



CALIFORNIA ACUPUNCTURE BOARD
1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



February 2, 2017

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: New Acupuncture Board Regulations

Dear Licensee:

This letter is to inform you of new reporting and posting requirements required by newly implemented Acupuncture Board (Board) regulations. Copies of these regulations are enclosed for your convenience. Please take a moment to review the enclosed regulations to understand what changes are being implemented and to determine what action, if any, is required of you to comply.

The first new set of regulations are referred to as the Consumer Protection Enforcement Initiative (CPEI) regulations, which became effective on October 1, 2015 with the adoption of sections 1399.405, 1399.419(e), 1399.469.1 and 1399.469.2 of Title 16, Division 13.7 of the California Code of Regulations (CCR). Please take the time to read the new regulations in full.

One of the new requirements of these regulations is it imposes additional reporting requirements for California licensed acupuncturists. In addition, failure to provide the reports to the Board within the time required constitutes unprofessional conduct.

Section 1399.469.2 provides the following in pertinent part:

"In addition to the conduct described in Section 4955 of the Business and Professions Code, 'unprofessional conduct' also includes but is not limited to the following:

" . . . (d) Failure to report to the board within 30 days any of the following:

- (1) The bringing of an indictment or information charging a felony against the licensee.
- (2) The arrest of the licensee.
- (3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
- (4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military..."

To facilitate these new reporting requirements, the Board has set up a special reporting email, Acu.Reporting@dca.ca.gov. Please use this email address to submit these reports.

The second new regulation is Notice to Consumers of Licensure by the Acupuncture Board, which became effective on October 1, 2016 with the adoption of section 1399.469.3, of Title 16, Division 13.7 of the CCR. In summary, this regulation requires all licensees to post in a conspicuous location accessible to public view, in a 48-point or larger type font the following notice:



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Please be advised that the Board has the authority to take disciplinary action or issue a citation and fine to any licensee who fails to comply with these regulations. Therefore, the Board encourages you to carefully read them in their entirety. You may also view and download a copy of all of the Board's laws and regulations at this link:

http://www.acupuncture.ca.gov/pubs_forms/laws_reqs/laws_and_reqs.pdf

If you have any questions about the reporting requirements required by CCR section 1399.469.2 (d), any of the CPEI regulations or the posting requirements required by CCR Section 1399.469.3, please contact the Board at: (916) 515-5200 or email at: acupuncture@dca.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin Bodea".

Benjamin Bodea
Executive Officer



Title 16 of Division 13.7 of the California Code of Regulations

1399.405. Delegation of Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act Section 11500, et seq. of the Government Code, the board delegates and confers upon the executive officer of the board, or in his or her absence, the designee of the executive officer, all functions necessary to the dispatch of business of the board in connection with investigative and administrative proceedings under the jurisdiction of the board, including, but not limited to, the ability to approve settlement agreements for the revocation, surrender or interim suspension of a license.

1399.419. Review and Processing of Exam Applications.

(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 or that it is deficient and what specific information or documentation is required to complete the application.

(b) Within forty-five (45) calendar days of receipt of a completed application, the applicant will be notified as to his/her eligibility for the written examination.

(c) Within thirty (30) calendar days from the date the written examination is administered, candidates will be notified of their results, and if passed, will be offered, upon payment of the specified fee, 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 is 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 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 requirement shall render his or her application incomplete.

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

1399.469.1 Required Actions Against Registered Sex Offenders.



- (a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:
1. Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
 2. Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.
 3. Deny any petition to reinstate or reissue the individual's license.
- (b) This section shall not apply to any of the following:
An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.
1. An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code, provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.
 2. Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

1399.469.2 Unprofessional Conduct.

In addition to the conduct described in Section 4955 of the Business and Professions Code, "unprofessional conduct" also includes but is not limited to the following:

- (a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice to which the licensee is or expects to be named as a party, whether the agreement is made before or after the filing of an action:
1. A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.
 2. A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.
- (b) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.
- (c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by



the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(d) Failure to report to the board within 30 days any of the following:

1. The bringing of an indictment or information charging a felony against the licensee.
2. The arrest of the licensee.
3. The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
4. Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

1399.469.3. Notice to Consumers of Licensure by the Acupuncture Board.

(a) A licensed acupuncturist engaged in the practice of acupuncture shall provide notice to each patient of the fact that the acupuncturist is licensed and regulated by the California Acupuncture Board. This notice must be posted at each of the practice locations the licensee provides services. The notice shall include the following statement and information:

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(b) The notice required by this section shall be provided by prominently posting the notice in a conspicuous location accessible to public view on the premises where the acupuncturist provides the licensed services, in which case the notice shall be at least 48-point type font.