

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

KAMALA D. HARRIS  
Attorney General of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General  
ASHLEY HARLAN  
Deputy Attorney General  
State Bar No. 284586  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5709  
Facsimile: (415) 703-1234  
*Attorneys for Complainant*

**FILED**

SEP 30 2014

ACUPUNCTURE BOARD

**BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
**BENG YUE YAN**  
**1854 35<sup>th</sup> Avenue**  
**San Francisco, CA 94122**  
**Acupuncture License No. AC 61**  
  
Respondent

Case No. 1A-2012-18

**ACCUSATION**

Complainant alleges:

PARTIES

1. Terri Thorfinnson ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board ("Board"), Department of Consumer Affairs.
2. On or about October 21, 1976, the Board issued Acupuncture License Number AC 61 to Beng Yue Yan ("Respondent"). The Acupuncture License was in full force and effect at all times relevant to the charges brought herein. The Acupuncture License expired on August 31, 2014 and has not been renewed.

JURISDICTION

1  
2       3.     This Accusation is brought before the Board, Department of Consumer Affairs, under  
3 the authority of the following laws. All section references are to the Business and Professions  
4 Code unless otherwise indicated.

5       4.     Section 118 of the Code states, in relevant part:

6       "...

7       "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
8 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
9 order of a court of law, or its surrender without the written consent of the board, shall not, during  
10 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
11 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
12 provided by law or to enter or order suspending or revoking the license or otherwise taking  
13 disciplinary action against the licensee on any such ground."

14       5.     Section 726 of the Code states, in relevant part:

15       "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,  
16 or customer constitutes unprofessional conduct, and grounds for  
17 disciplinary action for any person licensed under this division, under any initiative act referred to  
18 in this division and under Chapter 17 (commencing with Section 9000) of Division 3. ..."

19       6.     Section 4955 of the Code states, in relevant part:

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

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

23       "...

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





1 B.M.'s office and informed a female employee of the incident who advised her to cancel her  
2 remaining appointments.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct - Gross Negligence)

5 15. Paragraphs 10 through 13 are incorporated herein.

6 16. Respondent's license is subject to disciplinary action for unprofessional conduct  
7 under Code section 4955.2, in that Respondent committed an extreme departure from the standard  
8 of care by rubbing his penis against Patient S.B.'s arm.

9 THIRD CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct - Inadequate Recordkeeping)

11 17. Paragraphs 10 through 13 are incorporated herein.

12 18. Respondent's license is subject to disciplinary action for unprofessional conduct  
13 under Code section 4955.1(e) and California Code of Regulations, title 16, section 1399.453, in  
14 that a review of S.B.'s translated (Kanji to English) patient records indicate that Respondent  
15 failed to chart the following:

- 16 A. S.B.'s tongue, pulse, and other objective findings;  
17 B. S.B.'s TCM diagnosis; treatment plan, or goals; and  
18 C. Acupuncture points for S.B.'s January 19, 2012 treatment session.

19  
20 PRAYER

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

- 23 1. Revoking or suspending Acupuncture License Number AC 61, issued to Beng Yue  
24 Yan;  
25 2. Ordering Beng Yue Yan to pay to the Acupuncture Board the reasonable costs of the  
26 investigation and enforcement of this case, pursuant to Business and Professions Code section  
27 4959; and  
28

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

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

DATED: SEP 30 2014



TERRI THORFINNSON  
Executive Officer  
Acupuncture Board  
Department of Consumer Affairs  
State of California  
*Complainant*

SF2014408269  
40996568.doc