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

11 In the Matter of the Accusation Against:	Case No. 1A-2015-132
12 <b>JIAN WEI SHOU</b>	<b>A C C U S A T I O N</b>
13 <b>2117 Main Street</b>	
14 <b>Santa Clara, CA 95050</b>	
15 <b>Acupuncture License No. AC 15022</b>	
16 Respondent.	

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity  
21 as the Acting Executive Officer of the Acupuncture Board.
- 22 2. On or about September 24, 2012, the Board issued Acupuncture License Number AC  
23 15022 to Jian Wei Shou (Respondent). The Acupuncture License was in full force and effect at  
24 all times relevant to the charges brought herein and will expire on October 31, 2017, unless  
25 renewed.

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1 JURISDICTION

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

5 4. Section 4928.1 of the Code states:

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

10 5. Section 4955 of the Code states:

11 “The board may deny, suspend, or revoke, or impose probationary conditions upon, the  
12 license of any acupuncturist if he or she is guilty of unprofessional conduct.

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

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

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

20 6. Section 4955.1 of the Code states:

21 “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
22 of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be  
23 limited to, any of the following:

24 “(b) Committing a fraudulent or dishonest act as an acupuncturist.

25 “(c) Committing any act involving dishonesty or corruption with respect to the  
26 qualifications, functions, or duties of an acupuncturist.

27 “(d) Altering or modifying the medical record of any person, with fraudulent  
28 intent, or creating any false medical record.

1 7. Section 4956 of the Code states:

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

5 "The board may order a license suspended or revoked, or may deny a license, or may  
6 impose probationary conditions upon a license, when the time for appeal has elapsed, or the  
7 judgment of conviction has been affirmed on appeal, or when an order granting probation is made  
8 suspending the imposition of sentence irrespective of a subsequent order under the provisions of  
9 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to  
10 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
11 complaint, information, or indictment."

#### 12 COST RECOVERY

13 8. Section 4959 of the Code states:

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

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

23 "(c) When the payment directed in the board's order for payment of costs is not made  
24 by the licensee, the board may enforce the order for payment in the superior court in  
25 the county where the administrative hearing was held. This right of enforcement shall  
26 be in addition to any other rights the board may have as to any licensee directed to pay  
27 costs.

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

3 “(e) All costs recovered under this section shall be considered a reimbursement for  
4 costs incurred and shall be deposited in the Acupuncture Fund.”

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct: Conviction of a Crime)**

7 9. Respondent is subject to disciplinary action for unprofessional conduct under Code  
8 section 4955, section 4955(b) (Substantially Related Conviction), section 4955(d) (Violation of  
9 Board Rules/Regulations) and section 4956 (Criminal Conviction) based on the following  
10 circumstances:

11 10. On or about February 17, 2015, the Santa Clara District Attorney's Office was  
12 notified by Anthem Blue Cross of possible law violations by Teacher Chen Healthcare involving  
13 fraudulent insurance claims.

14 11. Teacher Chen Healthcare is a business operated by Respondent and his mother,  
15 Jufang Chen (Lucy), that provides massage and acupuncture treatments.

16 12. Beginning in 2010, Respondent contracted with several technology companies in  
17 Santa Clara County to provide massage and acupuncture treatments at on-site athletic facilities.

18 13. During the course of the investigation of the Santa Clara District Attorney's Office, it  
19 was discovered that from approximately August 31, 2010 to May 29, 2015, Respondent and Ms.  
20 Chen sent numerous fraudulent health insurance bills to Anthem Blue Cross for treatments that  
21 were not rendered.

22 14. The investigation revealed that clients of Teacher Chen Healthcare were provided  
23 massage treatments, however, Respondent billed Anthem Blue Cross for acupuncture treatments  
24 that were never provided.

25 15. Clients who received massages from Teacher Chen Healthcare were instructed by  
26 Respondent and Ms. Chen that if contacted by their insurance company, they should say they had  
27 received a one-hour acupuncture treatment, as massages are not covered by insurance.  
28

1           16. One individual who received a massage treatments during this time, S.C., reported  
2 being asked by Teacher Chen Healthcare to sign insurance paperwork indicating they had  
3 received acupuncture treatment on two different dates when in fact they had received a massage  
4 on only one date.

5           17. Teacher Chen Healthcare submitted bills to Anthem Blue Cross for \$490,187.15 from  
6 approximately August 31, 2010 to May 29, 2015 for payment of acupuncture treatments they had  
7 provided. Anthem Blue Cross in turn paid Respondent \$260,294.41 for these claims.

8           18. It was determined through the investigation that approximately 41% of the bills  
9 Anthem Blue Cross received from Teacher Chen Healthcare were falsified to reflect that  
10 acupuncture treatments were provided when in fact massage treatments were rendered.

11           19. The total amount of loss to Anthem Blue Cross was estimated to be \$106,978.21 as a  
12 result of the fraudulent claims submitted by Respondent over this period.

13           20. Respondent was charged in the Santa Clara County Superior Court, Case Number  
14 C1511489, with two felony counts of Penal Code section 550(a)(6), Making a False or Fraudulent  
15 Claim for the Payment of a Health Care Benefit. Each felony count included an enhancement  
16 pursuant to Penal Code section 12022.6(a)(1) that the loss exceeded \$65,000.

17           21. On or about April 13, 2006, Respondent was convicted of Penal Code section  
18 550(a)(6), a felony, and admitted the enhancement pursuant to Penal Code section 12022.6(a)(1).

19           22. Respondent was sentenced as follows: Three (3) Years Supervised Probation; 120  
20 Days in Jail; 100 Hours of Community Service; Restitution to be Paid to Anthem Blue Cross in  
21 the Amount of \$80,080.24; Standard Terms and Conditions of Felony Probation.

## 22   SECOND CAUSE FOR DISCIPLINE

### 23   (Unprofessional Conduct: Fraudulent, Dishonest and Corrupt Acts)

24           23. The allegations of Paragraphs 9 through 22, above, are incorporated herein by  
25 reference as if fully set forth.

26           24. Respondent is subject to disciplinary action for unprofessional conduct under Code  
27 section 4955.1(b) (Fraudulent or Dishonest Act), section 4955.1(c) (Corrupt Act) and section  
28 4955.1(d) (Creating any False Medical Record) in that Respondent fraudulently billed Anthem

1 Blue Cross for services that were never rendered.

2 PRAYER

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

- 5 1. Revoking or suspending Acupuncture License Number AC 15022, issued to Jian Wei
- 6 Shou;
- 7 2. Ordering Jian Wei Shou to pay the Board the reasonable costs of the investigation and
- 8 enforcement of this case, pursuant to Business and Professions Code section 4959;
- 9 3. Taking such other and further action as deemed necessary and proper.

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DATED:           **AUG 23 2016**          

  
 Benjamin Bodea  
 Acting Executive Officer  
 Acupuncture Board  
 State of California  
 Complainant

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