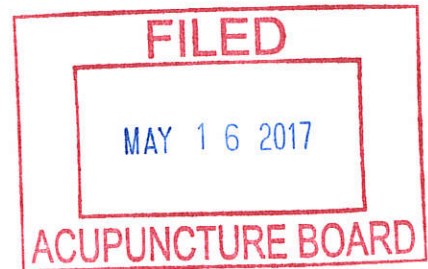


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8 **BEFORE THE**
9 **ACUPUNCTURE BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2017-28

12 **CHONG MIN YI, L.Ac.**

ACCUSATION

13 1861 Earl Avenue
14 San Bruno, CA 94066

14 Acupuncture License No. AC 15462

15 Respondent.

17 Complainant alleges:

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.

21 2. On or about April 30, 2013, the Acupuncture Board issued Acupuncture License
22 Number AC 15462 to Chong Min Yi (Respondent). The Acupuncture License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on January 31, 2019,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Acupuncture Board (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

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4. Section 4955 of the Code states:

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

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

“(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

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

“(c) False or misleading advertising.

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

“(e) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of

1 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
2 consistency in the implementation of this subdivision.

3 “The board shall seek to ensure that licensees are informed of the responsibility
4 of licensees and others to follow infection control guidelines, and of the most recent
5 scientifically recognized safeguards for minimizing the risk of transmission of
6 blood-borne infectious diseases.

7 “(f) The use of threats or harassment against any patient or licensee for
8 providing evidence in a disciplinary action, other legal action, or in an investigation
9 contemplating a disciplinary action or other legal action.

10 “(g) Discharging an employee primarily for attempting to comply with the terms
11 of this chapter.

12 “(h) Disciplinary action taken by any public agency for any act substantially
13 related to the qualifications, functions, or duties of an acupuncturist or any
14 professional health care licensee.

15 “(i) Any action or conduct that would have warranted the denial of the
16 acupuncture license.

17 “(j) The violation of any law or local ordinance on an acupuncturist's business
18 premises by an acupuncturist's employee or a person who is working under the
19 acupuncturist's professional license or business permit, that is substantially related to
20 the qualifications, functions, or duties of an acupuncturist. These violations shall
21 subject the acupuncturist who employed the individuals, or under whose
22 acupuncturist license the employee is working, to disciplinary action.

23 “(k) The abandonment of a patient by the licentiate without written notice to the
24 patient that treatment is to be discontinued and before the patient has had a reasonable
25 opportunity to secure the services of another practitioner.

26 “(l) The failure to notify the board of the use of any false, assumed, or fictitious
27 name other than the name under which he or she is licensed as an individual to
28 practice acupuncture.”

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

6. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration'."

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1 COST RECOVERY

2 7. Section 4959 of the Code states:

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

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

12 “(c) When the payment directed in the board's order for payment of costs is not
13 made by the licensee, the board may enforce the order for payment in the superior
14 court in the county where the administrative hearing was held. This right of
15 enforcement shall be in addition to any other rights the board may have as to any
16 licensee directed to pay costs.

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

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

22 FIRST CAUSE FOR DISCIPLINE


23 (Unprofessional Conduct: Use of Alcoholic Beverage in a Dangerous Manner and/or Conviction
24 of Crime Substantially Related to Profession)

25 8. Respondent is subject to disciplinary action for unprofessional conduct under section
26 4955(a) and/or 4955(b) for using alcoholic beverages to an extent or in a manner dangerous to
27 himself or to others and/or for conviction of a crime substantially related to the qualifications,
28 functions, or duties of an acupuncturist, as detailed herein below.

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

DATED: **MAY 16 2017**


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

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