there was an increase of licensees changing their license status to inactive, retired, or requested an extension of CE compliance, which is available to licensees with Board approval. All these reasons contributed to a decrease in demand for CE courses from licensees. The Board observed several of the smaller sized providers choose not to renew their provider status as the short-term demand for CE dropped. These providers will be able to come back online with the Board by renewing their Provider status.

Even with the observed decrease of new and renewing CE providers during the pandemic, the Board has observed an increase in Provider renewals and new applications since July of 2022. At no time during the pandemic was there a shortage of CE courses available for CA licensees.

**ISSUE #3: THIRD PARTY CE APPROVAL. Should the CAB be authorized to accept CE from CE providers approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)?**

**Staff Recommendation:** *The CAB should discuss the feasibility of accepting NCCAOM CE, including potential hurdles, benefits, costs, or cost savings.*

The Board reviews and approves Continuing Education courses specifically addressing California scope and curriculum requirements. Accepting NCCAOM Continuing Education course credits would add many more courses that have not been reviewed by Board staff to be compliant with California's specific requirements.

Currently, the Board has statutory and regulatory authority over its CE Providers such that it may request access to such items as course materials, attendance logs, and/or course evaluations. Accepting Continuing Education courses approved by another organization for California license renewal credit would remove the availability of such provider responsibilities. Providers not approved by the Board may take longer to communicate with the Board, if at all, which would also hold up Continuing Education licensee audits.

Accepting CE courses from another organization will increase licensing and renewal fees as the Board would still be required to carry out Continuing Education Audits of its licensees without the CE provider and course fees offsetting the costs.

**ISSUE #4: LICENSEE CE AUDITS. How will the CAB handle CE compliance audits now that the COVID-19 emergency waivers have expired?**

**Staff Recommendation:** *The CAB should update the Committees on the status of its CE audit program, including timelines.*

The pandemic and its associated licensing renewal (CE) waivers removed the need for licensees to complete CEs as a condition of renewal. As such, during the time of the waivers, it was not necessary for the Board to expend its time and resources on the Licensee audits. Now that the pandemic waivers have expired, the Board anticipates resuming the audits in January of 2024.

The Board is planning a 2024 date because it is currently developing a (Licensee) CE Audit module as part of the Board's new licensing system which will make the process easier on licensees and Board staff by moving to a digital platform. The Board is also allowing time for licensees' practices to normalize now that society is returning from the pandemic practices, and to allow for the Board to



communicate its intended action to licensees. It is important to note that for the CE Coordinator, the CE Provider and Course Approval duties take most of the coordinator's time.

As the process resumes, the Board will pay close attention to the workload brought on by the audit as it will greatly add to the coordinator's workload. Initiating the CE Audit process will also impact the Board's enforcement unit when non-compliance is identified. While there will be an increase in workload to address the audit, it is anticipated that the new CE audit module would automate and simplify some processes.

Conducting Licensee CE audits also identifies CE Provider non-compliance; this will also increase the workload on the Enforcement and Licensing Units. Considering this, the Board would start auditing a small percentage of the renewing population and gradually ramp up its audit numbers as the process is realized to not overload staff. The Board will closely monitor its CE and enforcement workload to address any additional budgetary and personnel requirements through future Budget Change Proposals.

**ISSUE #5: CE COURSE PROVIDER AUDITS. When will the CAB begin auditing CE Providers?**

**Staff Recommendation:** *The CAB should update the Committees on its plan to audit CE providers, including any additional details or timelines.*

The Board will begin auditing CE Providers during the Licensee CE audits which is anticipated to start in January of 2024.

Historically, conducting Licensee CE Audits identifies CE Provider violations. Starting the CE Provider audits at the same time as the Licensee CE audits will provide time for the enforcement unit to address the violations and identify best practices for a separate CE Provider audit practice.

**ISSUE #6: WALL LICENSES. Is the wall license registration system working as intended?**

**Staff Recommendation:** *The CAB should update the Committees on the implementation of the new wall license registration program, including any trends in compliance or enforcement activity.*

The Board has completed its second year of the wall license requirement, meaning that a licensee who obtained their wall license at the time of their renewal in January of 2021 would be renewing their wall license again now in January of 2023.

Licensees were required to meet the Wall License requirement at their next L.Ac. renewal after January 1, 2021. The Board has data for the first two years of this requirement after its implementation, however, this only covers one two-year

renewal period for licensees, and any trends will be challenging to identify at this point in time.

The Board can look at two areas in assessing broad trends as it continues with this requirement. First, the current number of wall licenses issued compared to the total of renewing active licensees, and secondly, the total number of address violations received in complaints as well as violations identified during an investigation of enforcement cases.

As of January 1, 2023, there was a count of 7,473 active licensees with 3,867 wall licenses issued. While a licensee would not be required to have a wall license if their practice was solely through telehealth and house visits, this is a very unlikely scenario for most licensees. From this perspective, the Board anticipates that more licensees need to register their place of practice.

The wall license has improved the Board's ability to track wall license practice registrations and address changes but ultimately there has not been enough time to collect data to make more precise estimates on the efficacy of this requirement. Additionally, even with the Board's outreach, licensee awareness and compliance with this new requirement is still growing. The pandemic also created a situation where licensees went on inactive status and as such did not need to have a practice address registered.

The Board will continue with its outreach efforts to inform licensees to come into compliance with this new requirement, as well as monitor the wall license numbers for growing trends.

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**ISSUE #7: PERFORMANCE MEASURE TIMELINES. How will the CAB handle the impediments preventing it from meeting its target timelines for investigations or formal discipline cases?**

**Staff Recommendation:** *The CAB should discuss ongoing impediments to meeting its PM timelines and any plans to overcome those impediments.*

The Board continues to work with its partners at the Division of Investigation and the Office of the Attorney General to address backlogs created due to the pandemic and its associated challenges. The Board experienced several vacancies in the enforcement unit that presented challenges in both filling those positions during the pandemic, as well as onboarding new staff. The Board will continue closely monitoring and prioritizing cases to reduce impediments to meet the Board's Performance targets.

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**ISSUE #8: ACUPUNCTURE ASSISTANTS. Should acupuncturists be authorized to utilize acupuncture students for certain functions in their practice?**

**Staff Recommendation:** *The CAB should update the Committees on any discussions it may have had on the topic and whether there are any immediate patient safety concerns.*

The Board has not discussed this item in the last 15 years. It appears that this was an item of interest for the Joint Committee on Boards, Commissions, and Consumer Protection as Business and Professions Code section 4934.2(a) required the Board to research and report to said Committee by September 1, 2004 a comprehensive study of the use of unlicensed acupuncture assistants and the need to license and regulate those assistants.

In the examples provided in the background paper for what an assistant could be doing, the only challenge would be for unlicensed individuals removing needles. Board staff have identified possible patient safety concerns from unsupervised practice that may manifest during needle removal or because of inadequate infection control practices.

BPC section 4937 lists modalities that are not solely within an acupuncturist's scope such that if those assistants have the appropriate training in those modalities, they can carry out those treatments.

CCR section 1399.434(h) does afford an acupuncture student attending an approved educational and training program to earn 25% of their clinical hours in an externship at a private clinic. The supervisor in this environment would be required to be a licensed acupuncturist with at least five years of licensed clinical experience in acupuncture and Asian medicine and have an agreement with an educational and training program. Acupuncture trainees, in an approved acupuncture tutorial program, would also be allowed to work in an acupuncture clinic, under the responsibility of the tutorial program supervisor.

The Board encourages the acupuncture profession to work with acupuncture educational and training programs for hiring qualified externship students, or engaging training tutorial students as a tutorial supervisor, if it is seeking to engage the assistance of individuals who have training in acupuncture prior to licensure.

The Board would need greater details from the profession on what specific practices they are seeking to have acupuncture assistants carry out to ensure that public safety concerns are addressed.

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**ISSUE #9: COVID-19. Are any statutory revisions, updates, or changes necessary in the aftermath of the COVID-19 pandemic?**

**Staff Recommendation:** *The CAB should advise the Committees on its use of any COVID-19 waivers and whether any statutory changes relating to the COVID-19 pandemic are needed going forward.*

The ability to meet remotely allowed for the Board to continue meeting during the pandemic, afforded cost savings by not requiring room rentals and travel expenses to conduct the meetings, and made the Board's meetings more accessible to the public and stakeholders without requiring them to travel. The Board welcomes this medium for future meetings. Holding remote meetings helped streamline the logistics of setting up meetings in live locations. An in-person

Board meeting typically costs the Board \$10,000, whereas remote meetings typically costs the Board \$2,000.

The Board moved to codify in regulation the requirements for the safe practice of acupuncture telehealth which is on the regulatory calendar.

The Board did utilize the waiver affording Continuing Education requirement extensions for licensure renewal.

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**ISSUE #10: TECHNICAL CHANGES. Are there technical changes that can improve the CAB or its functions?**

**Staff Recommendation:** *The CAB should continue to work with the Committees and suggest any technical clean-up that may be needed.*

The Board requests the Committees' example to align the current association name, Accreditation Commission for Acupuncture and Herbal Medicine (ACAHM).

In BPC section 4961(f)(1), the Board requests that, 'Asian massage services,' be removed as it is already called out as part of an acupuncturist's scope in BPC section 4937.

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**ISSUE #11: SUNSET EXTENSION. Should the practice of acupuncture continue to be regulated and licensed under the CAB?**

**Staff Recommendation:** *The CAB's regulation of acupuncturists could be continued and be reviewed again on a future date to be determined.*

Yes, continued regulation and licensure of the practice of Acupuncture by the Board will provide for greater public safety.