

AMENDED IN ASSEMBLY JUNE 15, 2014

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, 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 acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as amended, Lieu. 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~~ *the* provisions *establishing the board and authority for it to employ personnel* 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 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,~~ *define an “approved educational and training program,”* for purposes of ~~licensure, be licensure as an acupuncturist, as a school or college that:~~ *(1) offers curriculum that has been submitted to and approved by the board and includes at least 3,000 hours of which at least 2,050 hours are didactic and laboratory training, and at least 950 hours are supervised clinical instruction; (2) is approved by the Bureau of Private Postsecondary Education; and (3) is accredited or granted candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine. The bill would require the board, within 30 days of receiving curriculum submitted by a school or collage pursuant to these provisions, to review the curriculum, determine whether the curriculum satisfies the board’s requirements, and notify the school or college, the Accreditation Commission for Acupuncture and Oriental Medicine, and Bureau of Private and Postsecondary Education of whether the board has approved the curriculum. The bill would also require the board to establish standards for the acceptance of educational training and clinical experience received outside the United States and Canada, and 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 educational
- 4 and training program” means a program approved by the board
- 5 pursuant to Section 4939.

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2 and as of that date is repealed, unless a later enacted statute, that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

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

6 4927.5. (a) For purposes of this chapter, “approved educational
7 and training program” means a school or college offering education
8 and training in the practice of an acupuncturist that meets ~~both~~ *all*
9 of the following requirements:

10 ~~(1) Is accredited by the Accreditation Commission for~~
11 ~~Acupuncture and Oriental Medicine.~~

12 ~~(2) Within three years of initial accreditation under paragraph~~
13 ~~(1), has~~

14 *(1) Offers curriculum that includes at least 3,000 hours of which*
15 *at least 2,050 hours are didactic and laboratory training, and at*
16 *least 950 hours are supervised clinical instruction. Has submitted*
17 *that curriculum to the board, and has received board-approval of*
18 *the curriculum.*

19 *(2) Has received full institutional approval under Article 6*
20 *(commencing with Section 94885) of Chapter 8 of Part 59 of*
21 *Division 10 of Title 3 of the Education Code in the field of*
22 *traditional Asian medicine, or in the case of institutions located*
23 *outside of this state, approval by the appropriate governmental*
24 *educational authority using standards equivalent to those of Article*
25 *6 (commencing with Section 94885) of Chapter 8 of Part 59 of*
26 *Division 10 of Title 3 of the Education Code.*

27 *(3) Is accredited or has been granted candidacy status by the*
28 *Accreditation Commission for Acupuncture and Oriental Medicine.*

29 *(b) Within 30 days after receiving curriculum pursuant to*
30 *paragraph (1), the board shall review the curriculum, determine*
31 *whether the curriculum satisfies the requirements established by*
32 *the board, and notify the school or college, the Accreditation*
33 *Commission for Acupuncture and Oriental Medicine, and Bureau*
34 *of Private and Postsecondary Education of whether the board has*
35 *approved the curriculum.*

36 ~~(b)~~

37 *(c) This section shall become operative on January 1, 2017.*

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

1 4928. (a) The Acupuncture Board, which consists of seven
2 members, shall enforce and administer this chapter.

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

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

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

11 4933.5. The board, by and with the approval of the director,
12 may employ personnel necessary for the administration of this
13 chapter.

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

16 4934. (a) The board, by and with the approval of the director,
17 may appoint an executive officer who is exempt from the State
18 Civil Service Act (Part 2 (commencing with Section 18500) of
19 Division 5 of Title 2 of the Government Code). The executive
20 officer appointed on or after January 1, 2015, shall not have served
21 as the executive officer of the board at any time prior to January
22 1, 2015.

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

26 SEC. 6. Section 4935 of the Business and Professions Code is
27 amended to read:

28 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
29 less than one hundred dollars (\$100) and not more than two
30 thousand five hundred dollars (\$2,500), or by imprisonment in a
31 county jail not exceeding one year, or by both that fine and
32 imprisonment, for any person who does not hold a current and
33 valid license to practice acupuncture under this chapter or to hold
34 himself or herself out as practicing or engaging in the practice of
35 acupuncture.

36 (2) It is a misdemeanor, punishable by a fine of not less than
37 one hundred dollars (\$100) and not more than two thousand five
38 hundred dollars (\$2,500), or by imprisonment in a county jail not
39 exceeding one year, or by both that fine and imprisonment, for

1 any person to fraudulently buy, sell, or obtain a license to practice
2 acupuncture, or to violate the provisions of this chapter.

3 (b) Notwithstanding any other law, any person, other than a
4 physician and surgeon, a dentist, or a podiatrist, who is not licensed
5 under this article but is licensed under Division 2 (commencing
6 with Section 500), who practices acupuncture involving the
7 application of a needle to the human body, performs any
8 acupuncture technique or method involving the application of a
9 needle to the human body, or directs, manages, or supervises
10 another person in performing acupuncture involving the application
11 of a needle to the human body is guilty of a misdemeanor.

12 (c) A person holds himself or herself out as engaging in the
13 practice of acupuncture by the use of any title or description of
14 services incorporating the words “acupuncture,” “acupuncturist,”
15 “certified acupuncturist,” “licensed acupuncturist,” “Asian
16 medicine,” “oriental medicine,” or any combination of those words,
17 phrases, or abbreviations of those words or phrases, or by
18 representing that he or she is trained, experienced, or an expert in
19 the field of acupuncture, Asian medicine, or Chinese medicine.

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

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

25 (2) Is a graduate of an approved educational and training
26 program and participating in a postgraduate review course that
27 does not exceed one year in duration at an approved educational
28 and training program.

29 SEC. 7. Section 4938 of the Business and Professions Code is
30 amended to read:

31 4938. The board shall issue a license to practice acupuncture
32 to any person who makes an application and meets the following
33 requirements:

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

35 (b) Furnishes satisfactory evidence of completion of one of the
36 following:

37 (1) An approved educational and training program. *An individual*
38 *who graduates in the first or second graduating class of a school*
39 *or college that has been granted candidacy status by the*
40 *Accreditation Commission for Acupuncture and Oriental Medicine*

1 *shall be deemed to have completed an approved educational and*
2 *training program.*

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

5 (3) In the case of an applicant who has completed education
6 and training outside the United States and Canada, documented
7 educational training and clinical experience that meets the standards
8 established pursuant to Sections 4939 and 4941.

9 (c) Passes a written examination administered by the board that
10 tests the applicant's ability, competency, and knowledge in the
11 practice of an acupuncturist. The written examination shall be
12 developed by the Office of Professional Examination Services of
13 the Department of Consumer Affairs.

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

16 (e) Completes a clinical internship training program approved
17 by the board. The clinical internship training program shall not
18 exceed nine months in duration and shall be located in a clinic in
19 this state, which is an approved educational and training program.
20 The length of the clinical internship shall depend upon the grades
21 received in the examination and the clinical training already
22 satisfactorily completed by the individual prior to taking the
23 examination. On and after January 1, 1987, individuals with 800
24 or more hours of documented clinical training shall be deemed to
25 have met this requirement. The purpose of the clinical internship
26 training program shall be to ensure a minimum level of clinical
27 competence.

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

31 SEC. 8. Section 4939 of the Business and Professions Code is
32 amended to read:

33 4939. (a) The board shall establish standards for the approval
34 of schools and colleges offering education and training in the
35 practice of an acupuncturist, including standards for the faculty in
36 those schools and colleges, completion of which will satisfy the
37 requirements of Section 4938.

38 (b) Standards for the approval of schools and colleges described
39 in subdivision (a) shall include a minimum of 3,000 hours of study
40 in curriculum pertaining to the practice of an acupuncturist. This

1 subdivision shall apply to all students entering programs on or
2 after January 1, 2005.

3 (c) Within three years of initial approval by the board, each
4 school or college so approved by the board shall receive full
5 institutional approval under Article 6 (commencing with Section
6 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the
7 Education Code in the field of traditional Asian medicine, or in
8 the case of institutions located outside of this state, approval by
9 the appropriate governmental educational authority using standards
10 equivalent to those of Article 6 (commencing with Section 94885)
11 of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education
12 Code, or the board's approval of the program shall automatically
13 lapse.

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

17 SEC. 9. Section 4939 is added to the Business and Professions
18 Code, to read:

19 4939. (a) The board shall establish standards for the ~~approval~~
20 *acceptance* of educational training and clinical experience received
21 outside the United States and Canada.

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

23 SEC. 10. Section 4944 of the Business and Professions Code
24 is amended to read:

25 4944. (a) The board shall have the authority to investigate and
26 evaluate each and every applicant applying for a license to practice
27 acupuncture and to make the final determination of the admission
28 of the applicant to the examination, or for the issuance of a license,
29 in conformance with the provisions of this chapter.

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

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

37 SEC. 11. Section 4949 of the Business and Professions Code
38 is amended to read:

39 4949. The provisions of this chapter shall not prohibit an
40 acupuncturist from another state or country, who is not a licensed

1 acupuncturist in this state, who is the invited guest of a professional
2 acupuncture association or scientific acupuncture foundation, an
3 approved educational and training program, or a continuing
4 education provider that is approved under Section 4945, solely
5 from engaging in professional education through lectures, clinics,
6 or demonstrations. The guest acupuncturist may engage in the
7 practice of acupuncture in conjunction with these lectures, clinics,
8 or demonstrations for a maximum of six months, but may not open
9 an office or appoint a place to meet patients or receive calls from
10 patients or otherwise engage in the practice of acupuncture.

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

13 4970. The amount of fees prescribed for licensed acupuncturists
14 shall be those set forth in this section unless a lower fee is fixed
15 by the board in accordance with Section 4972:

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

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

20 (c) The initial license fee shall be three hundred twenty-five
21 dollars (\$325), except that if the license will expire less than one
22 year after its issuance, then the initial license fee shall be an amount
23 equal to 50 percent of the initial license fee.

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

30 (e) The delinquency fee shall be set in accordance with Section
31 163.5.

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

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

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

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

1 (j) The fee for a duplicate license for an additional office
2 location as required under Section 4961 shall be fifteen dollars
3 (\$15).

4 SEC. 13. Section 4973 of the Business and Professions Code
5 is amended to read:

6 4973. (a) A fee for the inspection or reinspection of a school
7 or college of acupuncture for purposes of approval or continued
8 approval shall be charged at an amount to recover the direct costs
9 incurred by the board in conducting that inspection and evaluation
10 of the school or college.

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