

ACUPUNCTURE BOARD

Proposed Language Concerning the Application Process for Licensing Examination and Re-examination, and Criteria and Procedures for Approval of a Credential Evaluation Service

Proposed amendments to the regulatory language are shown in single underline for the addition of new text and ~~single strikethrough~~ for deleted text.

Add new titles and 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 in California Code of Regulations, Title 16, Division 13.7, Article 2 to read as follows:

§ 1399.409. Definitions.

For purposes of the regulations contained in this Article, the following definitions apply:

- (a) "Foreign-trained applicant" means a person who completed education outside of the United States.
- (b) "Credential evaluation" means an evaluation sent from a board-approved credential evaluation service to the Board, as required by section 1399.416.3.
- (c) "Credential evaluation service" or "Service" refers to the agency or organization defined in section 4939 of the Code, which must be approved by the Board pursuant to 1399.416.4 in order to submit credential evaluations to the Board.
- (d) "Transcript" means a copy of a student's permanent academic record issued by a school, college, or university identifying the student and attesting to the student's completion of specific courses with grades, credit hours, dates of attendance, academic major(s), degree or diploma granted, if any, including date of graduation, and any awards or honors.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938, 4939, 4940, and 4941, Business and Professions Code.

§ 1399.411. Certification of documentation.

- (a) Domestic Transcripts. Documentation of transcripts or completion of an approved educational and training program ("program") as required by section 1399.416(a), or of supervised clinical hours, submitted by or on behalf of the applicant, shall be

originals, and certified by the appropriate official responsible for the records such as the registrar, or by governmental seal or other authority. Such documentation shall be mailed or sent directly from the program to the Board in an unopened, sealed envelope. Documentation may also be sent by secure electronic submission directly from the program or from a transcript service which contracts with the program. The Board in its discretion may waive this certification requirement when it is determined that it cannot be obtained through the exercise of due diligence, including the closure of the program or if the program does not maintain such records.

(b) Foreign Transcripts. For transcripts of education received outside of the United States, the Board shall only accept certified copies of original transcripts used by an approved credential evaluation service and provided directly to the Board by that service as provided in section 1399.416.3.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Section 4938, 4939, and 4944, Business and Professions Code.

§ 1399.413. Application for Licensing Examination Deadline.

(a) All new applications for examination shall be complete and shall be submitted on a form provided by to the Board, accompanied by such statements and documents as required by this subsection. All such applications shall be received in the Board's Sacramento office at least 120 calendar days prior to the date of the examination for which the application is made. A completed application for examination shall include the application fee required by Section 1399.460 and all of the following information:

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),

(2) Other name(s) applicant has used or has been known by,

(3) Applicant's physical address,

(4) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,

(5) Email address, if any,

(6) Applicant's telephone number,

- (7) Applicant's Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.
- (8) Applicant's birthdate (month, day, and year).
- (9) Examination language preference.
- (10) Color copy of a U.S. state or federal government issued picture identification.
- (11) For applicants who have completed an approved educational and training program(s) as defined in Section 4927.5 of the Code, provide:
- (A) the name and location of each school or college where acupuncture education and training was obtained, including any higher education, undergraduate education, and education for which transfer credit was later awarded by another acupuncture school or college, if applicable.
 - (B) the dates of attendance for each approved educational and training program; and,
 - (C) the documentation required by section 1399.416(a), provided to the Board in the manner prescribed by section 1399.411.
- (12) For foreign-trained applicants, provide:
- (A) a list of the name(s) and address(es) of schools where acupuncture or Asian medicine education was obtained,
 - (B) the dates of attendance for each school,
 - (C) certified transcripts from each school for each educational program completed and provided to the Board in the manner prescribed by section 1399.411; and,
 - (D) the results of an evaluation of the applicant's education from a credential evaluation service provided directly to the Board by the service as prescribed by Section 1399.416.3.
- (13) For applicants who completed a tutorial program in the practice of an acupuncturist that is approved by the Board pursuant to section 1399.425, provide tutorial program start and completion date(s).

- (14) A list of any other acupuncture or healing arts license or certification in any jurisdiction, including any state, agency of the federal government or country, and providing the type of license, license number, date of issuance, and dates of practice.
- (15) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.
- (b) All applications for re-examination shall be complete and submitted ~~on a form provided by~~ to the Board (“~~Application Update for Examination/Licensure~~”, revised 3/96), accompanied by such statements and documents as required by subsection (c). ~~All such applications shall be received in the Board's office at least 30 calendar days prior to the date of the examination for which the application is made.~~
- (c) A completed application for re-examination includes the fee required by section 1399.460 and all of the following information:
- (1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),
 - (2) Applicant's Examination ID Number,
 - (3) Applicant's current mailing address, if different than previously supplied,
 - (4) Applicant's email address, if any,
 - (5) Applicant's telephone number,
 - (6) Examination language preference; and,
 - (7) A statement signed under penalty of perjury by the applicant that all statements made in the application are true and correct.
- ~~(c) All transcripts and supporting documents from qualifying educational institutions or tutorial supervisors shall be received in the Board's office at least 30 calendar days prior to the date of examination for which an application was made.~~
- ~~(d) The Board may waive the foregoing filing dates if there are difficulties with the administration of the examination or other circumstances warrant.~~

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 21, 27, 29.5, 30, 31, 325, 326, 494.5, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

§ 1399.414. Request for re-evaluation of Denial of applications to take licensing exam; Approval to Test.

- (a) Any applicant whose application to take the licensing exam is denied, may submit within fifteen (15) calendar days from the date of rejection, a request, in writing, that the applicant's application be presented to the Board for further evaluation. The Board shall respond, in writing, to the request within fifteen (15) calendar days from the date the request is received.
- (b) If the Board determines that an applicant has met the requirements for acupuncture licensure set forth under subsection (a) paragraphs (1), (2), and (5) of Section 4938, it shall ~~schedule~~ approve the applicant to take for the examination.
- (c) Nothing in this section shall ~~be constructed to deprive~~ be construed to deny an applicant of their rights of appeal as afforded by other provisions of law.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938 and 4944, Business and Professions Code

§ 1399.416. Equivalent Educational Training and Clinical Experience Qualifying for Licensure.

- ~~(a) In order For~~ For documented educational training and clinical experience to qualify for licensure under Section 4938(a)(2)(C) of the Code, the an applicant shall document that such education and experience meets the curriculum requirements of Section 1399.434, including certified transcripts, and certificates of completion of a course in cardiopulmonary resuscitation (CPR) pursuant to Section 1399.434(f)(3) or clean needle technique (CNT) pursuant to Section 1399.434(b)(2)(K), if not specified in the transcript.

All foreign-trained applicants shall submit documentation of their his or her education and clinical experience to a credentials evaluation service approved by the board, that is a member of the National Association of Credentials Evaluation Services, Inc. pursuant to Section 1399.416.4 for ~~review and a report to the Board~~ a course-by-course evaluation. This report shall be filed by the applicant with the applicant's application for examination. All foreign-trained applicants must have successfully completed equivalent coursework to the coursework set forth under section 1399.434.

Note: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4925, 4938, 4939, 4940, 4941 and 4944, Business and Professions Code.

§ 1399.416.2. Foreign-Trained Applicant Equivalent Educational Training and Clinical Experience Qualifying for Licensure; Processing and Remediation.

- (a) Once the Board has received the foreign-trained applicant's credential evaluation, the Board shall examine the results of the evaluation to determine if the foreign-trained applicant is eligible to take the licensing examination and notify the applicant in writing if they have met the experience requirements. If the foreign-trained applicant does not meet the educational requirements set forth in section 1399.434, the Board will notify the foreign-trained applicant in writing that the foreign-trained applicant is missing courses or training and that they may submit new or additional courses or training for consideration by the board within 180 days of the date of the written notice to allow the foreign-trained applicant to qualify for the licensing examination.
- (b) The missing courses or training, if applicable, must be taken at the following:
- (1) An educational institution with a Board-approved acupuncture educational and training program, as defined by section 4927.5 of the Code and meeting the curriculum requirements of section 1399.434. The approved educational and training program shall not require the foreign-trained applicant to complete any coursework beyond what has been identified by the list of missing courses provided by the Board;
 - (2) A private institution of higher education accredited by an accrediting agency recognized by the United States Department of Education and approved by the Bureau for Private Postsecondary Education; or,
 - (3) A public institution of higher education, as defined by "public higher education" in Education Code section 66010.
- (c) Upon submission of certified transcripts sent directly to the Board as required by section 1399.411 showing completion of the missing courses, the foreign-trained applicant shall be approved to take the examination.

Note: Authority cited: Sections 4933 and 4939 Business and Professions Code. Reference: Sections 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code.

§ 1399.416.3. Requirements for Education and Training Evaluations Provided to the Board by Credential Evaluation Service.

Each evaluation provided by a Board-approved Service shall:

- (a) Be originals furnished directly to the Board in English and delivered or sent by United States mail either by first class or priority mail;
- (b) Affirm, in a written statement, that the evaluation is based only upon verified authenticate, official original transcripts and degrees;
- (c) Include the specific method or methods of authentication for the transcripts, certification, degrees, and other education evaluated for the purposes of the report;
- (d) Include a report of each degree held by the foreign-trained applicant, along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;
- (e) Include an English translation of the course titles, and the semester unit equivalence for each course;
- (f) Provide the total number of units completed and evaluated by the Service;
- (g) Include certified copies of all original documents submitted by the foreign-trained applicant;
- (h) Include the name or names of the foreign-trained applicant, as shown on the transcripts submitted, as well as the name under which the foreign-trained applicant requested the evaluation; and,
- (i) Include the following disclaimer: "This evaluation service is not authorized by the California Acupuncture Board to include in this evaluation any opinion as to whether certain courses will be accepted by the Board as meeting the Board's requirements or whether the applicant meets the Board's requirements for taking the licensing exam or for licensure."

Note: Authority cited: Sections 4933 and 4939, Business and Professions Code.

Reference: Sections 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code.

§ 1399.416.4. Requirements for Approval or Renewal of Agency or Organization to Provide Credential Evaluation Services; Process for Denial or Revocation of Service Approvals; Appeal Procedures.

- (a) To receive and maintain Board approval, a Service shall submit a completed application to the Board containing the information and documents required by this section.
- (b) The application for a Service to apply for Board approval shall contain the following:
- (1) Applicant identifying and contact information that includes all of the following:
 - (A) Legal Name of applicant and type of entity (agency or organization),
 - (B) Applicant's physical address,
 - (C) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,
 - (D) Applicant's phone number,
 - (E) Applicant's fax number, if any,
 - (F) Applicant's Internet web site address, if any,
 - (G) Applicant's email address, if any,
 - (H) The name and title of the individual who will be the applicant's primary contact ("primary contact") for the Board,
 - (I) The primary contact's phone number; and,
 - (J) The primary contact's email address, if any.
 - (2) A copy of the Service's credential evaluation policy,
 - (3) A complete list of terminology and evaluation terms used in producing the Service's credential evaluations,
 - (4) A written statement affirming that the applicant bases its evaluations only upon verified authentic, official transcripts and providing a detailed description of the specific methods utilized for credential authentication by the Service,
 - (5) A list of at least three colleges or universities accredited by an association recognized by the Secretary of the United States Department of Education or

- other licensing agencies currently using its services, along with a contact person at each institution,
- (6) Résumés or curriculum vitae for each evaluator and translator, including years as a translator, a list of languages spoken, and places worked,
- (7) Three sample evaluations that comply with the requirements of Section 1399.416.3; and,
- (8) A written statement affirming all of the following:
- (A) The Service is a member of a nationally recognized foreign credential association such as, but not limited to, the American Association of Collegiate Registrars and Admissions Officers (AACRAO) and the National Association of Credential Evaluation Services (NACES);
- (B) The Service maintains a complete set of reference materials. “Complete” means that the materials include all necessary information to prepare complete, accurate evaluations and are the most current editions available; and,
- (C) The Service has, or agrees to establish and maintain, within thirty (30) days of Board approval, a minimum six-year document retention policy.
- (c) In addition to the information required in subsection (b), the applicant shall also furnish the following information as part of the application:
- (1) A copy of the Service’s current written procedure for identifying fraudulent transcripts, and a statement certifying to the Service’s compliance with that procedure;
- (2) A copy of the Service’s appeal procedure for foreign-trained applicants, and a statement certifying that the Service is in compliance with that procedure;
- (3) Three letters of reference from public or private agencies that have worked with the Service; and,
- (4) Statistical information on the number of applications processed, annually, for the past five years.
- (d) The Service shall report to the Board in writing any change to the information previously provided to the board pursuant to this section within 60 days of the date of such change.
- (e) Approval issued under this section shall expire five (5) years after the date of issuance. As a condition of renewal, the Service shall successfully undergo re-

evaluation by the Board by submitting the application and information required by subsections (a)-(c) and meeting the requirements of this section.

- (f) In order to remain as a Board-approved Service, the Service shall respond to any inquiries by the Board, submit any documents and provide any information requested by the Board, and cooperate in any investigation conducted by the Board regarding the Service's compliance with the Board's requirements. Failure to respond to the Board within thirty (30) days of the date of the Board's written inquiry or request for documents or information constitutes grounds for revocation of approval by the Board pursuant to subsection (g).
- (g) Approval may be denied or revoked if the Service fails to comply with any of the requirements of this section or furnishes any false, inaccurate, incomplete and/or misleading information to the Board.
- (h) The Board shall provide the Service with a written notice of the denial or revocation of the Service's approval when the Board seeks to deny an application or revoke an approval pursuant to this section. The notice shall include the basis for either the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The Service may submit a written request for reconsideration to the Board's designee of either the denial or revocation within fifteen (15) days of the date of the Board's written notice of such denial or revocation. The written request shall provide the reasons the Service warrants a reconsideration of the denial or revocation. The Service, by availing itself of this request for reconsideration, does not waive its right to appeal under subsection (i).
- (i) Regardless of whether or not the Service requests reconsideration as provided in subsection (h), the Service may appeal the denial or revocation of an approval by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within thirty (30) days of the date of the Board's written notice specified in subsection (h).
- (j) If the denial or revocation notice is withdrawn by the Board's designee after the board grants a reconsideration, the application shall be deemed approved or the approval deemed unrestricted and the request for an informal hearing shall be deemed to be withdrawn.

Note: Authority cited: Section 4933 and 4939, Business and Professions Code; Section 11445.20, Government Code. Reference: Sections 27, 4925, 4938, 4939, 4940, 4941, and 4944, Business and Professions Code; Sections 11445.10, 11445.20, Government Code.

§ 1399.417. Abandonment of Applications.

- (a) An application for examination shall be deemed to have been abandoned and the applicant's fee forfeited in any of the following circumstances:
- (1)- The applicant fails to complete the applicant's application within 180 calendar days after it has been filed. An application shall be deemed complete when all documents and information required to determine eligibility for examination have been submitted to the Board.
- (2)- The applicant fails to take the licensing examination within two (2) years after the date that the applicant is notified by the Board of the applicant's eligibility to take the examination, unless, prior to the application being deemed abandoned, the applicant submits a written explanation to the Board, of the applicant's inability to appear for the examination. The Board may extend the applicant's eligibility to take the examination for ~~two (2) more consecutive administrations of the examination~~ one (1) year.
- (3)- The applicant, after failing the examination, fails to take a re-examination within two (2) years after the date the applicant was notified of such failure, unless prior to the application being deemed abandoned, the applicant submits a written explanation to the Board, explaining the cause of the applicant's inability to appear for the examination. The Board may extend the applicant's eligibility to take the examination for ~~two more consecutive administrations of the examination~~ one (1) year, upon a showing of good cause to the Board.
- (b) An application submitted after the abandonment of a former application for examination shall be treated as a new application.
- (c) An applicant who, after passing the examination, fails to submit a complete application for licensure within three (3) years after the date the applicant is notified ~~that of the applicant's eligibility for licensure he or she~~ the applicant passed the examination shall be deemed to have abandoned ~~the~~ applicant's application for licensure. An application submitted after the abandonment ~~for~~ of a former application for licensure shall be treated as a new application and the applicant shall qualify for, and take and pass the examination, if any, which would be required of the applicant if an initial application for licensure was being made.

(d) For the purposes of this section “good cause” includes:

- (1) Death of an immediate family member (spouse, child, or parent). Documentation, such as a copy of the death certificate, must be submitted.
- (2) Catastrophic illness, contagious disease, or major traumatic injury to the applicant or immediate family member (spouse, child, or parent). Documentation, such as an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature, must be submitted.
- (3) Natural disaster (earthquake, flood, fire, etc.).
- (4) Non-issuance of visa for travel to the U.S.. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.
- (5) Service of the licensee on extended active duty with the Armed Forces of the United States. Documentation, such as copies of current Leave and Earnings Statements or military orders, must be submitted.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 4938, and 4944, Business and Professions Code.

§ 1399.419. Review and Processing of Licensing Exam~~Examination~~ Applications; Requirements for Licensure.

- (a) Within forty-five (45) calendar days after receipt of an application for examination, the Board shall inform the applicant whether the application is complete and ~~accepted for filing~~ approved or that ~~it~~ the application is deficient and what specific information or documentation is required to complete the application.
- (b) An applicant will be notified of their eligibility for the examination ~~W~~within forty-five (45) calendar days of receipt of a completed application received by an applicant from an approved educational and training program or tutorial program., ~~the applicant will be notified as to the applicant's eligibility for the written examination.~~
- (c) For foreign-trained applicants, an applicant will be notified of his or her the applicant's eligibility for the examination within ninety (90) calendar days of receipt of a completed application.

(ed) Within thirty (30) calendar days from the date the written examination is administered, candidates will be notified of their results by the Board, or its designee, and if the applicant has passed the examination, will be offered, a license to practice acupuncture upon meeting all of the following:

(1) payment of the initial license fee specified fee in section 1399.460,

(2) submission of full and complete fingerprints to the Board for use in conducting criminal history record checks through the California Department of Justice and the Federal Bureau of Investigation; and,

(3) the applicant is not subject to denial pursuant to Division 1.5 (commencing with Section 475) of the Code.

~~a license to practice acupuncture.~~

~~(d) The minimum, median, and maximum processing times for examination results from the time of receipt of a complete application until the Board makes a decision are set forth below.~~

~~Minimum – 130 calendar days~~

~~Median – 155 calendar days~~

~~Maximum – 180 calendar days~~

~~These processing times apply to those candidates who take and pass the first available examination and who submit a complete application by the first available application deadline.~~

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to safely perform as an acupuncturist, ~~safely~~ because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the Board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the Board. The Board shall pay the full cost of such examination. An applicant's failure to comply with ~~the~~ this requirement shall render the applicant's application incomplete.

The report of the evaluation shall be made available to the applicant.

Note: Authority cited: Section 4933, Business and Professions Code.

Reference: Sections 144, 480, 820, 4938, and 4944, Business and Professions Code.