

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.7 ACUPUNCTURE BOARD**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Application Process for Licensing Examination and Re-examination, and Criteria and Procedures for Approval of a Credential Evaluation Service

Sections Affected: California Code of Regulations (CCR), Title 16, Sections 1399.409 [New], 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2 [New], 1399.416.3 [New], 1399.416.4 [New], 1399.417, and 1399.419

Updated Information:

The Initial Statement of Reasons (ISR) is included in the file. The information contained therein is updated as follows:

The Acupuncture Board (Board) mailed the rulemaking package notice and sent out the notice via email listserv on September 7, 2023. The Office of Administrative Law (OAL) officially noticed the package on September 8, 2023, and the 45-day comment period was through October 24, 2023. The Board received no comments during the public comment period. There were no requests for hearing, and the Board did not hold a separate public hearing.

The regulatory action was withdrawn on January 5, 2024, to address substantive edits of the proposed language through a modified 15-day notice of text. The Board voted to approve the modified proposed language at its meeting on March 22, 2024 and authorize the executive officer to make any technical or non-substantive edits and proceed with rulemaking process. The Board noticed the modified text on April 4, 2024, and the 15-day comment period was through April 22, 2024. The Board did not receive additional comments during the 15-day comment period. The approved modified language is as follows:

Modified Text

On its own motion, the Board made changes to the noticed proposed regulations as described below.

Amend Section 1399.411, Certification of Documentation, Division 13.7

The Board adds “by primary source” after “Such documentation shall be mailed or sent,” parentheses around “directly from the program to the Board”, and also adds “at its current physical address or email as listed on its website I,” after the parentheses. The

Board amends “this certification” to “the primary source”, removes “in its discretion may” and changes the “may” to “shall” as it refers to waiving the primary source requirement. Deletes “,including the closure of the program or if the program does not maintain such records” and adds: “For the purposes of this section, “due diligence” means the applicant provided documentation, signed and dated by the applicant, affirmatively declaring that the applicant first attempted to obtain documentation directly from the program, then attempted to obtain documentation from the program’s appointed custodian of records, if applicable, and both attempts are ineffective.” The Board also deletes a comma after “4939” in the Reference section.

These amendments are to clarify that the Board will only accept documentation directly from the program to ensure the authenticity of documents and clarify the methods by which the Board will accept documentation. The Board also amends “this certification” to “the primary source” as the Board still requires certification, but understands there are limited circumstances when an applicant is unable to obtain certification or documentation from a program. The Board adds a definition for “due diligence” in determining that the applicant met this standard so the Board can waive the primary source requirement. These changes make it so if an applicant has exercised due diligence as defined, then the Board shall waive the primary source requirement. These changes reflect current process when Board staff evaluates documentation. The deletion of the oxford comma in the reference section is non-substantive and has no regulatory effect.

Amend Section 1399.413(a), Application for Licensing Examination, Division 13.7

The Board deletes the repetitive “shall be” after “complete and” and adds “at its current physical address listed on its website or through the Board’s online portal accessible through the Board’s website” after “to the Board”.

This amendment is to clarify the methods by which the Board will accept new applications for examination.

Amend Section 1399.413(a)(1), Application for Licensing Examination, Division 13.7

The Board deletes “and/or (Suffix)” because the Board currently does not require this information as part of its application for examination as the Board’s newer online portal does not have a separate form field for such.

Deletes Section 1399.413(a)(10), Application for Licensing Examination, Division 13.7

The Board deletes “(10) Color copy of a U.S. state or federal government issued picture identification.” Since the transition to computer-based testing, the Board no longer

requires picture identification with the Board application for examination.

Amends Section 1399.413(a)(10), Application for Licensing Examination, Division 13.7

Replaces subparagraph (10) with “Whether the applicant has previously applied for the examination,”. Asking the applicant about previous exams taken is currently a required disclosure for those applying for the examination. It allows Board staff to easily identify if the applicant was previously evaluated for examination eligibility and know the applicant’s history.

Add Section 1399.413(a)(11), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11): “The following additional applicant-identifying information, to expedite the application process, if applicable:” This is necessary for the Board to comply with statutory requirements to expedite applicants if they meet criteria.

Add Section 1399.413(a)(11)(A), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11)(A): “Whether the applicant is serving, or has previously served, in the United States Armed Forces.” Asking about service in the United States (U.S.) Armed Forces is statutorily required by Business and Professions Code (BPC) section 114.5. The application for examination is considered the first step in the application for licensure process.

Add Section 1399.413(a)(11)(B), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11)(B): “Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.”

This amendment is statutorily required by BPC section 115.4. The application for examination is part of the process to apply for an acupuncture license. For the applicant to receive assistance in the initial licensure process and for their application to be expedited, disclosing their eligibility on the first application of the licensing process is necessary.

Add Section 1399.413(a)(11)(C), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11)(C): “Whether the applicant is an active-duty member of a regular component of the United States Armed Forces enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10 of the United States Code.”

This amendment is statutorily required by BPC section 115.4; subsection (b) was added by Assembly Bill 883 (AB 883) (Mathis, Chapter 348, Statutes of 2024) and is effective July 1, 2024. The application for examination is part of the process to apply for an acupuncture license. For the applicant to receive assistance in the initial licensure process and for their application to be expedited, disclosing their eligibility on the first application of the licensing process is necessary.

Add Section 1399.413(a)(11)(D), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11)(D): “Whether the applicant is married to or in a domestic partnership or other legal union with an active-duty member of the United States Armed Forces assigned to a duty station in California under official active-duty military orders. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: certificate of marriage, certificate of domestic partnership, or proof of other legal union; a copy of the applicant’s spouse’s or partner’s military orders reflecting assignment to a California duty station; and proof of being licensed to practice acupuncture in another state, or U.S. territory or district.”

This amendment is statutorily required by BPC section 115.5. The application for examination is part of the process to apply for an acupuncture license. For the application to be expedited appropriately, disclosing their eligibility on the first application of the licensing process is necessary.

Add Section 1399.413(a)(11)(E), Application for Licensing Examination, Division 13.7

The Board adds 1399.413(a)(11)(E): “Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide any of the following items of documentation, as applicable, with the application to receive expedited review:

(i) Form I-94, arrival/departure record, with an admission class code such as “RE” (refugee) or “AY” (asylee) or other information designating the person a refugee or asylee;

(ii) Special Immigrant Visa that includes the “SI” or “SQ”;

(iii) Permanent Resident Card (Form I-551), commonly known as a “green card”, with a category designation indicating that the person was admitted as a refugee or asylee; or

(iv) An order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Board that the applicant qualifies for expedited licensure pursuant to section 135.4 of the Code.”

This amendment is statutorily required by BPC section 135.4. The application for examination is part of the process to apply for an acupuncture license. For the applicant to receive assistance in the initial licensure process and for their application to be expedited, disclosing their eligibility on the first application of the licensing process is necessary.

Renumber Section 1399.413(a)(11)-(15) to (12)-(16), Application for Licensing Examination, Division 13.7

The Board rennumbers 1399.413(a)(11)-(15) to (12)-(16). This is a non-substantive change for consistency.

Amend Section 1399.413(b), Application for Licensing Examination, Division 13.7

The Board amends 1399.413(b): Adds “at its current physical address listed on its website at or through the Board’s online portal accessible through the Board’s website” after “to the Board.”

This amendment is to clarify the methods by which the Board will accept applications for re-examination.

Amend Section 1399.413(c)(1), Application for Licensing Examination, Division 13.7

The Board amends 1399.413(c): Deletes “and/or (Suffix),” after “Applicant’s full legal name...” The Board currently does not require this information as part of its application for examination as the Board’s newer online portal does not have a separate form field for such.

Delete references in Section 1399.413, Application for Licensing Examination, Division 13.7

The Board deletes References to sections 21, 325 and 326. This is a non-substantive change.

Amend references in Section 1399.413, Application for Licensing Examination, Division 13.7

The Board adds References to sections 27, 29.5, 30, 31, 114.5, 115.4, 115.5 and 135.4. Reference to these statutes as they relate to the application requirements added for expediting the application for license process for eligible applicants is necessary.

Amend Section 1399.414, Request for Re-evaluation of Denial of Application to Take Licensing Exam; Approval to Test, Division 13.7

The Board amends the title of Section 1399.414 by changing “Licensing Exam” to “Licensing Examination.” This is a non-substantive change for consistency.

Amend Section 1399.414(a), Request for Re-evaluation of Denial of Application to Take Licensing Examination; Approval to Test, Division 13.7

The Board amends “to take the licensing exam” to “to take the licensing examination.” This is a non-substantive change for consistency.

The Board deletes “rejection” and adds “denial” before “, a request”. This is for consistency with previous language in the section.

The Board adds: “The request for re-evaluation shall be submitted to the Board at its current physical address or email listed on its website. The request for re-evaluation shall be limited to reevaluation of the factual and legal basis for the Board’s denial. The Board’s re-evaluation shall include a review of the applicant’s documentation on file along with any new documentation and justification provided with the applicant’s written request for re-evaluation.” The Board also adds “via email or mail” after “The Board shall respond, in writing.”

These amendments clarify the methods by which the Board will accept documentation.

Amend Section 1399.414(b), Request for Re-evaluation of Denial of Application to Take Licensing Examination; Approval to Test, Division 13.7

The Board amends 1399.414(b) by adding “of the Code” after “set forth under subsection (a) paragraphs (1), (2), and (5) of Section 4938.” This provides clarity within the citation of Section 4938.

Amend Section 1399.414(c), Request for Re-evaluation of Denial of Application to Take Licensing Examination; Approval to Test, Division 13.7

The Board deletes “their” before “the applicant’s rights” as their was erroneously added

in the original noticed language.

Amend Section 1399.416(b), Equivalent Educational, Division 13.7

The Board adds subsection (b) as a non-substantive change for clearer organization. The Board amends “board” to a capital “B” in “Board” for consistency. The Board adds references 4925 and 4940 to the references in the Note as the Code and training standards are mentioned in the regulation.

Amend Section 1399.416.3, Requirements for Curriculum Evaluations Provided to the Board by Credential Evaluation Service, Division 13.7

The Board amends the title of this section to delete “Education and Training” and replace with “Curriculum” for consistency.

The Board converts all semicolons separating each subsection to commas for consistency, which is a non-substantive change.

The Board amends “licensing exam” to read “licensing examination” under subsection (i) for examination to be used throughout for consistency.

Amend Section 1399.416.4, Requirements for Approval or Renewal of Agency or Organization to Provide Credential Evaluation Services; Process for Denial or Revocation of Service Approvals; Appeal Procedures, Division 13.7

The Board converts all semicolons separating each subsection and paragraph to commas for consistency, which is a non-substantive change. The Board adds “calendar” after “60” and merges text previously noticed as 1399.416.4(e) into 1399.416.4(d) as non-substantive changes.

Amend Section 1399.417(a)(2), Abandonment of Applications, Division 13.7

The Board restructured paragraph (2) of subsection (a) for clarity and better ease of reading.

The Board deletes “unless”, adds “if”, deletes “explanation” and adds “statement” before “to the Board,” and replaces “, of” with “containing”. This amendment is to address current procedure of processing written statements regarding the extension of applicant’s eligibility to take the exam when an applicant fails to take the exam within two (2) years after their notification of eligibility. There is no discretion applied in granting these kinds of requests; therefore, no explanation is required. The Board only requires a statement from the applicant about their inability to appear for the exam in order to avoid the abandonment of their application as an operation of law. Granting a one-year extension affords the applicant more time and has no consequential effect to

the Board or public safety.

The Board adds “the applicant’s name, and examination ID number” to specify what the written statement shall include when submitted to the Board. Since the written statement will be separate from a Board application, it is necessary the applicant provide identifying information to properly match with the applicant’s record. The word “number” was not originally noticed, and is added as a non-substantive technical change by Board staff for consistency.

The Board adds “to its current physical address or email as listed on its website, then” after “inability to appear for the examination.” These amendments clarify the methods by which the Board will accept written statements regarding an applicant’s inability to appear for the examination.

To continue on with the prior sentence, the “T” in “The Board” is changed to a lowercase “t.” The Board deletes “may” and adds “shall” before “extend the applicant’s eligibility.” This amendment removes discretion from the Board and provides a clear role and requirement for the Board.

The Board omits “upon a showing of good cause to the Board” as it was inadvertently placed in the Initial Statement of Reasons.

Amend Section 1399.417(a)(3), Abandonment of Applications, Division 13.7

The Board restructures paragraph (3) of subsection (a) for clarity and better ease of reading.

The Board deletes “unless”, adds “if”, deletes “explanation” and adds “statement” before “to the Board,” and replaces “explaining the cause of” with “containing”. This amendment is to address current procedure of processing written statements regarding the extension of applicant’s eligibility to take a re-examination when an applicant fails to take a re-examination within two (2) years after their notification of failing the exam. There is no discretion applied in granting these kinds of requests; therefore, no explanation is required. The Board only requires a statement from the applicant about their inability to appear for the exam in order to avoid the abandonment of their application as an operation of law. Granting a one-year extension affords the applicant more time and has no consequential effect to the Board or public safety.

The Board adds “the applicant’s name, and examination ID number” to specify what the written statement shall include when submitted to the Board. Since the written statement will be separate from a Board application, it is necessary the applicant provide identifying information to properly match with the applicant’s record. The word “number” was not originally noticed, and is added as a non-substantive technical change by Board staff for consistency.

The Board deletes “explaining the cause” before “of the applicant’s inability to appear.” The change is for consistency with Section 1399.417(a)(2) and the amendment from “explanation” to “statement” further up in subsection (a)(3). The change also removes the requirement that an applicant provide an explanation that aligns with outdated procedures that involved discretion when granting an extension.

The Board adds “to its current physical address or email as listed on its website, then ” after “inability to appear for the examination.” These amendments clarify the methods by which the Board will accept written statements regarding an applicant’s inability to appear for the examination.

To continue on with the prior sentence, the “T” in “The Board” is changed to a lowercase “t.” The Board deletes “may” and adds “shall” before “extend the applicant’s eligibility.” This amendment removes discretion from the Board and provides a clear role and requirement for the Board.

The Board deletes “upon a showing of good cause to the Board” as it was added to prior proposed language to provide clarity to the subsection due to its existing discretionary language. Current process does not involve discretion or any criteria as a basis for granting extensions of eligibility. Modifications reflect current procedures.

Amend Section 1399.417, delete proposed (d), Abandonment of Applications, Division 13.7

The Board deletes all prior proposed language in 1399.417(d), as the eligibility extension will no longer require a showing of good cause because granting an extension of an applicant’s eligibility when a statement is received is mandatory or standard.

The deletion of the oxford comma in the reference section is non-substantive and has no regulatory effect.

Amend Section 1399.419(a), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board restructures subsection (a) for clarity and better ease of reading.

The Board adds “For applicants who completed a Board approved educational and training program or tutorial program” before “within forty-five (45) calendar days.” Adding this language provides a distinction that subsection (a) and the initial 45-day review timeline only applies to domestic applicants.

The Board adds “and application fee” to specify the Board must receive both the

application for examination and the application fee to initiate a review for eligibility, which also clarifies the process.

The Board adds “by email or mail of one of the following” after “The Board shall inform the applicant”. These amendments clarify the methods by which the Board will inform the applicant.

The Board amends subsection (a) to further clarify the two different responses that can result from the Board’s review: (1) The Board can determine the application is complete as set forth in Section 1399.413 and the applicant is eligible to pay the examination fee to initiate scheduling of the examination; or (2) The Board can determine the application is deficient and what specific information or documentation is required to completed the application as set forth in Section 1399.413.

These amendments clarify the process surrounding the Board’s review of applicants who complete a Board approved educational and training program or tutorial program. Referencing Section 1399.413 regarding the completeness of an application for examination provides a definition of what a complete application means. These changes align the regulation with current process following the transition from offering the test two times a year to year-round through computer-based testing.

Amend Section 1399.419(b), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board restructures subsection (b) for clarity and better ease of reading.

The Board adds “For foreign-trained applicants, within ninety (90) calendar days after receipt of an application for examination and application fee, the Board shall inform the applicant by email or mail of one of the following:”

Adding this language provides a distinction that subsection (b) and an initial 90-day review timeline only applies to foreign-trained applicants. Foreign-trained applicants require a longer review timeframe to review more documentation, including the credential evaluation report. Generally, there is more work and steps involved in the review of an application for examination from a foreign-trained applicant.

The Board specifies that receipt of an application fee in addition to the application for examination is necessary to initiate a review for eligibility, which also clarifies the process.

Just as in subsection (a), the Board amends subsection (b) to further clarify the two different responses that can result from the Board’s review: (1) The Board can determine the application is complete as set forth in Section 1399.413 and the applicant is eligible to pay the examination fee to initiate scheduling of the examination; or (2) The

Board can determine the application is deficient and what specific information or documentation is required to completed the application as set forth in Section 1399.413.

These amendments clarify the process regarding review of foreign-trained applicants. Referencing Section 1399.413 regarding the completeness of an application for examination provides a definition of what a complete application means. These changes align the regulation with current process following the transition from offering the test two times a year to year-round through computer-based testing.

Amend Section 1399.419(c), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board restructures subsection (c) for clarity and better ease of reading. Previously proposed language of subsection (c) is deleted. In its place, the Board adds language requiring the Board within 45 calendar days of receipt of a completed application for examination to notify an applicant when they are eligible to pay the examination fee to initiate scheduling of the examination. This subsection only applies to applicants previously informed of deficiencies with their examination application under (a)(2) or (b)(2).

These amendments provide a timeline for the Board to review subsequent documentation and information that an applicant submits to complete an application for examination to address deficiencies applicants were informed of. The timeline only applies to complete applications for examination defined by Section 1399.413. Once an application is complete, the Board has 45 days to inform the applicant of the steps to take for scheduling the examination. The amended language provides a clear process related to subsequent information received to complete applications for examination.

The Board adds “by email or mail” after “the Board shall inform the applicant” to clarify the methods by which the Board will notify an applicant.

Add Section 1399.419(d)(1), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1): “submission of a completed application for license to the Board at its current physical address listed on its website or through the Board’s online portal accessible through the Board’s website. A completed application for license shall include all of the following information:”

These amendments clarify the methods by which an applicant shall submit an application for license to the Board. The amendments also set forth the application for license requirements. This is necessary to state criteria for which the Board will offer a license to practice acupuncture.

Add Section 1399.419(d)(1)(A), Review and Processing of Licensing Examination

Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(A): “Applicant’s full legal name ((Last Name) (First Name) (Middle Name),”

This information is necessary to identify the true and correct identity of the applicant.

Add Section 1399.419(d)(1)(B), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(B): “Other name(s) applicant has used or has been known by,”

This information is necessary to identify the true and correct identity of the applicant. Many individuals may choose to practice under a name that is not their full legal name or may have been licensed elsewhere under a different name. Therefore, providing other names by which the applicant may be known is required for identification purposes to account for some individuals having documentation that displays previous names or for individuals who have AKAs (“also known as”) that differ from their legal name.

Add Section 1399.419(d)(1)(C), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(C): “Applicant’s physical address,”

This information is necessary so the Board can communicate with the applicant about their application and transmit notices, mailings, and other communications to the applicant.

Add Section 1399.419(d)(1)(D), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(D): “Applicant’s mailing address, if different than the applicant’s physical address. The mailing address may be a post office box number or other alternate address,”

This information is necessary so the Board can communicate with the applicant about their application and transmit notices, mailings, and other communications to the applicant. Once licensed, this address will become the licensee’s address of record.

Add Section 1399.419(d)(1)(E), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(E): “Applicant’s telephone number,”

This information is necessary so the Board can communicate with the applicant about their application or future issues related to licensing.

Add Section 1399.419(d)(1)(F), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(F): “Email address, if any,”

This information is necessary so the Board can communicate with the applicant about their application and transmit notices, mailings, and other communications to the applicant. Once licensed, this email address may be used for more efficient communication from the Board.

Add Section 1399.419(d)(1)(G), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(G): “Applicant’s Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.”

This information is necessary because BPC section 30 requires the Board to collect a social security number or ITIN. (Bus. & Prof. Code, § 30, subds. (a)(1), & (a)(2)(A).)

Add Section 1399.419(d)(1)(H), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(H): “Applicant’s birthdate (month, day, and year),”

This information is necessary to identify the true and correct identity of the applicant.

Add Section 1399.419(d)(1)(I), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(I): “The following additional applicant-identifying information, to expedite the application process, if applicable:”

This is necessary to expedite certain applications as required by statute.

Add Section 1399.419(d)(1)(I)(i), Review and Processing of Licensing Examination

Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(I)(i): “Whether the applicant is serving, or has previously served, in the United States Armed Forces.” Asking about service in the United States (U.S.) Armed Forces is statutorily required by BPC section 114.5.

Add Section 1399.419(d)(1)(I)(ii), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(I)(ii): “Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.”

This item is necessary as BPC section 115.4 states the Board shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the Board that the applicant has served as an active-duty member of the Armed Forces of the United States and was honorably discharged. The DD-214 is the standard military discharge form that indicates the date and type of discharge from military service. The Board will accept other documentation from the United States Armed Forces on the release and discharge from active duty as long as it has the date and type of discharge.

Add Section 1399.419(d)(1)(I)(iii), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(I)(iii): “Whether the applicant is an active-duty member of a regular component of the United States Armed Forces enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10 of the United States Code.”

This amendment is statutorily required by BPC section 115.4; subsection (b) was added by Assembly Bill 883 (AB 883) (Mathis, Chapter 348, Statutes of 2024) and is effective July 1, 2024. For the applicant to receive assistance in the initial licensure process and for their application to be expedited, disclosing their eligibility on the application for license is necessary.

Add Section 1399.419(d)(1)(I)(iv), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(I)(iv): “Whether the applicant is married to or in a domestic partnership or other legal union with an active-duty member of the United States Armed Forces assigned to a duty station in California under official active-duty

military orders. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: certificate of marriage, certificate of domestic partnership, or proof of other legal union; a copy of the applicant's spouse's or partner's military orders reflecting assignment to a California duty station; and proof of being licensed to practice acupuncture in another state, or U.S. territory or district."

This item is required per BPC section 115.5.

Add Section 1399.419(d)(1)(l)(v), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(l)(v): "Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide any of the following items of documentation, as applicable, with the application to receive expedited review:

(I) Form I-94, arrival/departure record, with an admission class code such as "RE" (refugee) or "AY" (asylee) or other information designating the person a refugee or asylee,

(II) Special Immigrant Visa that includes the "SI" or "SQ",

(III) Permanent Resident Card (Form I-551), commonly known as a "green card", with a category designation indicating that the person was admitted as a refugee or asylee, or

(IV) An order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Board that the applicant qualifies for expedited licensure pursuant to section 135.4 of the Code."

This is required per BPC section 135.4.

Subclause (I) is necessary to provide proof of the applicant's admission into the United States as a refugee. The I-94 confirms the person is a refugee or asylee which the Board shall use to expedite the application as appropriate.

Subclause (II) is necessary to provide proof the applicant possesses a special immigrant visa. The requested document will show the applicant aided the U.S. government abroad and has permanent residency, which the Board shall use to expedite the application as appropriate.

Subclause (III) is necessary to provide proof the applicant is a refugee or asylee. The requested document will show the applicant is a permanent resident of the United States which the Board shall use to expedite the application as appropriate.

Subclause (IV) is necessary to allow for a court order or other documentary evidence that provides reliable assurances based on the language used in the order the applicant is a refugee, has been granted asylum, or has a SIV and qualifies under the statute.

Add Section 1399.419(d)(1)(J), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(J): “Excluding actions based upon the applicant’s criminal conviction history, disclosure of license denial or license suspension, revocation, voluntary surrender, or other discipline of any professional health care license in California, any other state or United States territory, or by any other governmental agency or foreign country within the preceding seven (7) years of the date of application for license,”

This information is necessary per BPC section 480(f)(2).

Add Section 1399.419(d)(1)(K), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(K): “Disclosure and explanation of a medical condition which currently impairs or limits the applicant’s ability to practice acupuncture with reasonable skill and safety,”

This information is necessary to ensure the applicant can practice acupuncture safely in the interests of consumer protection.

Add Section 1399.419(d)(1)(L), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(L): “Whether the applicant has a place of practice in California pursuant to Section 4961 subsection (g) of the Code. If yes, include its business name, phone number, email address, and address,”

This information is required by statute, and necessary for the Board to have each place of practice where they practice acupuncture, obtain a wall license, and to contact an applicant and have reliable communication.

Add Section 1399.419(d)(1)(M), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(1)(M): “A statement signed and dated by the applicant under penalty of perjury under the laws of the State of California that all statements made in the application are true and correct.”

It is necessary to have a signature as an additional affirmation, that coupled with certification under penalty of perjury, helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications under penalty of perjury: “The whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith.”].) Accordingly, the signature along with the certification under penalty of perjury in the form is necessary to ensure that complainants submit truthful and accurate information to the Board.

Add and amend Section 1399.419(d)(2), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds and edits to 1399.419(d)(2): “Payment of the initial license fee specified fee in section 1399.460 in the following accepted forms:

- (A) credit card through the Board’s online portal accessible through the Board’s website, or
- (B) personal check drawn from a U.S. bank, cashier’s check, or money order mailed to or provided in person at the Board’s current physical address listed on its website,”

This is necessary so that applicants are aware of acceptable payment methods.

Add and amend Section 1399.419(d)(3), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(3): “Applicants eligible for an expedited license application process as specified in (d)(1)(I)(iv) of this section shall also be granted a waiver of the initial license fee pursuant to Section 115.5 of the Code,”

This item is required per BPC section 115.5.

Add and amend Section 1399.419(d)(4), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds 1399.419(d)(4): “Submission of a full set of fingerprints for the purposes of the Board conducting a criminal history record check through the California Department of Justice and the Federal Bureau of Investigation submitted in the

following manner:

(A) Applicants residing in California shall take the completed California Department of Justice form “Request for Live Scan Service” to a Live Scan Service location to have their fingerprints taken by the operator. The applicant will be required to pay all fingerprint processing fees payable to the Live Scan operator, including the Live Scan operator’s “rolling fee,” if any, and fees charged by the California Department of Justice and the Federal Bureau of Investigation. For current information about fingerprint background checks, and Live Scan locations, please visit the Attorney General’s website.

(B) Applicants residing outside of California who cannot be fingerprinted electronically through Live Scan in California must have their fingerprints taken at a law enforcement agency in their state of residence, using fingerprint cards. Applicants shall complete and mail two fingerprint cards, together with the California Department of Justice and the Federal Bureau of Investigation fingerprinting fees (either personal check drawn on a U.S. bank, money order or certified check), payable to the “Acupuncture Board of California,” to its current physical address listed on its website, and”

This is necessary so that applicants are aware how to submit a Live Scan for fingerprinting. The Board needs this information for potential use with criminal history background checks to fulfill the Board’s mission of consumer protection.

Add and amend Section 1399.419(d)(5), Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds and amends 1399.419(d)(5): “The applicant is not subject to denial pursuant to Division 1.5 (commencing with Section 475) of the Code and sections 1399.469.4 and 1399.469.5.”

This is necessary because it cites the Board’s relevant regulations when the Board is making a substantial relationship determination or determining if an applicant made a showing of rehabilitation related to their criminal history. These amendments provide consistency and clarity.

Amend references in Section 1399.419, Review and Processing of Licensing Examination Applications; Requirements for Licensure, Division 13.7

The Board adds References to sections 27, 29.5, 30, 31, 114.5, 115.4, 115.5, and 135.4. Reference to these statutes is necessary as they relate to the collection of information required by these statutes. Sections 114.5, 115.4, 115.5, and 135.4 are added to the references to address the application requirements added for expediting the application for license process for eligible applicants.

The deletion of the oxford comma in the reference section is non-substantive and has

no regulatory effect.

Amend structure, syntax, cross-reference, grammar, or punctuation throughout the regulation that does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

The Board replaces “was” with “were” in § 1399.413(a)(12)(A), adds “; and,” at the end of § 1399.413(a)(15), removes commas, corrects capitalization for consistency, adds the word “that” after “states” in § 1399.419(d)(1)(l)(iv) and § 1399.419(d)(1)(l)(iv)

Add “calendar” before “days” for consistency in Sections 1399.416.2(a), 1399.416.4(e), 1399.416.4(g), 1399.416.4(h)

Amend Section 1399.416.4(b)(4) to state “official transcripts and degrees, and”

The Board adds “degrees, and” after “official transcripts” as a non-substantive change to better align regulatory text with statutory language of BPC section 4939(d)(5) and the described effect in ISR, pg. 15.

Local Mandate Determination

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.