

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

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:  
**Continuing Education: Law and Ethics Requirement**

**NOTICE IS HEREBY GIVEN** that the Acupuncture Board (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, November 21, 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) 4933 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 704, 4945, 4955, and 4970 the Board is considering amending section(s) 1399.480, 1399.489, and 1399.489.1 of Title 16, Division 13.7, Article 8 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 4945 authorizes the Board to establish standards for continuing education (CE) for acupuncturists and requires the Board to mandate each acupuncturist complete 50 hours of CE every two years as a condition for renewal. To address public input that matters leading to discipline and complaint trends could be addressed by adding an ethics course requirement for licensees through their CE requirements, the Board proposes instituting a requirement that all practitioners, new and old, take a CE course focusing on law and ethics as a condition of renewal, which should assist acupuncturists with keeping up to date with changes in the law and ethical considerations that may affect their practice.

The regulatory proposal would add a new requirement that, as a condition of renewal, a licensee complete a minimum of four hours in law and ethics CE during the two years immediately preceding their license expiration date, unless a licensee is renewing an initial license that has been issued for less than two years. The proposal would add a definition of “.5” or “One half Hour” to mean at least 25 minutes of participation in an organized learning experience to specify what a half hour means in relation to new proposed requirements for completion of CE coursework in existing Section 1399.489.1.

The proposal amends the existing requirement of 22 hours of Category 1 CE coursework to 22.5 hours in 1399.489.1 for licensees restoring their license to active when their license was inactive for less than a year. For inactive licensees seeking to restore their licenses to active status, the Board is also proposing to add “The licensee shall also have completed four (4) hours of continuing education in law and ethics as part of either the minimum 50 hours or 22.5 hours of continuing education required by this subsection,” to CCR section 1399.489.1.

The proposal would also make other clarifying changes to specify how requirements apply to certain licensees by adding the words “on active status” and “of the course”, and make minor, technical or non-substantive changes to address grammar and the use of decimal numbering in this proposal (e.g, “22.5 hours” means “twenty-two- and one-half hours”).

### **Anticipated Benefits of Proposal**

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents. The proposal aims to reduce violations by acupuncturists through mandated education, which will promote more ethical practice and improve public health and safety. The proposal will achieve this by setting a minimum CE requirement to include law and ethics, which places the Acupuncture Board in alignment with other healing arts boards. This proposal would also benefit the

health and welfare of California residents by ensuring that acupuncturists, as health care practitioners, are continuously informed of their legal and ethical obligations through establishment of directed and ongoing educational requirements in these areas.

This regulatory proposal benefits the health and welfare of California residents by ensuring licensee's comprehension of the law and ethics, which helps to achieve more competent licensees and promotes consumer protection. This means that members of the public will benefit from having a more informed licensee as such education will help increase the likelihood that licensees will act ethically and in compliance with the law in the professional relationship.

The proposal does not affect worker safety because it has nothing to do with worker safety. The proposed regulations do not affect the state's environment because it has nothing to do with the 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.

### **FISCAL IMPACT ESTIMATES**

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** There is no fiscal impact to the State in the form of federal funding or any cost or savings to any state agency.

The proposed amendments specify CE coursework and fulfillment requirements for licensees as part of existing total hours required for license renewal. The regulations do not increase the total number of CE hours required. As a result, the Board does not anticipate an increase in workload or costs resulting from the proposed regulations.

**Nondiscretionary Costs/Savings to Local Agencies:** None

**Mandate Imposed on Local Agencies or School Districts:** None

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

**Significant Effect on Housing Costs:** None

## **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. This initial determination is based on the following facts:

The new CE requirement of four hours of law and ethics mandated by the amendments of subsection (c) of CCR section 1399.489 is expected to increase participation in these courses. However, because the regulations do not increase the total hourly requirement of 50 hours for license renewal, licensees are anticipated to take and complete the four hours of law and ethics coursework in lieu of four hours of other available CE courses. Additionally, law and ethics courses are already currently available. As a result, the regulations are not anticipated to result in additional costs or revenues to CE providers.

The amendments to CCR Section 1399.489 will also affect licensees renewing on active status each year. However, the new minimum CE requirement of four hours of law and ethics should not cause any economic impact to licensees since the overall total of CE hours has not increased. The new requirement only prescribes that a licensee's total 50 hours of CE must now consist of 4 hours of law and ethics. The price of law and ethics courses are not priced higher than the other kinds of CE courses.

### **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.

## **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### **Impact on Jobs / Businesses**

The Board has determined that this regulatory proposal will not have a 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. The proposed changes only create minimum CE requirements within the existing 50 total hours of CE required for renewal.

## **Benefits of Regulation**

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents. The proposal aims to reduce violations by acupuncturists through mandated education, which will promote more ethical practice and improve public health and safety. The proposal will achieve this by setting a minimum CE requirement to include law and ethics, which places the Acupuncture Board in alignment with other healing arts boards. This proposal also would benefit the health and welfare of California residents by ensuring that acupuncturists, as health care practitioners, are continuously informed of their legal and ethical obligations through establishment of directed and ongoing educational requirements in these areas.

This regulatory proposal benefits the health and welfare of California residents by ensuring licensee's comprehension of the law and ethics, which helps to achieve more competent licensees and promotes consumer protection. This means that members of the public will benefit from having a more informed licensee as such education will help increase the likelihood that licensees will act ethically and in compliance with the law in the professional relationship.

The proposal does not affect worker safety because it has nothing to do with worker safety. The proposed regulations do not affect the state's environment because it has nothing to do with the environment.

## **Business Reporting Requirements**

The proposed rulemaking does not require businesses to file a report with the Board.

## **Effect on Small Business**

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

## **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 during the written comment period specified above, or at the hearing if one is scheduled or requested.

#### **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 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 Persons 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 Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at [https://www.acupuncture.ca.gov/about\\_us/relevant.shtml](https://www.acupuncture.ca.gov/about_us/relevant.shtml).