

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6457
Facsimile: (916) 731-2117
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

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-2016-289

13 LI HUA YAN, L.Ac.
1168 San Gabriel Blvd., Suite D
14 Rosemead, CA 91770
Acupuncturist License No. AC 16587,
15 Respondent.

ACCUSATION

16
17
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 of California (Board).

22 2. On or about April 22, 2015, the Board issued Acupuncturist License Number AC
23 16587 to Li Hua Yan, L.Ac. (Respondent). That license was in full force and effect at all times
24 relevant to the charges brought herein and will expire on November 30, 2022, 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 indicated.

1 **STATUTORY PROVISIONS**

2 4. Section 4928.1 of the Code states:

3 Protection of the public shall be the highest priority for the Acupuncture
4 Board in exercising its licensing, regulatory, and disciplinary functions. Whenever
5 the protection of the public is inconsistent with other interests sought to be promoted,
6 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11 date is repealed.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.

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

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

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

18 ...

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

25 ...

26 7. Section 4955.1 of the Code states:

27 The board may deny, suspend, revoke, or impose probationary conditions upon
28 the license of any acupuncturist if he or she is guilty of committing a fraudulent act
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
qualifications, functions, or duties of an acupuncturist.

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

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

4 **GENERAL STATUTES OR REGULATIONS**

5 8. Section 498 of the Code states:

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

8 **COST RECOVERY**

9
10 9. Section 4959 of the Code states:

11 (a) The board may request the administrative law judge, under his or her
12 proposed decision in resolution of a disciplinary proceeding before the board, to
13 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.

14 (b) The costs to be assessed shall be fixed by the administrative law judge and
15 shall not in any event be increased by the board. When the board does not adopt a
16 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.

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

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

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

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Obtaining License by Fraud)

26 10. Respondent is subject to disciplinary action under Code sections 498 and 4955.1,
27 subdivision (a), in that she procured her acupuncture license by means of knowingly submitting
28 false and fraudulent documents. The circumstances are as follows:

1 11. On October 17, 2013, the Board received an application for examination from
2 Respondent, the necessary precursor to granting an acupuncture license to an applicant who has
3 graduated from a foreign educational institution. The application, signed by Respondent on
4 September 25, 2013, attested under penalty of perjury to the facts asserted in the application.

5 12. The application included Respondent's claim that she attended and graduated from
6 Liaoning University of TCM from September, 1979 to July, 1984. The application included an
7 Evaluation Report from the Foundation of International Services, Inc. (FIS) confirming
8 Respondent's attendance and graduation from Liaoning University of TCM. The Board
9 subsequently undertook a comprehensive review of the validity of the documents Respondent
10 provided in support of her application. On December 27, 2019, during that review, Liaoning
11 University of TCM was asked to verify the existence of the materials Respondent provided to the
12 Board in her application. On December 30, 2019, Liaoning University of TCM confirmed there
13 was no record of certificate or diploma for Respondent.

14 13. The application included Respondent's Council of Colleges of Acupuncture and
15 Oriental Medicine certificate which stated on June 24, 2012, Respondent passed the Clean Needle
16 Technique Course[CNT].

17 14. The application included Respondent's claim she took a First Aid CPR class,
18 thereafter passed the CPR test, and was issued her CPR certificate on June 12, 2013.

19 15. Respondent took the February 20, 2014, examination and did not achieve a passing
20 score.

21 16. On May 2, 2014, the Board received an application update from Respondent, the
22 necessary precursor to retake the examination. The application update, signed by Respondent on
23 February 20, 2014, attested under penalty of perjury to the facts asserted in the application
24 update.

25 17. Respondent took the August 19, 2014, examination and did not achieve a passing
26 score.

27 18. On December 19, 2014, the Board received an application update from Respondent,
28 the necessary precursor to retake the examination. The application update, signed by Respondent

1 on December 15, 2014, attested under penalty of perjury to the facts asserted in the application
2 update.

3 19. Respondent took the March 3, 2015, examination and achieved a passing score.

4 20. Information that suggested Respondent secured her license by fraud arose in an
5 unrelated investigation. Thereafter the Board requested an investigation of this information by
6 the Division of Investigation of the Department of Consumer Affairs.

7 21. The investigation conducted by the Division of Investigation established that the
8 Evaluation Report Respondent provided from FIS was fraudulent.

9 22. The Board's review included correspondence with the entity which purportedly
10 taught the CNT class required by the Board for licensure. The Board's review revealed that
11 Respondent fraudulently stated she took the CNT class and in fact had never attended the class.

12 23. The Board's review included correspondence with the entity which purportedly
13 taught the CPR class required by the Board for licensure. The Board's review revealed that
14 Respondent fraudulently stated she took the CPR class and in fact had never attended the class.

15 24. The Division of Investigation investigator repeatedly attempted to schedule a Subject
16 Interview with the Respondent. The investigator received a call from a male who identified
17 himself as the Respondent's son, who said his mother only spoke Chinese. The Respondent's
18 putative son requested that the investigator provide an interpreter for the Subject Interview, the
19 investigator agreed to do so, and asked that Respondent's putative son provide the investigator
20 with dates Respondent would be available to attend an interview. The investigator did not receive
21 further contact from Respondent and therefore was unable to schedule a Subject Interview.

22 25. Respondent has subjected her license to disciplinary action under Code sections 498
23 and 4955.1, subdivision (a), in that she secured her license by fraudulently submitting false
24 documents with her application.

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Dishonest and Corrupt Acts)

27 26. The allegations of paragraphs 10 through 25, above are incorporated by reference as
28 if set out in full. Respondent has subjected her license to disciplinary action for unprofessional

1 conduct, in that her knowing presentation of fraudulent documents to obtain her acupuncture
2 license was a violation of the statutes administered and enforced by the Acupuncture Board
3 (Chapter 12, Division 2 of the Code), in violation of Code section 4955, subdivisions (d) and (i).

4 **PRAYER**

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

- 7 1. Revoking or suspending Acupuncturist License Number AC 16587, issued to Li Hua
8 Yan, L.Ac.;
- 9 2. Ordering Li Hua Yan, L.Ac. to pay the Acupuncture Board the reasonable costs of the
10 investigation and enforcement of this case, pursuant to Business and Professions Code section
11 4959;
- 12 3. If placed on probation, ordering Respondent to pay the Acupuncture Board the costs
13 of probation monitoring; and,
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16
17 DATED: 08/10/2022

Original Signature on File
18 BENJAMIN BODEA
19 Executive Officer
20 Acupuncture Board
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

24
25
26
27
28
LA2021604176
65325408.docx