



## Legal Questions from the CA State Board Website

The following information should be added on to your Laws and Regs. These are all great questions that might appear as test questions.

1. Who regulates the practice of acupuncture in the State of California?
  - A. **The Acupuncture Board:** The Acupuncture Board, an autonomous body of the California Department of Consumer Affairs (DCA).  
(Source: [http://www.acupuncture.ca.gov/about\\_us/history.shtml](http://www.acupuncture.ca.gov/about_us/history.shtml))
2. May a physician hold himself out as practicing acupuncture?
  - A. **Yes.** Acupuncture may be practiced by physicians licensed by the Medical Board of California. Podiatrists or dentists licensed in California may also practice acupuncture, within the scope of their respective licenses, and only if they have completed the necessary training as required by their respective licensing board.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_faqs.shtml](http://www.acupuncture.ca.gov/consumers/consumer_faqs.shtml))
3. If you operate your practice under a Fictitious Business Name (dba), are you required to notify the Board?
  - A. **Yes.** You have 30 days to notify the Board of any Name Change that affects your license. While a FBN/DBA does not legally change your name, if you use a name other than the one on your license, when the Board receives a status request, a search will be made under the name in which your license was issued, and the business may be investigated for practicing without a license. It is to your advantage to use the name under which your license was issued on all business advertising.  
(Source: [http://www.acupuncture.ca.gov/licensees/licensee\\_faqs.shtml](http://www.acupuncture.ca.gov/licensees/licensee_faqs.shtml))
4. If you change your name after getting married, how long do you have to notify the Board of the name change?
  - A. You must provide documentation of the legal name change (i.e., copies of a marriage certificate, divorce decree, legal name change, passport, or naturalization papers) **within 30 days of the change.** Note: a driver's license is not acceptable proof.  
(Source: [http://www.acupuncture.ca.gov/licensees/licensee\\_faqs.shtml](http://www.acupuncture.ca.gov/licensees/licensee_faqs.shtml))
5. What is the current makeup of the Acupuncture Board?
  - A. **Since 2005, the board is comprised of seven members – four public and three L.Ac.'s.** The public members may not hold a license or certificate as a physician and surgeon or acupuncturist. (Source: [http://www.acupuncture.ca.gov/about\\_us/history.shtml](http://www.acupuncture.ca.gov/about_us/history.shtml) & California B&P Code Section §4929)



6. Who appoints the members of the Board?
- A. **1. The Governor** shall appoint the three acupuncturist members and two of the public members. All members appointed to the board by the Governor are subject to confirmation by the Senate.
- 2. The Senate Rules Committee and the Speaker of the Assembly** each appoint one public member. (Source: California B&P Code Section §4929)
7. What is the term of office for each appointed member of the Board?
- A. **4 years.** (Source: California B&P Code Section §4930)
8. When the Board receives a complaint against an acupuncturist, and the complaint contains substantiated allegations that would warrant disciplinary action (e.g., sexual abuse, negligence, incompetence, etc.), who investigates the complaint?
- A. **A trained peace officer employed by the Department of Consumer Affairs, Division of Investigation.** The complainant is notified that the matter is being formally investigated approximately two-four weeks after complaint is received.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
9. True/False. All complaints against an acupuncturist that are received by the Board are public record, and will be listed on their website?
- A. **False.** If it has been determined that a complaint must be formally investigated, the complainant is advised and can expect to be interviewed by the investigator assigned to the case. This interview will provide the complainant an opportunity to fully discuss the details of the complaint, answer the investigator's questions, and ask any questions regarding the overall process. The investigator may also interview the subject (licensee) of the complaint who will be advised of the nature of the complaint. To ensure that the success of the investigation is not jeopardized in any way, the details of the investigation remain confidential and are not public record. Once the allegations are confirmed, and the case is submitted to the Office of the Attorney General for formal administrative disciplinary action, the information becomes public record.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
10. If formal administrative disciplinary actions are taken against an acupuncturist, who is the complainant of record?



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- A. **The Board's executive officer** becomes the complainant when the Accusation is filed.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
11. True/False: All formal administrative disciplinary actions taken against an acupuncturist go to hearing?
- A. **False.** In many cases, defense counsel and the Deputy Attorney General representing the Board may engage in discussions of proposals for stipulated settlements prior to the hearing. Stipulated settlements generally include admission to one or more of the violations alleged and a proposal for appropriate discipline. The Board encourages negotiated settlements because they eliminate the need for costly administrative hearings.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
12. If a case against an acupuncturist does go to hearing, who presides over the case?
- A. When a case does go to hearing, the hearing is presided over by an **Administrative Law Judge (ALJ)**. After the hearing is completed, the ALJ will issue a "Proposed Decision" stating the findings (facts that were proven in the hearing) and offer a recommendation for resolution (i.e., dismissal, revocation, probation). The ALJ utilizes the Board's Disciplinary Guidelines in formulating a recommendation. The proposed decision is distributed to the Board members for a vote. The Board itself then takes formal action on the matter.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
13. How long does the Board's disciplinary process take?
- A. A complaint against an acupuncturist may take a **minimum of at least two years** from the time a complaint is originally received by the Board until a final decision is rendered.  
(Source: [http://www.acupuncture.ca.gov/consumers/consumer\\_comp.shtml](http://www.acupuncture.ca.gov/consumers/consumer_comp.shtml))
14. True/False: A formal Accusation has been filed against an acupuncturist for alleged sexual misconduct by the Attorney General's Office. The acupuncturist may continue to practice until formal action is taken.
- A. **True.** Until the Board takes formal action to suspend, revoke, or request surrender of the license, and the Licensee is in compliance with all other requirements, he/she may continue to practice. (Source: [http://www.acupuncture.ca.gov/consumers/board\\_actions.shtml](http://www.acupuncture.ca.gov/consumers/board_actions.shtml))
15. True/False. The Board will always take action to revoke or suspend an acupuncturist's license if a substantiated allegation is received?



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- A. **False.** The Board may opt to issue a Formal Letter of Reprimand in lieu of filing a formal accusation. It may also issue Cite and Fine Order —a citation and which requires payment of a monetary fine, rather than suspension. Any action may include a probationary period. (Source: [http://www.acupuncture.ca.gov/consumers/board\\_actions.shtml](http://www.acupuncture.ca.gov/consumers/board_actions.shtml))

16. True/False. An anonymous “hotline” complaint against an acupuncturist will be investigated.

- A. **False.** All complaints MUST be in writing or on a consumer complaint form, with specific information needed to initiate a review; such as the names, addresses and phone numbers of both the complainant and the licensee. (Source: [http://www.acupuncture.ca.gov/consumers/board\\_actions.shtml](http://www.acupuncture.ca.gov/consumers/board_actions.shtml))

17. When should continuing education credit certificates be submitted to the Board?

- A. **Fifty hours of continuing education is due biennially upon renewal**, and licensees are required to retain records of all continuing education courses attended for **a minimum of four (4) years**. HOWEVER, certificates must only be submitted to the Board if requested by the Board, OR if the license has been allowed to expire (late renewal). (Source: [http://www.acupuncture.ca.gov/licensees/ce\\_require.shtml](http://www.acupuncture.ca.gov/licensees/ce_require.shtml))

18. A newly-licensed acupuncturist is born in August, and licensed in may. How many hours of continuing education is required on his initial renewal of license?

- A. **35 hours CE required.** Assuming he sent in his license immediately upon receiving his notice of passing - 30 days to notification, 14-28 days to issuance of license. Renewal is <16 months later.

<u>Period of Initial Licensure</u>	<u>Required CE Hours</u>
13 to 16 months	35
17 to 20 months	40
21 o 23 months	45

Thereafter, all acupuncturists renewing their license are required to complete and list 50 hours of board-approved continuing education courses on their renewal application and sign under penalty of perjury.

(Source: [http://www.acupuncture.ca.gov/licensees/ce\\_require.shtml](http://www.acupuncture.ca.gov/licensees/ce_require.shtml))

19. How many hours of CEUs may be completed through distance education (online courses, correspondence courses, etc.)?



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A. **Up to 50% only** (25 hours).

(Source: [http://www.acupuncture.ca.gov/licensees/ce\\_require.shtml](http://www.acupuncture.ca.gov/licensees/ce_require.shtml))



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20. An acupuncturist takes an CAB-approved 7 hour CEU course on Taiji. How many hours count toward his/her CEUs for this course?
- A. **Only 5 hours, providing the acupuncturist has not taken any other Category 2 CEU Course.** No more than five (5) hours of continuing education may be earned from courses in Category 2. Even though CE courses in Category 2 may be approved for more than 5 hours of credit, only 5 hours of credit may be reported for each renewal period.  
(Source: [http://www.acupuncture.ca.gov/licensees/ce\\_require.shtml](http://www.acupuncture.ca.gov/licensees/ce_require.shtml))
21. True/False: An acupuncturist renewing an expired license must provide copies of "Certificates of Completion" to the Board in addition to the documentation page on the renewal form.
- A. **True.** All acupuncturists renewing expired licenses, must provide copies of "Certificates of Completion" of their CE approved courses. Before an expired license can be updated and renewed, all accrued CE hours and current hours must be submitted.  
(Source: <http://www.acupuncture.ca.gov/licensees/explic.shtml>)
22. Can an acupuncturist file their clinic as C corporation or an S corporation?
- A. Neither. An acupuncture clinic can only file as a professional corporation.

### Record Keeping:

- Records are to be kept for either 7 years or 10 years from the last patient visit
- Records for employees who have had a needle stick must be kept for 30 years
- **Minors:** Records for minors must be kept until they come of age at 18 + 7 or 10 years. Generally it is either until 25 or 27.
- **Emancipated minor:**
  - **Definition:** An emancipated minor is someone who comes of age before 18. This can be as early as 14 years old.
  - **Recording Keeping:** there are two rules to follow for emancipated minors. Either:
    - keep records for the day they come of age (14-17years old) + 3 years
    - keep records for 5 years from the day you saw them last
    - Go with the one that that is the longest.
  - **Examples:**
    - A patient comes to you when they are 15 years old and you give them 2 treatments. Then at 16, they become emancipated. You would:
      - Keep their records from 16 + 3 years so until they are 19 years old



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Or

- Keep their records from the date you saw them last which was when they were 15 + 5 years so until they are 20.
  - **You want to follow the law that is the longest: in this case it is law # 2. Keep until they are 20 years old.**
- You have a patient you see twice when they are 12 years old. You don't see them again. At age 16, they become emancipated. How long do you keep their records?
- Keep their records from 16 + 3 years so until they are 19 years old

Or

- Keep their records from the date you saw them last which was when they were 12 + 5 years so until they are 17 years old.
- **You want to follow the law that is the longest: in this case it is law # 1. Keep until they are 19 years old.**