

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.7.
ACUPUNCTURE BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
**Application Process for Licensing Examination and Re-examination,
and Criteria, and
Procedures for Approval of a Credential Evaluation Service**

NOTICE IS HEREBY GIVEN that the Acupuncture Board (hereafter, Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than by 5:00 p.m., Tuesday, October 24, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section(s), 4928, and 4933 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 4925, 4938, 4939, 4940, 4941, and 4944 the Board is considering amending section(s) 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419, and adopting sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4 of Title 16, Division 13.7, Article 2 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

BPC section 4933 authorizes the Board to adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part

1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture. BPC section 4928.1 requires that protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions.

This regulatory proposal creates minimum requirements for Board approval of credential evaluation services, setting forth Board requirements, criteria, an application process, and an approval/revocation process for credential evaluation service applicants. The proposal also provides a section of definitions for terms used throughout the article.

Additionally, the proposal sets requirements for applicants applying and re-applying for the California Acupuncture Licensing Examination. The requirements will differ based upon the education and training track the applicant completed (approved educational and training program, foreign-trained, or tutorial program). The proposal removes outdated deadlines and policy which related to the exam being administered twice a year versus the current process of being accessible by computer all year long. The proposal also improves and updates the documentation and submission requirements accepted by the Board.

Anticipated Benefits of Proposal

This proposal would strengthen oversight and provide greater assurances of the accuracy, completeness, and timeliness of foreign-trained applicant submissions by creating minimum requirements for Board approval of credential evaluation services, incorporating an application form, specifying definitions, and requiring credential evaluation services to attest to facts and representations made to the Board.

Additionally, the regulations will provide clear and consistent requirements for applicants applying for the California Acupuncture Licensing Examination based upon the education and training track they completed. Old and nonapplicable deadlines and policy related to the prior method of administering the exam are removed to establish relevant and clear guidelines for the exam application process. The proposal also amends the documentation and submission standards for the Board. Overall, this proposal creates a transparent process and allows applicants to demonstrate eligibility for an acupuncture license with more ease.

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

The regulations do not have a fiscal impact to the state.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None. The regulations do not have a fiscal impact to the state.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS:

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Board presently works with approximately six NACES recognized credential evaluation services who would be directly affected by this proposal. However, there are potentially 19 NACES recognized credential evaluation services open to apply for Board approval. On average the Board estimates that it will receive one new Credential Evaluation Service applicant in any given year. It is anticipated the approved services will remain static year to year. Organizations that provide credential evaluation services would not experience a significant financial burden in completing the application and complying with the proposed amendments to Title 16, California Code of Regulations

sections 1399.411, 1399.416.3 and 1399.416 since they currently meet the requirements of the proposed application and regulations.

There is no cost associated with the application process. Additionally, costs associated with changes to the evaluation reports, including a single disclaimer, provided to acupuncture candidates and statistical reporting should not increase costs for the organizations.

The fees associated with the applications for examination and re-examination are not being altered by the amendments to Title 16 CCR sections 1399.409, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419. The amendments to these sections are achieving clarity and an update to the processes and requirements. Therefore, no additional costs are expected with these changes.

Title 16, CCR section 1399.411 affects approved educational and training programs. However, it is estimated that it will not affect costs for these programs as the regulation is simply providing clarity on the documentation process and requirements when submitting proof of education and training to the Board. The requirements are already being met by approved educational and training programs.

Impact on Jobs / Businesses

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

Business Reporting Requirements

The regulatory action requires Board approved credential evaluation service businesses to file a report with the Board regarding any changes to information previously provided to the Board. As these businesses are providing information on which the Board will rely in determining the fitness for licensure of applicants seeking to practice a healing art on the people of the State of California, it is necessary that the Board be informed of changes which might affect the veracity or reliability of the credential evaluation service. Therefore, this report is necessary for the health, safety, and welfare of the people of the State of California.

By setting standards and requirements for credential evaluation services, the Board has more control over the accuracy and integrity of the evaluation of foreign-trained

applicants. Thereby, fraudulent activity is mitigated so only applicants who are legitimately eligible for licensure become licensed.

This regulatory action provides public protection. Additionally, the regulations will provide clear and consistent requirements for applicants applying for the exam based upon the education and training pathway they completed. Updating and clarifying the application process improves the Board's review achieving public protection so only those who meet education and training qualifications are admitted to the exam and, in turn, licensed.

Effect on Small Business

The Board has determined that the proposed regulations may affect small businesses.

Cost Impact on Representative Private Person or Business

The Board is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 North Market Blvd., Suite N-219, Sacramento, California 95834.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at https://www.acupuncture.ca.gov/about_us/relevant.shtml or upon request from the Board at:

1625 North Market Blvd.
Suite N-219,
Sacramento, California 95834

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Kristine Brothers
Policy Coordinator

Address: Acupuncture Board
1625 North Market Blvd., Suite N-219
Sacramento, CA 95834

Telephone No.: 916-515-5200
Fax No.: 916-928-2204
E-Mail Address: AcuPolicy@dca.ca.gov

The backup contact person is:

Name: Marisa Ochoa
Central Services Manager

Address: Acupuncture Board
1625 North Market Blvd., Suite N-219
Sacramento, CA 95834

Telephone No.: 916-515-5200
Fax No.: 916-928-2204
E-Mail Address: AcuPolicy@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at https://www.acupuncture.ca.gov/about_us/relevant.shtml.