

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6475
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

8 **BEFORE THE**
9 **ACUPUNCTURE BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2019-192

13 **HIROYUKI TERAOKAWA, L.Ac.**
14 **275 South Beverly Drive, Suite 210**
Beverly Hills, CA 90212

ACCUSATION

15 **Acupuncturist License No. AC 12859,**

16 Respondent.

17
18 **PARTIES**

19 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
20 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs (Board).

21 2. On or about February 18, 2009, the Board issued Acupuncturist License No. AC
22 12859 to Hiroyuki Terakawa, L.Ac. (Respondent). The Acupuncturist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on July 31, 2024,
24 unless renewed.

25 3. On or about September 30, 2020, in the case entitled *The People of the State of*
26 *California v. Hiroyuki Terakawa*, Los Angeles Superior Court Case No. 9AR32630, pursuant to
27 Penal Code section 23, the Superior Court ordered that Respondent is prohibited from treating
28 female patients during the pendency of the criminal matter.

1 **JURISDICTION**

2 4. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 5. Section 4928.1 of the Code states:

6 Protection of the public shall be the highest priority of the Acupuncture Board
7 in exercising its licensing, regulatory, and disciplinary functions. Whenever the
8 protection of the public is inconsistent with other interest sought to be promoted, the
9 protection of the public shall be paramount.

10 **STATUTORY PROVISIONS**

11 6. Section 4955 of the Code states:

12 The board may deny, suspend, or revoke, or impose probationary conditions
13 upon, the license of any acupuncturist who is guilty of unprofessional conduct.

14 Unprofessional conduct shall include, but not be limited to, the following:

15 ...

16 (b) Conviction of a crime substantially related to the qualifications, functions,
17 or duties of an acupuncturist, the record of conviction being conclusive evidence
18 thereof.

19 (d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the
20 violation of the terms of this chapter or any regulation adopted by the board pursuant
21 to this chapter.

22 ...

23 7. Section 726 of the Code states:

24 (a) The commission of any act of sexual abuse, misconduct, or relations with a
25 patient, client, or customer constitutes unprofessional conduct and grounds for
26 disciplinary action for any person licensed under this or under any initiative act
27 referred to in this division.

28 ...

8. Section 4956 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere
made to a charge which is substantially related to the qualifications, functions, or
duties of an acupuncturist is deemed to be a conviction within the meaning of this
chapter.

The board may order a license suspended or revoked, or may deny a license, or
may impose probationary conditions upon a license, when the time for appeal has
elapsed, or the judgment of conviction has been affirmed on appeal, or when an order

1 granting probation is made suspending the imposition of sentence irrespective of a
2 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
3 the person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or
4 setting aside the verdict of guilty, or dismissing the accusation, complaint,
5 information, or indictment.

6 9. Section 490 of the Code states:

7 (a) In addition to any other action that a board is permitted to take against a
8 licensee, a board may suspend or revoke a license on the ground that the licensee has
9 been convicted of a crime, if the crime is substantially related to the qualifications,
10 functions, or duties of the business or profession for which the license was issued.

11 (b) Notwithstanding any other provision of law, a board may exercise any
12 authority to discipline a licensee for conviction of a crime that is independent of the
13 authority granted under subdivision (a) only if the crime is substantially related to the
14 qualifications, functions, or duties of the business or profession for which the
15 licensee's license was issued.

16 (c) A conviction within the meaning of this section means a plea or verdict of
17 guilty or a conviction following a plea of nolo contendere. Any action that a board is
18 permitted to take following the establishment of a conviction may be taken when the
19 time for appeal has elapsed, or the judgment of conviction has been affirmed on
20 appeal, or when an order granting probation is made suspending the imposition of
21 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
22 the Penal Code.

23 (d) The Legislature hereby finds and declares that the application of this section
24 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
25 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
26 number of statutes and regulations in question, resulting in potential harm to the
27 consumers of California from licensees who have been convicted of crimes.
28 Therefore, the Legislature finds and declares that this section establishes an
independent basis for a board to impose discipline upon a licensee, and that the
amendments to this section made by Chapter 33 of the Statutes of 2008 do not
constitute a change to, but rather are declaratory of, existing law.

COST RECOVERY

10. Section 4959 of the Code states:

(a) The board may request the administrative law judge, under his or her
proposed decision in resolution of a disciplinary proceeding before the board, to
direct any licensee found guilty of unprofessional conduct to pay to the board a sum
not to exceed actual and reasonable costs of the investigation and prosecution of the
case.

(b) The costs to be assessed shall be fixed by the administrative law judge and
shall not in any event be increased by the board. When the board does not adopt a
proposed decision and remands the case to an administrative law judge, the
administrative law judge shall not increase the amount of any costs assessed in the
proposed decision.

///
27

(c) When the payment directed in the board's order for payment of costs is not
made by the licensee, the board may enforce the order for payment in the superior

1 court in the county where the administrative hearing was held. This right of
2 enforcement shall be in addition to any other rights the board may have as to any
3 licensee directed to pay costs.

4 (d) In any judicial action for the recovery of costs, proof of the board's decision
5 shall be conclusive proof of the validity of the order of payment and the terms for
6 payment.

7 (e) All costs recovered under this section shall be considered a reimbursement
8 for costs incurred and shall be deposited in the Acupuncture Fund.

9 **FACTUAL ALLEGATIONS**

10 11. On or about July 30, 2019, Patient 1¹ sought acupuncture services from Respondent.
11 During Patient 1's acupuncture treatment, Respondent inappropriately exposed his penis and
12 touched Patient 1 with it.

13 12. Patient 1 stated that she was laying on the acupuncture treatment table, face down,
14 wearing only her underwear and a blanket that covered her buttocks. Her arms and back were
15 exposed with her hands flat on the table with the inside of her palms faced up when she felt
16 something touching her for approximately 30 minutes. She did not know what it was and
17 described it as soft and not like hands. She assumed it was part of the treatment, as it consistently
18 touched her arms, lower back and in her hands. Eventually, she felt something in her hand and
19 some pressure was applied. She then lifted her head and observed that Respondent's penis was in
20 her hand. She sat up, used the blanket to cover her body. Respondent stated "I'm sorry"
21 repeatedly as he put his penis in his pants. He then stood in front of the door to prevent her from
22 leaving. Patient 1 then told Respondent to get out of the way. Once outside the office, Patient 1
23 called the police.

24 13. Patient 1 was interviewed by Officer F. of the Beverly Hills Police Department. As
25 set forth above, Patient 1 reported that Respondent inappropriately exposed his penis and touched
26 Patient 1 with it while she was receiving acupuncture services.

27 14. Respondent was also interviewed by Officer F. Respondent stated he took his penis
28 completely out of his pants, out of curiosity and because it felt good, while Patient 1 was on the
acupuncture treatment table. He stated that he did not mean to touch Patient 1 with his penis and

///

¹ For privacy purposes, the patient in this Accusation is referred to as Patient 1.

1 estimated that his penis was exposed for approximately five minutes. Respondent stated he had
2 done this once or twice when treating Patient 1 previously.

3 15. On or about July 30, 2019, Respondent was arrested by Officer F. for indecent
4 exposure based upon Patient 1's report and Respondent's admission that he exposed his genitals
5 while providing acupuncture services to Patient 1.

6 16. On or about August 1, 2019, in the criminal matter entitled *The People of the State of*
7 *California v. Hiroyuki Terakawa*, Los Angeles Superior Court Case No. 9AR32630, Respondent
8 was charged with indecent exposure, a misdemeanor, in violation of Penal Code section 314,
9 subdivision (1); battery, a misdemeanor, in violation of Penal Code section 242; and false
10 imprisonment, a misdemeanor, in violation of Penal Code section 236.

11 17. On or about October 21, 2022, following a court trial, Respondent was found guilty
12 and convicted of indecent exposure, a misdemeanor, in violation of Penal Code section 314,
13 subdivision (1); battery, a misdemeanor, in violation of Penal Code section 242; and false
14 imprisonment, a misdemeanor, in violation of Penal Code section 236.

15 18. On or about November 18, 2022, Respondent was sentenced and placed on summary
16 probation for a period of twelve (12) months under the following terms and conditions:

- 17 a. Serve 8 days in Los Angeles County Jail;
- 18 b. Stay 100 yards away from Patient 1;
- 19 c. Make restitution to Patient 1 pursuant to Penal Code section 1202.4,
20 subdivision (f);
- 21 d. Register as a Tier 1 sex offender pursuant to Penal Code section 290;
- 22 e. Attend 100 sexual compulsive anonymous classes;
- 23 f. Not treat any female patients;
- 24 g. Obey all laws and orders of the Court.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Sexual Misconduct)**

27 19. Respondent is subject to disciplinary action under section 726 of the Code, in that he
28 committed an act or acts of sexual abuse or misconduct against Patient 1. Complainant refers to

1 and, by this reference, incorporates paragraphs 11 through 14, above, as though fully set forth
2 herein. The circumstances are as follows:

3 20. On or about July 30, 2019, Respondent inappropriately exposed his penis and
4 inappropriately touched Patient 1 with his exposed penis while she was receiving acupuncture
5 services from him.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 21. Respondent is subject to disciplinary action for unprofessional conduct under Code
9 section 4955, section 4955, subdivision (b), section 4956, and section 490 of the Code, in that he
10 was convicted of a substantially related crime. Complainant refers to and, by this reference,
11 incorporates herein, paragraphs 11 through 20, above, as though fully set forth herein.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 22. Respondent is subject to disciplinary action under section 4955 of the Code, in that he
15 engaged in unprofessional conduct in his care, treatment, and management of Patient 1.
16 Complainant refers to and, by this reference, incorporates herein, paragraphs 11 through 21,
17 above, as though fully set forth herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Violation of the Acupuncture Licensure Act)**

20 23. Respondent is subject to disciplinary action under section 4955, subdivision (d), of
21 the Code, in that he violated the terms of the Acupuncture Licensure Act. Complainant refers to
22 and, by this reference, incorporates herein, paragraphs 11 through 22, above, as though fully set
23 forth herein.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Acupuncture Board issue a decision:

27 1. Revoking or suspending Acupuncturist License No. AC 12859, issued to Respondent
28 Hiroyuki Terakawa, L.Ac.;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Ordering Respondent Hiroyuki Terakawa, L.Ac. to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: April 24, 2023

Original Signature on File

BENJAMIN BODEA
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

LA2023600723
65856653.docx