

AMENDED IN SENATE APRIL 23, 2014

SENATE BILL

No. 1246

Introduced by Senator Lieu
(Principal coauthor: Assembly Member Bonilla)

February 20, 2014

An act to amend Sections 4928 and 4934 of, 4934, 4935, 4938, 4944, 4949, and 4970 of, to amend and repeal Section 4973 of, to amend, repeal, and add Section 4939 of, to add Section 4933.5 to, and to add and repeal Section 4927.5 of, the Business and Professions Code, relating to ~~the Acupuncture Board~~ acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as amended, Lieu. ~~The Acupuncture Board. Acupuncture.~~

Existing law, *the Acupuncture Licensure Act*, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board, within the Department of Consumer Affairs. Existing law authorizes the board, with the approval of the Director of Consumer Affairs, to employ personnel necessary to administer the Acupuncture Licensure Act, *including an executive officer who is exempt from civil service*. Existing law repeals these provisions on January 1, 2015.

This bill would *remove the repeal date with respect to the board's authority to employ personnel. The bill would also extend the operation of those provisions until January 1, 2019 the board and its authority to hire an executive officer exempt from civil service until January 1, 2017. The bill would require that the executive officer appointed on or after January 1, 2015, not have served as the executive officer of the board at any time prior to January 1, 2015.*

Existing law requires the board to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, as specified. Existing law requires the board to issue a license to practice acupuncture to a person who files an application, pays a fee, and among other requirements, completes an educational and training program approved by the board.

Commencing January 1, 2017, this bill would eliminate the requirement that the board approve schools and colleges offering education and training in the practice of acupuncture and would instead require that an approved school or college, for purposes of licensure, be accredited by the Accreditation Commission for Acupuncture and Oriental Medicine. The bill would make related conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4927.5 is added to the Business and
2 Professions Code, to read:

3 4927.5. (a) For purposes of this chapter, “approved
4 educational and training program” means a program approved
5 by the board pursuant to Section 4939.

6 (b) This section shall remain in effect only until January 1, 2017,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2017, deletes or extends that date.

9 SEC. 2. Section 4927.5 is added to the Business and Professions
10 Code, to read:

11 4927.5. (a) For purposes of this chapter, “approved
12 educational and training program” means a school or college
13 offering education and training in the practice of an acupuncturist
14 that meets both of the following requirements:

15 (1) Is accredited by the Accreditation Commission for
16 Acupuncture and Oriental Medicine.

17 (2) Within three years of initial accreditation under paragraph
18 (1), has received full institutional approval under Article 6
19 (commencing with Section 94885) of Chapter 8 of Part 59 of
20 Division 10 of Title 3 of the Education Code in the field of
21 traditional Asian medicine, or in the case of institutions located
22 outside of this state, approval by the appropriate governmental
23 educational authority using standards equivalent to those of Article

1 6 (commencing with Section 94885) of Chapter 8 of Part 59 of
2 Division 10 of Title 3 of the Education Code.

3 (b) This section shall become operative on January 1, 2017.

4 SECTION 1.

5 SEC. 3. Section 4928 of the Business and Professions Code is
6 amended to read:

7 4928. (a) The Acupuncture Board, which consists of seven
8 members, shall enforce and administer this chapter.

9 (b) This section shall remain in effect only until January 1, 2019,
10 2017, and as of that date is repealed, unless a later enacted statute,
11 that is enacted before January 1, 2019, 2017, deletes or extends
12 that date.

13 (c) Notwithstanding any other law, the repeal of this section
14 renders the board subject to review by the appropriate policy
15 committees of the Legislature.

16 SEC. 2. ~~Section 4934 of the Business and Professions Code is~~
17 ~~amended to read:~~

18 ~~4934. (a) The board, by and with the approval of the director,~~
19 ~~may employ personnel necessary for the administration of this~~
20 ~~chapter. The board, by and with the approval of the director, may~~
21 ~~appoint an executive officer who is exempt from the provisions~~
22 ~~of the State Civil Service Act (Part 2 (commencing with Section~~
23 ~~18500) of Division 5 of Title 2 of the Government Code).~~

24 ~~(b) This section shall remain in effect only until January 1, 2019,~~
25 ~~and as of that date is repealed, unless a later enacted statute, that~~
26 ~~is enacted before January 1, 2019, deletes or extends that date.~~

27 SEC. 4. Section 4933.5 is added to the Business and Professions
28 Code, to read:

29 4933.5. The board, by and with the approval of the director,
30 may employ personnel necessary for the administration of this
31 chapter.

32 SEC. 5. Section 4934 of the Business and Professions Code is
33 amended to read:

34 4934. (a) The board, ~~by and with the approval of the director,~~
35 ~~may employ personnel necessary for the administration of this~~
36 ~~chapter, and the board,~~ by and with the approval of the director,
37 may appoint an executive officer who is exempt from ~~the~~
38 ~~provisions of the State Civil Service Act (Part 2 (commencing with~~
39 ~~Section 18500) of Division 5 of Title 2 of the Government Code).~~
40 *The executive officer appointed on or after January 1, 2015, shall*

1 not have served as the executive officer of the board at any time
2 prior to January 1, 2015.

3 (b) This section shall remain in effect only until January 1, ~~2015,~~
4 2017, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2015,~~ 2017, deletes or extends
6 that date.

7 *SEC. 6. Section 4935 of the Business and Professions Code is*
8 *amended to read:*

9 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
10 less than one hundred dollars (\$100) and not more than two
11 thousand five hundred dollars (\$2,500), or by imprisonment in a
12 county jail not exceeding one year, or by both that fine and
13 imprisonment, for any person who does not hold a current and
14 valid license to practice acupuncture under this chapter or to hold
15 himself or herself out as practicing or engaging in the practice of
16 acupuncture.

17 (2) It is a misdemeanor, punishable by a fine of not less than
18 one hundred dollars (\$100) and not more than two thousand five
19 hundred dollars (\$2,500), or by imprisonment in a county jail not
20 exceeding one year, or by both that fine and imprisonment, for
21 any person to fraudulently buy, sell, or obtain a license to practice
22 acupuncture, or to violate the provisions of this chapter.

23 (b) Notwithstanding any other ~~provision~~ of law, any person,
24 other than a physician and surgeon, a dentist, or a podiatrist, who
25 is not licensed under this article but is licensed under Division 2
26 (commencing with Section 500), who practices acupuncture
27 involving the application of a needle to the human body, performs
28 any acupuncture technique or method involving the application of
29 a needle to the human body, or directs, manages, or supervises
30 another person in performing acupuncture involving the application
31 of a needle to the human body is guilty of a misdemeanor.

32 (c) A person holds himself or herself out as engaging in the
33 practice of acupuncture by the use of any title or description of
34 services incorporating the words “acupuncture,” “acupuncturist,”
35 “certified acupuncturist,” “licensed acupuncturist,” “Asian
36 medicine,” “oriental medicine,” or any combination of those words,
37 phrases, or abbreviations of those words or phrases, or by
38 representing that he or she is trained, experienced, or an expert in
39 the field of acupuncture, Asian medicine, or Chinese medicine.

1 (d) Subdivision (a) shall not prohibit a person from
2 administering acupuncture treatment as part of his or her
3 educational training if he or she:

4 (1) Is engaged in a course or tutorial program in acupuncture,
5 as provided in this chapter; or

6 (2) Is a graduate of ~~a school of acupuncture approved by the~~
7 ~~board~~ *an approved educational and training program* and
8 participating in a postgraduate review course that does not exceed
9 one year in duration ~~at a school approved by the board~~ *an approved*
10 *educational and training program.*

11 *SEC. 7. Section 4938 of the Business and Professions Code is*
12 *amended to read:*

13 4938. The board shall issue a license to practice acupuncture
14 to any person who makes an application and meets the following
15 requirements:

16 (a) Is at least 18 years of age.

17 (b) Furnishes satisfactory evidence of completion of one of the
18 following:

19 (1) An *approved* educational and training ~~program approved~~
20 ~~by the board pursuant to Section 4939~~ *program.*

21 (2) Satisfactory completion of a tutorial program in the practice
22 of an acupuncturist which is approved by the board.

23 (3) In the case of an applicant who has completed education
24 and training outside the United States and Canada, documented
25 educational training and clinical experience ~~which~~ *that* meets the
26 standards established pursuant to Sections 4939 and 4941.

27 (c) Passes a written examination administered by the board that
28 tests the applicant's ability, competency, and knowledge in the
29 practice of an acupuncturist. The written examination shall be
30 developed by the Office of Professional Examination Services of
31 the Department of Consumer Affairs.

32 (d) Is not subject to denial pursuant to Division 1.5 (commencing
33 with Section 475).

34 (e) Completes a clinical internship training program approved
35 by the board. The clinical internship training program shall not
36 exceed nine months in duration and shall be located in a clinic in
37 this state, which is ~~approved by the board pursuant to Section 4939~~
38 *an approved educational and training program.* The length of the
39 clinical internship shall depend upon the grades received in the
40 examination and the clinical training already satisfactorily

1 completed by the individual prior to taking the examination. On
2 and after January 1, 1987, individuals with 800 or more hours of
3 documented clinical training shall be deemed to have met this
4 requirement. The purpose of the clinical internship training
5 program shall be to ensure a minimum level of clinical competence.

6 Each applicant who qualifies for a license shall pay, as a
7 condition precedent to its issuance and in addition to other fees
8 required, the initial licensure fee.

9 *SEC. 8. Section 4939 of the Business and Professions Code is*
10 *amended to read:*

11 4939. (a) The board shall establish standards for the approval
12 of schools and colleges offering education and training in the
13 practice of an acupuncturist, including standards for the faculty in
14 those schools and colleges ~~and tutorial programs~~, completion of
15 which will satisfy the requirements of Section 4938.

16 (b) Standards for the approval of ~~training programs~~ *schools and*
17 *colleges described in subdivision (a)* shall include a minimum of
18 3,000 hours of study in curriculum pertaining to the practice of an
19 acupuncturist. This subdivision shall apply to all students entering
20 programs on or after January 1, 2005.

21 (c) Within three years of initial approval by the board, each
22 ~~program~~ *school or college* so approved by the board shall receive
23 full institutional approval under Article 6 (commencing with
24 Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3
25 of the Education Code in the field of traditional Asian medicine,
26 or in the case of institutions located outside of this state, approval
27 by the appropriate governmental educational authority using
28 standards equivalent to those of Article 6 (commencing with
29 Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3
30 of the Education Code, or the board's approval of the program
31 shall automatically lapse.

32 (d) *This section shall remain in effect only until January 1, 2017,*
33 *and as of that date is repealed, unless a later enacted statute, that*
34 *is enacted before January 1, 2017, deletes or extends that date.*

35 *SEC. 9. Section 4939 is added to the Business and Professions*
36 *Code, to read:*

37 4939. (a) *The board shall establish standards for the approval*
38 *of educational training and clinical experience received outside*
39 *the United States and Canada.*

40 (b) *This section shall become operative on January 1, 2017.*

1 *SEC. 10. Section 4944 of the Business and Professions Code*
2 *is amended to read:*

3 4944. (a) The board shall have the authority to investigate and
4 evaluate each and every applicant applying for a license to practice
5 acupuncture and to make the final determination of the admission
6 of the applicant to the examination, or for the issuance of a license,
7 in conformance with the provisions of this chapter.

8 (b) The board shall investigate and evaluate each school or
9 college applying for approval under Section 4939 and may utilize
10 and contract with consultants to evaluate those training programs.
11 *This subdivision shall become inoperative on January 1, 2017.*

12 (c) The board may delegate to the executive officer or other
13 official of the board its authority under this section in routine
14 matters.

15 *SEC. 11. Section 4949 of the Business and Professions Code*
16 *is amended to read:*

17 4949. The provisions of this chapter shall not prohibit an
18 acupuncturist from another state or country, who is not a licensed
19 acupuncturist in this state, who is the invited guest of a professional
20 acupuncture association or scientific acupuncture foundation, an
21 ~~acupuncture training program that is approved under Section 4939~~
22 *approved educational and training program*, or a continuing
23 education provider that is approved under Section 4945, solely
24 from engaging in professional education through lectures, clinics,
25 or demonstrations. The guest acupuncturist may engage in the
26 practice of acupuncture in conjunction with these lectures, clinics,
27 or demonstrations for a maximum of six months, but may not open
28 an office or appoint a place to meet patients or receive calls from
29 patients or otherwise engage in the practice of acupuncture.

30 *SEC. 12. Section 4970 of the Business and Professions Code*
31 *is amended to read:*

32 4970. The amount of fees prescribed for licensed acupuncturists
33 shall be those set forth in this section unless a lower fee is fixed
34 by the board in accordance with Section 4972:

35 (a) The application fee shall be seventy-five dollars (\$75).

36 (b) The examination and reexamination fees shall be the actual
37 cost to the Acupuncture Board for the development and writing
38 of, grading, and administering of each examination.

39 (c) The initial license fee shall be three hundred twenty-five
40 dollars (\$325), except that if the license will expire less than one

1 year after its issuance, then the initial license fee shall be an amount
2 equal to 50 percent of the initial license fee.

3 (d) The renewal fee shall be three hundred twenty-five dollars
4 (\$325) and in the event a lower fee is fixed by the board, shall be
5 an amount sufficient to support the functions of the board in the
6 administration of this chapter. The renewal fee shall be assessed
7 on an annual basis until January 1, 1996, and on and after that date
8 the board shall assess the renewal fee biennially.

9 (e) The delinquency fee shall be set in accordance with Section
10 163.5.

11 (f) The application fee for the approval of a school or college
12 under Section 4939 shall be three thousand dollars (\$3,000). *This*
13 *subdivision shall become inoperative on January 1, 2017.*

14 (g) The duplicate wall license fee is an amount equal to the cost
15 to the board for the issuance of the duplicate license.

16 (h) The duplicate renewal receipt fee is ten dollars (\$10).

17 (i) The endorsement fee is ten dollars (\$10).

18 (j) The fee for a duplicate license for an additional office
19 location as required under Section 4961 shall be fifteen dollars
20 (\$15).

21 *SEC. 13. Section 4973 of the Business and Professions Code*
22 *is amended to read:*

23 4973. (a) A fee for the inspection or reinspection of a school
24 or college of acupuncture for purposes of approval or continued
25 approval shall be charged at an amount to recover the direct costs
26 incurred by the board in conducting that inspection and evaluation
27 of the school or college.

28 (b) *This section shall remain in effect only until January 1, 2017,*
29 *and as of that date is repealed, unless a later enacted statute, that*
30 *is enacted before January 1, 2017, deletes or extends that date.*