

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
4 State Bar No. 279257
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6329
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

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

14 In the Matter of the Petition to Revoke
Probation Against:

Case No. 1A-2017-194

15 **CORREY PO-HONG LAI, L.AC.**
16 **2001 Oregon Drive**
Sacramento, CA 95822

PETITION TO REVOKE PROBATION

17 **Acupuncturist License No. AC 7632**

18 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Benjamin Bodea (Complainant) brings this Petition to Revoke Probation solely in his
24 official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
25 Affairs.

26 2. On or about February 13, 2001, the Acupuncture Board issued Acupuncturist License
27 Number AC 7632 to Correy Po-Hong Lai, L.Ac. (Respondent). The Acupuncturist License was
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1 in effect at all times relevant to the charges brought herein and will expire on May 31, 2022,
2 unless renewed.

3 3. In a disciplinary action titled “*In the Matter of Accusation Against Correy Po-Hong*
4 *Lai, AC*,” Case No. 1A-2017-194, the Acupuncture Board, issued a Decision, effective August
5 29, 2019, in which Respondent’s Acupuncturist License was revoked. However, the revocation
6 was stayed and Respondent’s Acupuncturist License was placed on probation for a period of three
7 (3) years with certain terms and conditions. A copy of that Decision is attached as Exhibit A and
8 is incorporated by reference.

9 4. On August 23, 2019, the Board issued an initial probation letter to Respondent which
10 included the statement that Respondent’s Probation Term No. 2 (Examination) must be completed
11 within 18 months of the effective date and if Respondent has not passed the examination within
12 18 months from the effective date, Respondent will be in violation of her probation. Since then,
13 every Quarterly Review letter sent to Respondent has also included the statement that Respondent
14 must take and pass the Acupuncture examination by March 1, 2021. On February 5, 2021,
15 Respondent emailed the Board requesting a six (6) month extension on completing Probation
16 Term No. 2 (Examination) from the current deadline of March 1, 2021. On February 16, 2021, the
17 Board issued a “Notice of Probation Violation” letter to Respondent regarding her violation of
18 Term No. 1 (Practice Monitor). The Board also addressed Respondent’s request for an extension
19 regarding Probation Term No. 2 (Examination). The Board reiterated that Respondent must take
20 and pass the Acupuncture examination by March 1, 2021 as that is how it is laid out in the
21 Stipulated Settlement and Disciplinary Order that was adopted by the Acupuncture Board on July
22 30, 2019 and that if Respondent fails to complete Term No. 2 (Examination), it will be considered
23 a probation violation and that Respondent will be subject to issuance of a cease practice order.
24 This letter from the Board was sent via certified mail and a few days later, the Board received a
25 “Return Receipt for Merchandise” with Respondent’s signature on it indicating it was delivered
26 on February 18, 2021.

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1 5. On February 24, 2021, the Board emailed Respondent indicating that her retake
2 examination application had been processed and transmitted to PSI who manages the testing
3 process for the Board and that Respondent has been granted 60 days in which to take her exam.
4 However, the Board further noted that if Respondent does not take and pass her exam by March
5 1, 2021, a Cease Practice notice will be issued. The Board formalized their response in a letter to
6 Respondent dated February 26, 2021 and added that “Should you fail to pass the exam and bring
7 yourself in compliance with probation, you will be referred to the Attorney General to request
8 that the revocation of your license be carried out for violation of Term 2 – Examination. On
9 March 10, 2021, a Cease Practice Order was issued to Respondent.

10 6. On March 11, 2021, the Board received an email from Respondent asking if she can
11 postpone her exam date due to COVID-19. On March 15, 2021, the Board issued a letter to
12 Respondent denying her request for a postponement. On March 22, 2021, Respondent emailed the
13 Board advising that the next available exam date is April 5, 2021. On March 23, 2021, the Board
14 emailed Respondent back indicating that if April 5, 2021 is the next available exam date, that she
15 must take and pass the exam or the Board will petition for revocation of her license. Later that
16 day, Respondent emailed back “I understand that. Right now I can only schedule for the 4/5 exam
17 date. No other exam date is available before 4/5. Thank you for your help.”

18 7. On April 5, 2021 (Exam day), Respondent emailed the Board a copy of her doctor’s
19 appointment that she had scheduled for later that day stating that “I presented COVID symptoms
20 for a few days. Advising nurse advised me to stay alone until the COVID test result come back. I
21 will contact the PSI exam center and reschedule my test date if they allow me to. Please provide
22 advice. Thank you.” At 11:15 pm on April 5, 2021, Respondent emailed the Board that she
23 rescheduled her exam for May 10, 2021, the earliest available date. On April 16, 2021, the Board
24 issued a “Notice of Probation Violations” advising that Respondent had failed to take and pass the
25 Acupuncture exam by March 1, 2021 and that Respondent was not in compliance with Probation
26 Term No. 3 (Coursework) as she still needed to complete 1 hour in the field of Record Keeping.
27 Further, the Board noted that Respondent is also in violation of Probation Term No. 5 (Quarterly
28 Reports) as the Board did not receive Respondent’s report for the January through March 2021

1 reporting period. The Board advised that should Respondent remain in non-compliance regarding
2 Respondent’s Examination probation term by May 14, 2021, the Board will determine as to
3 whether to refer Respondent’s case to the Attorney General to request that Respondent’s
4 Acupuncture license be revoked for violating Term No. 2 of Respondent’s probation –
5 Examination. On April 19, 2021, Respondent notified the Board that her COVID-19 test results
6 came back negative.

7 8. On May 10, 2021, the Board was notified that Respondent failed the Acupuncture
8 exam.

9 **JURISDICTION**

10 9. This Petition to Revoke Probation is brought before the Acupuncture Board (Board),
11 Department of Consumer Affairs, under the authority of the following laws. All section
12 references are to the Business and Professions Code unless otherwise indicated.

13 10. Section 4928.1 of the Code states:

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

18 11. Section 4955 of the Code states:

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

21 12. Section 4955.2 of the Code states:

22 The board may deny, suspend, revoke, or impose probationary conditions upon
23 the license of any acupuncturist if he or she is guilty of committing any one of the
24 following:

- 25 (a) Gross negligence.
- 26 (b) Repeated negligent acts.
- 27 (c) Incompetence.

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1 CAUSE TO REVOKE PROBATION

2 (Failure to Abide by Probationary Terms)

3 13. At all times after the effective date of Respondent’s probation, Terms No. 1, No. 2,
4 No. 3, No. 5, and No. 10 stated:

5 Term No. 1: PRACTICE MONITOR

6 “Within 90 days of the effective date of this decision, Respondent shall submit to the Board
7 for its prior approval, the name and qualifications of one or more California licensed
8 acupuncturists whose license is clear (no record of complaints) and current and who has
9 agreed to serve as a practice monitor. Once approved, the monitor shall submit to the
10 Board a plan by which Respondent's practice shall be monitored. The monitor shall submit
11 written reports to the Board on a quarterly basis verifying that monitoring has taken place
12 and providing an evaluation of Respondent's performance. *It shall be Respondent's*
13 *responsibility to assure that the required reports are filed in a timely fashion [emphasis*
14 *added].* The Respondent shall provide access to the monitor of Respondent's fiscal and
15 client records and shall be permitted to make direct contact with patients. Further, the
16 monitor shall have no prior business, professional, personal or other relationship with
17 Respondent. Respondent shall execute a release authorizing the monitor to divulge any
18 information that the Board may request.

19 Respondent shall notify all current and potential patients of any term or condition of
20 probation which will affect their treatment or the confidentiality of their records (such as
21 this condition which requires a practice monitor). Such notification shall be signed by each
22 patient prior to continuing or commencing treatment.

23 If the monitor quits or is otherwise no longer available, Respondent shall not practice
24 until a new monitor has been approved by the Board. All costs of monitoring shall be borne
25 by the Respondent. Monitoring shall consist of at least one hour per month of individual
26 face to face meetings, in which the monitor will review treatment records and occasionally
27 observe treatments, at his or her discretion.

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1 Respondent’s requirement to comply with this term will be terminated upon a
2 showing by Respondent of eight consecutive quarterly reports, in which the practice
3 monitor concludes that Respondent’s practice of acupuncture lacks deficiencies.

4 Term No. 2: EXAMINATION(S)

5 “Respondent shall take and pass the licensure exam(s) currently required of new applicants
6 for the license possessed by Respondent. If Respondent has not passed the examination
7 within eighteen (18) months from the effective date of this Decision, Respondent shall be
8 considered to be in violation of probation.

9 Respondent shall pay the established examination fee.

10 If Respondent fails to successfully pass the examination within the designated time period,
11 Respondent shall receive a notification from the Board or its designee to cease the practice
12 of acupuncture within three (3) calendar days after being so notified. If Respondent did not
13 successfully complete the examination within 18 months of the effective date of this
14 Stipulation, Respondent shall not resume the practice of acupuncture until a final decision
15 has been rendered on the accusation and/or a petition to revoke probation. If the
16 aforementioned 18-month timeframe elapses while Respondent is awaiting determination as
17 to whether she has passed the examination, the period shall be extended, pending her
18 results.

19 This term shall not be viewed as a restriction to practice acupuncture during the
20 aforementioned 18-month timeframe.

21 Term No. 3: COURSEWORK

22 “Respondent, at her own expense, shall enroll and successfully complete the following
23 coursework substantially related to the violation(s) no later than the end of the first year of
24 probation:

- 25 • Complete the most current edition of the CCAOM Clean Needle Technique course (8
26 hours);
- 27 • Safety and contraindications (8 hours); and
- 28 • Record keeping (8 hours).

1 The coursework shall be in addition to that required for license renewal. The Board or its
2 designee shall notify Respondent of the course content and number of hours required.
3 Within thirty (30) days of the Board’s written notification of assigned coursework,
4 Respondent shall submit a written plan to comply with this requirement to the Board or its
5 designee. The Board or its designee shall approve such a plan prior to enrollment in any
6 course of study.

7 Upon successful completion of the coursework, Respondent shall submit original
8 completion certificates to the Board within thirty (30) days of course completion.

9 Term No. 5: QUARTERLY REPORTS

10 “Respondent shall submit quarterly declarations reports under penalty of perjury on forms
11 provided by the Board or its designee, stating whether there has been compliance with all
12 the conditions of probation. If the final probation report is not submitted as directed,
13 probation shall be extended automatically until such time as the final report is submitted
14 and accepted by the Board or its designee.”

15 Term No. 10: VIOLATION OF PROBATION

16 “If Respondent violates probation in any respect, the Board may, after giving Respondent
17 notice and the opportunity to be heard, revoke probation and carry out the disciplinary order
18 that was stayed. If an accusation or petition to revoke probation is filed against Respondent
19 during probation, the Board shall have continuing jurisdiction until the matter is final, and
20 the period of probation shall be extended until the matter is final. No petition for
21 modification or termination of probation shall be considered while there is an accusation or
22 petition to revoke probation pending against Respondent. If Respondent has not complied
23 with any term or condition of probation, the Board shall have continuing jurisdiction over
24 Respondent, and probation shall automatically be extended until all terms and conditions
25 have been satisfied or the Board has taken other action as deemed appropriate to treat the
26 failure to comply as a violation of probation, to terminate probation, and to impose the
27 penalty which was stayed.”
28

1 14. Respondent’s probation is subject to revocation because she failed to comply with
2 Probation Conditions No. 1, No. 2, No. 3, No. 5, and No.10, referenced above. The facts and
3 circumstances regarding this violation are as follows:

4 A. Between on or about August 29, 2019, and March 1, 2021, Respondent was
5 required to register and pass the Acupuncture Board’s Examination (Examination). Respondent
6 was also required to complete the following coursework, during the aforementioned timeframe:
7 The CCAOM Clean Needle Technique course (8 hours); Safety and contraindications (8 hours);
8 and Record keeping (8 hours). Respondent was additionally required to submit quarterly written
9 reports to her probation monitor during the aforementioned timeframe.

10 B. On or about November 29, 2019, Respondent notified the Board that she had failed
11 the CCAOM Clean Needle Technique exam. On or about February 14, 2020, Respondent’s
12 probation monitor (Monitor A) sent Respondent a compliance review report for the months of
13 October 2019 through December 2019. In the report, Monitor A stated, “By March 1, 2021, you
14 must take and pass the Acupuncture examination. The exam application was previously sent to
15 you...” Monitor A further provided assistance with examination queries and registration
16 information for Respondent’s additional required coursework.

17 C. On February 26, 2020, Respondent notified the Board that she had passed the
18 CCAOM Clean Needle Technique (CNT) exam. The Board requested that Respondent submit
19 verification that she had passed. On June 11, Monitor A sent Respondent a Quarterly compliance
20 review for the January through March 2020 reporting period. In the report, Monitor A advised
21 that the Board had still not received verification that Respondent passed the CNT exam and
22 requested again that Respondent have this verification submitted directly to the Board. Further
23 Monitor A re-stated “By March 1, 2021, you must take and pass the Acupuncture examination.
24 The exam application was previously sent to you. If you have specific questions regarding the
25 examination, please send your inquiry...” Monitor A additionally provided registration
26 information for the remaining uncompleted coursework. On July 13, 2020, the Board received a
27 copy of Respondent’s CNT certification.

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1 D. On or about October 22, 2020, Monitor A sent Respondent a compliance review
2 report for the months of July 2020 through September 2020. In the report, Monitor A ordered
3 Respondent to complete her next quarterly report—for the upcoming October 2020 through
4 December 2020 reporting period—no later than January 5, 2021. The following was additionally
5 re-stated, “By March 1, 2021, you must take and pass the Acupuncture examination. The exam
6 application was previously sent to you. If you have specific questions regarding the examination,
7 please send your inquiry...” Monitor A further provided registration information for
8 Respondent’s remaining uncompleted coursework. Due to the COVID epidemic, Monitor A
9 revised Respondent’s coursework requirements and stated the following: “Due to the social
10 distance requirements of COVID-19 the deadline to your coursework requirement was extended
11 to November 30, 2020, and the “live-in person” requirement has been waived to assist in meeting
12 this condition of your probation...Failure to submit proof of coursework completion by the due
13 date will be a violation of your probation.”

14 E. On or about February 16, 2021, Monitor A sent Respondent a compliance review
15 report / Notice of Probation Violation for the months of October 2020 through December 2020.
16 Respondent was notified that she had violated term No. 1 of her probation, by failing to submit a
17 Practice Monitor Evaluation report, for the October 2020 through December 2020 reporting
18 period, by the January 5, 2021, due date. Respondent did not submit the Practice Monitor
19 Evaluation report until January 27, 2021.

20 F. Monitor A further admonished Respondent, “By March 1, 2021, you must take and
21 pass the Acupuncture examination...” Regarding Respondent’s coursework requirement,
22 Respondent was noticed that the Board had not yet received a completion certificate for the
23 “Record Keeping (documentation)” course that Respondent stated she had taken. Further,
24 Respondent was advised that she had one (1) hour of the subject left to complete. Monitor A
25 advised Respondent that her chosen course plan had not been approved by the Board. Monitor A
26 provided two Board approved alternatives and reminded Respondent that a plan to complete the
27 courses was due by March 1, 2021 and the courses themselves must be completed and the Board
28 must receive the certificates of completion by March 16, 2021. This was the second extension.

1 The first extension expired on Nov. 30, 2020.

2 G. Monitor A further admonished Respondent that she was in violation of probation
3 term No. 5 for untimely sending the Quarterly Written Probation Report for October 2020
4 through December 2020. The Quarterly Written Probation Report was due no later than January
5 5, 2021. However, Respondent sent her report via facsimile on January 6, 2021, which was
6 untimely.

7 H. On or about February 5, 2021, Respondent requested that she be allowed an
8 additional six months added to her March 1, 2021, deadline for the Acupuncture examination.
9 That request was denied by the Board.

10 I. On or about February 26, 2021, Monitor A reiterated the specifics of Respondent's
11 term No. 2. Of relevance, Monitor A restated that Respondent had 18 months from August 29,
12 2019, to successfully complete the examination requirement of the probation. Monitor A restated
13 to Respondent, the following, in part: "...On February 24, 2021, the Board received your Exam
14 Application. On February 24, 2021, you were notified that your Application had been transmitted
15 to PSI [third party testing vendor] for scheduling of your exam and to expect an email within 24
16 to 48 hours with details of how to schedule your exam. In addition, you were advised that you
17 will be granted 60 days in which to take your exam. Although, you are being granted **60 days** to
18 take your exam this does not change the details of your exam term."

19 ...

20 "As it appears an exam will not be scheduled until after March 1, 2021, be advised that you will
21 be in violation of this term. In addition, you will be issued a cease practice order which will be in
22 effect until you have notified the Board you have passed the exam. ***Should you fail to pass the
23 exam and bring yourself in compliance with probation, you will be referred to the Attorney
24 General to request the revocation of your license be carried out for violation of Term 2 –
25 Examination.***"

26 J. On the February 26, 2021, Monitor A notified Respondent that she would no
27 longer be working with her and provided contact information for Respondent's new probation
28 monitor (Monitor B).

1 K. On March 10, 2021, a Cease Practice Order was issued to Respondent, for failing
2 to timely pass the Acupuncture Examination, pursuant to Term 2 of Respondent’s probation. On
3 or about March 11, 2021, Respondent received an email invitation from the testing center to
4 register for the Acupuncture examination. However, Respondent emailed the Board on the same
5 day asking if she can postpone her exam date due to COVID-19. On March 15, 2021, the Board
6 advised Respondent that her request for a postponement was denied.

7 L. On March 22, 2021, Respondent emailed the Board advising that the next
8 available exam date is April 5, 2021. On March 23, 2021, Monitor B sent an email to Respondent,
9 which admonished her to take and pass the April 5, 2021 Acupuncture examination, or the Board
10 will petition for revocation of her license. She was warned that she was in violation of her
11 probation by missing the previous deadline. Later that day, Respondent emailed back “I
12 understand that. Right now I can only schedule for the 4/5 exam date. No other exam date is
13 available before 4/5. Thank you for your help.” It does not appear that Respondent ever registered
14 to take the exam on April 5, 2021. On the exam date of April 5, 2021, Respondent emailed
15 Monitor B and advised she would not be taking the exam later that day because she was
16 “presenting COVID symptoms” and had made an appointment with her doctor. Respondent
17 indicated that she would contact the PSI exam center and reschedule her test date if they allowed
18 her to. Later on that day, Respondent notified Monitor B that she had registered to take the
19 Acupuncture examination on the next available date of May 10, 2021.

20 M. On or about April 16, 2021, Respondent was sent a Quarterly Review for the
21 January 2021 through March 2021 time-period, by a new probation monitor (Monitor C). The
22 Quarterly Review also served as a Notice of Probation violation, which occurred during the
23 aforementioned period. Regarding Probation Term No.1 (Practice Monitor), Respondent was
24 noticed that the term was temporarily suspended, per the Cease Practice Order issued on March
25 10, 2021. Respondent was further noticed that she was in continued violation of Probation Term
26 No. 2 (Examination), for failing to take and pass the Acupuncture examination by March 1, 2021.
27 Monitor C additionally ordered Respondent to provide a written explanation as to why she did not
28 take an earlier Acupuncture examination on April 5, 2021. Respondent was further notified that

1 she was in violation of her Probation Term No. 3 (Coursework) as she had not completed the
2 remaining hour in the record keeping course, as of the August 29, 2020, due date. Monitor C
3 provided Respondent with a list of two courses that were pre-approved by the Board. Monitor C
4 also advised Respondent that she had violated the terms of her probation by failing to provide a
5 plan to fulfil the coursework, by March 16, 2021, per a previous order from Monitor A.

6 N. Regarding Probation Term No. 5 (Quarterly Reports), Monitor C notified
7 Respondent that she was in violation of the term for failing to submit a quarterly report to her
8 previous monitor, for the January 2021 through March 2021 reporting period. The due date for
9 that quarterly report was April 5, 2021. Respondent was further admonished to submit the
10 outstanding report by May 6, 2021.

11 O. Monitor C additionally reminded Respondent, “Should you remain in non-
12 compliance regarding your Examination probation term on May 14, 2021, the Board will review
13 your file and determine as to whether to refer your case to the Attorney General to request that
14 your Acupuncture license be revoked...”

15 P. On May 10, 2021, Respondent took the Acupuncture examination. Later on that
16 day, the Board became aware that Respondent received a failing score.

17 **PRAYER**

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

20 1. Revoking the probation that was granted by the Acupuncture Board in Case No. 1A-
21 2017-194 and imposing the disciplinary order that was stayed thereby revoking Acupuncturist
22 License No. AC 7632 issued to Correy Po-Hong Lai, L.Ac.;

23 2 Revoking or suspending Acupuncturist License No. AC 7632, issued to Correy Po-
24 Hong Lai, L.Ac.;

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

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DATED: 09/28/2021

Original Signature On File

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

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