

AMENDED IN ASSEMBLY AUGUST 19, 2014

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

(1) *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 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 *until January 1, 2017*, and ~~its~~ *extend the board's* authority

to hire an executive officer exempt from civil service until January 1, 2017 2016. ~~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

(2) *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 a school or college approved by the board, within 3 years of board approval, to receive full institutional approval to operate from the Bureau for Private Postsecondary Education or comparable approval by a governmental authority outside of the state, as applicable.* 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.

This bill would delete the requirement that schools and colleges offering education and training in the practice of an acupuncturist obtain those approvals within 3 years of board approval. Commencing January 1, 2017, ~~this~~ the bill would eliminate the requirement that the board approve *those* schools and colleges offering education and training in the practice of ~~acupuncture~~ an acupuncturist and would instead define an “approved educational and training program,” for purposes of licensure as an acupuncturist, as a school or college that: ~~(1)~~ (A) 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)~~ (B) is approved by the Bureau ~~of~~ for Private Postsecondary Education; and ~~(3)~~ (C) is accredited or granted candidacy status by the Accreditation Commission for Acupuncture and Oriental ~~Medicine.~~ *The Medicine.*

This bill would require the board, within 30 days of receiving curriculum submitted by a school or college 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 the Bureau of for Private and Postsecondary Education of whether the board has approved the curriculum. ~~The~~ *The bill would authorize the board to review and evaluate the program curriculum of a school or college that has submitted an eligibility report to, or was granted candidacy status by, the commission, but was subsequently denied*

candidacy status or accreditation, respectively, by the commission, to determine whether to waive the requirement that an applicant who attended that program complete an approved educational and training program.

This bill would also require the board to establish standards for the ~~acceptance~~ approval 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.

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 educational
12 and training program” means a school or college offering education
13 and training in the practice of an acupuncturist that meets all of
14 the following requirements:

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

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

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

3 (b) Within 30 days after receiving curriculum pursuant to
4 paragraph (1), the board shall review the curriculum, determine
5 whether the curriculum satisfies the requirements established by
6 the board, and notify the school or college, the Accreditation
7 Commission for Acupuncture and Oriental Medicine, and Bureau
8 of Private and Postsecondary Education of whether the board has
9 approved the curriculum.

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

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

13 4928. (a) The Acupuncture Board, which consists of seven
14 members, shall enforce and administer this chapter.

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

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

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

23 4933.5. The board, by and with the approval of the director,
24 may employ personnel necessary for the administration of this
25 chapter.

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

28 4934. (a) The board, by and with the approval of the director,
29 may appoint an executive officer who is exempt from the State
30 Civil Service Act (Part 2 (commencing with Section 18500) of
31 Division 5 of Title 2 of the Government Code). ~~The executive
32 officer appointed on or after January 1, 2015, shall not have served
33 as the executive officer of the board at any time prior to January
34 1, 2015.~~

35 (b) This section shall remain in effect only until January 1, ~~2017,~~
36 ~~2016~~, and as of that date is repealed, unless a later enacted statute,
37 that is enacted before January 1, ~~2017,~~ ~~2016~~, deletes or extends
38 that date.

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

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

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

15 (b) Notwithstanding any other law, any person, other than a
16 physician and surgeon, a dentist, or a podiatrist, who is not licensed
17 under this article but is licensed under Division 2 (commencing
18 with Section 500), who practices acupuncture involving the
19 application of a needle to the human body, performs any
20 acupuncture technique or method involving the application of a
21 needle to the human body, or directs, manages, or supervises
22 another person in performing acupuncture involving the application
23 of a needle to the human body is guilty of a misdemeanor.

24 (c) A person holds himself or herself out as engaging in the
25 practice of acupuncture by the use of any title or description of
26 services incorporating the words “acupuncture,” “acupuncturist,”
27 “certified acupuncturist,” “licensed acupuncturist,” “Asian
28 medicine,” “oriental medicine,” or any combination of those words,
29 phrases, or abbreviations of those words or phrases, or by
30 representing that he or she is trained, experienced, or an expert in
31 the field of acupuncture, Asian medicine, or Chinese medicine.

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

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

37 (2) Is a graduate of an approved educational and training
38 program and participating in a postgraduate review course that
39 does not exceed one year in duration at an approved educational
40 and training program.

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

3 4938. The board shall issue a license to practice acupuncture
4 to any person who makes an application and meets the following
5 requirements:

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

7 (b) Furnishes satisfactory evidence of completion of one of the
8 following:

9 (1) (A) An approved educational and training program. ~~An
10 individual who graduates in the first or second graduating class of
11 a school or college that has been granted candidacy status by the
12 Accreditation Commission for Acupuncture and Oriental Medicine
13 shall be deemed to have completed an approved educational and
14 training program.~~

15 (B) *If an applicant began his or her educational and training
16 program at a school or college that submitted an eligibility report
17 to, or attained candidacy status from, the Accreditation
18 Commission for Acupuncture and Oriental Medicine, but the
19 commission subsequently denied the school or college candidacy
20 status or accreditation, respectively, the board may review and
21 evaluate the program curriculum to determine whether to waive
22 the requirements set forth in subparagraph (A) with respect to that
23 applicant.*

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

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

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

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

37 (e) Completes a clinical internship training program approved
38 by the board. The clinical internship training program shall not
39 exceed nine months in duration and shall be located in a clinic in
40 this state, which is an approved educational and training program.

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

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

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

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

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

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

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

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

1 4939. (a) The board shall establish standards for the ~~acceptance~~
2 *approval* of educational training and clinical experience received
3 outside the United States and Canada.

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

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

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

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

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

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

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

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

35 4970. The amount of fees prescribed for licensed acupuncturists
36 shall be those set forth in this section unless a lower fee is fixed
37 by the board in accordance with Section 4972:

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

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

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

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

14 (e) The delinquency fee shall be set in accordance with Section
15 163.5.

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

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

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

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

23 (j) The fee for a duplicate license for an additional office
24 location as required under Section 4961 shall be fifteen dollars
25 (\$15).

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

28 4973. (a) A fee for the inspection or reinspection of a school
29 or college of acupuncture for purposes of approval or continued
30 approval shall be charged at an amount to recover the direct costs
31 incurred by the board in conducting that inspection and evaluation
32 of the school or college.

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