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

13 In the Matter of the Accusation Against:

Case No. 1A-2016-291

14 WU YING, L.Ac.

15 3648 East Del Mar Boulevard
Pasadena, California 91107

16 Acupuncturist License No. AC 16095,

17 Respondent.

A C C U S A T I O N

18
19 **PARTIES**

20 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Officer of the Acupuncture Board (Board).

22 2. On April 30, 2014, the Board issued Acupuncturist License Number AC 16095 to Wu
23 Ying, L.Ac. (Respondent). That license was in full force and effect at all times relevant to the
24 charges brought herein and will expire on June 30, 2023, unless renewed.

25 **JURISDICTION**

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

1 indicated.

2 **STATUTORY PROVISIONS**

3 4. Section 4928.1 of the Code states:

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

7 5. Section 4928 of the Code states:

8 (a) The Acupuncture Board, which consists of seven members, shall enforce
9 and administer this chapter.

10 (b) This section shall remain in effect only until January 1, 2023, and as of that
11 date is repealed.

12 (c) Notwithstanding any other law, the repeal of this section renders the board
13 subject to review by the appropriate policy committees of the Legislature.

13 6. Section 4955 of the Code states, in applicable part:

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

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

17 ...

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

21 ...

22 (i) Any action or conduct that would have warranted the denial of the
23 acupuncture license.

24 ...

25 7. Section 4955.1 of the Code states:

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

(a) Securing a license by fraud or deceit.

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

(c) Committing any act involving dishonesty or corruption with respect to the

1 qualifications, functions, or duties of an acupuncturist.

2 (d) Altering or modifying the medical record of any person, with fraudulent
3 intent, or creating any false medical record.

4 (e) Failing to maintain adequate and accurate records relating to the provision
5 of services to their patients.

6 **GENERAL STATUTES OR REGULATIONS**

7 8. Section 498 of the Code states:

8 A board may revoke, suspend, or otherwise restrict a license on the ground that
9 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a
10 material fact or by knowingly omitting to state a material fact.

11 9. California Code of Regulations, title 16, section 1399.469.2 states:

12 In addition to the conduct described in Section 4955 of the Business and
13 Professions Code, “unprofessional conduct” also includes but is not limited to the
14 following: (a) Including or permitting to be included any of the following provisions
15 in an agreement to settle a civil dispute arising from the licensee’s practice to which
16 the licensee is or expects to be named as a party, whether the agreement is made
17 before or after the filing of an action: (1) A provision that prohibits another party to
18 the dispute from contacting, cooperating, or filing a complaint with the board.

19 ...

20 (c) Failure to cooperate and participate in any board investigation pending
21 against the licensee. This subsection shall not be construed to deprive a licensee of
22 any privilege guaranteed by the Fifth Amendment to the Constitution of the United
23 States, or any other constitutional or statutory privileges. This subsection shall not be
24 construed to require a licensee to cooperate with a request that would require the
25 licensee to waive any constitutional or statutory privilege or to comply with a request
26 for information or other matters within an unreasonable period of time in light of the
27 time constraints of the licensee’s practice. Any exercise by a licensee of any
28 constitutional or statutory privilege shall not be used against the licensee in a
regulatory or disciplinary proceeding against the licensee.

...

22 **COST RECOVERY**

23 10. Section 4959 of the Code states:

24 (a) The board may request the administrative law judge, under his or her
25 proposed decision in resolution of a disciplinary proceeding before the board, to
26 direct any licensee found guilty of unprofessional conduct to pay to the board a sum
27 not to exceed actual and reasonable costs of the investigation and prosecution of the
28 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

1 administrative law judge shall not increase the amount of any costs assessed in the
2 proposed decision.

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

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

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Obtaining License by Fraud)

15 11. Respondent is subject to disciplinary action under Code sections 498 and 4955.1
16 subdivision (a), in that he procured his acupuncture license by means of knowingly submitting
17 false and fraudulent documents. The circumstances are as follows:

18 12. On September 13, 2018, the Board submitted a request for investigation to the
19 Division of Investigation of the Department of Consumer Affairs [Division of Investigation]
20 regarding possible fraudulent education information contained in Respondent's application for
21 licensure which he submitted to the Board.

22 13. During the course of the investigation, it was determined that Respondent had
23 attended Alhambra Medical University (AMU) in Alhambra, California, but did not finish the
24 AMU program.

25 14. Respondent's application for admission to AMU stated he attended Liaoning
26 University of Traditional Chinese Medicine (Liaoning) in China from 1989 to 1992. The
27 application also contained Chinese transcripts from Liaoning.

28 15. Respondent's AMU admission application did not reflect he attended Tianjin
University of Traditional Chinese Medicine (Tianjin) in Tianjin, China.

16. Respondent's application to take the Board's licensure examination, signed by
Respondent on October 5, 2012, and received by the Board on October 17, 2012, attested under
penalty of perjury to the facts asserted in the application.

1 17. Respondent's application contained a three-page Evaluation Report from the
2 Foundation for International Services, Inc. (FIS) which allegedly confirmed Respondent attended
3 Tianjin from 1982-1987, and obtained a first professional clinical degree in Traditional Chinese
4 Medicine in China.

5 18. Respondent's application also contained Tianjin Certificate of Graduation #87001236
6 dated July 1, 1987.

7 19. The FIS Evaluation Report stated Respondent completed his coursework in China at a
8 recognized university which would be considered equivalent to a regionally accredited institution
9 in the United States.

10 20. The FIS Evaluation Report stated that the most comparable clinical (non-master)
11 degree offered by a regionally accredited university in the U.S. was a doctor of acupuncture and
12 oriental medicine.

13 21. On March 20, 2013, the Board notified Respondent that he did not achieve a passing
14 score on the licensure examination he took on February 21, 2013.

15 22. On September 9, 2013, the Board notified Respondent that he did not achieve a
16 passing score on the licensure examination he took August 13, 2013.

17 23. Respondent passed the February, 2014, examination and the Board issued his license
18 on April 30, 2014.

19 24. During the investigation, in June, 2019, the FIS Director of Evaluations provided a
20 letter stating she reviewed the alleged FIS evaluation Respondent had submitted to the Board as
21 part of his application. The Director's appraisal determined the evaluation Respondent provided
22 to the Board as part of his application was a forgery.

23 25. During the investigation, in 2020, an Attaché for the U.S. Department of Homeland
24 Security, Immigration and Customs Enforcement in Beijing, China contacted the Tianjin
25 Registrar's office. The Registrar's office evaluated the Tianjin Certificate of Graduation
26 #87001236 dated July 1, 1987.

27 26. Based upon their evaluation, the Registrar's office stated it had great doubts regarding
28 the authenticity of Respondent's graduation certificate.

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PRAYER

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

1. Revoking or suspending Acupuncturist License Number AC 16095, issued to Wu Ying, L.Ac.;
2. Ordering Wu Ying, 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;
3. If placed on probation, ordering Respondent to pay the Acupuncture Board the costs of probation monitoring; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 08/11/2022

Original Signature on File

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

Complainant

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