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ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **BONGJA BENA WON, L.Ac.** **600 West 9th Street, #215** **Los Angeles, CA 90015** **Acupuncturist License No. AC4975** Respondent.	Case No. 1A-2015-117 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity as the Interim Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about September 19, 1994, the Acupuncture Board issued Acupuncturist License Number AC4975 to BONGJA BENA WON, L.Ac. (Respondent). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

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JURISDICTION

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

4. Section 4937 of the Code states:

"An acupuncturist=s license authorizes the holder thereof:

" (a) To engage in the practice of acupuncture.

" (b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits any person who does not possess an acupuncturist=s license or another license as a healing arts practitioner from performing, or prescribing the use of any modality listed in this subdivision.

"(c) For purposes of this section, a 'magnet' means a mineral or metal that produces a magnetic field without the application of an electric current.

"(d) For purposes of this section, 'plant, animal, and mineral products' means naturally occurring substances of plant, animal, or mineral origin, except that it does not include synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

"(e) For purposes of this section, 'dietary supplement' has the same meaning as defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary supplement does not include controlled substances or dangerous drugs as defined in Section 4021 or 4022, or a controlled substances listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code. "

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

"The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent

scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

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

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

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

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

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

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

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

6. Section 4961 of the Code states:

"(a) Every person who is now or hereafter licensed to practice acupuncture in this state shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he or she has more than one place of practice, all of the places of practice. If the licensee has no

place of practice, he or she shall notify the board of that fact. A person licensed by the board shall register within 30 days after the date of his or her licensure.

"(b) An acupuncturist licensee shall post his or her license in a conspicuous location in his or her place of practice at all times. If an acupuncturist has more than one place of practice, he or she shall obtain from the board a duplicate license for each additional location and post the duplicate license at each location.

"(c) Any licensee that changes the location of his or her place of practice shall register each change within 30 days of making that change. In the event a licensee fails to notify the board of any change in the address of a place of practice within the time prescribed by this section, the board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or her application whether or not there has been a change in the location of his or her place of practice and, if so, the date of that change. The board may accept that statement as evidence of the change of address."

COST RECOVERY

7. Section 4959 of the Code states:

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

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

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior 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.

"(d) In any judicial action for the recovery of costs, proof of the board's decision shall be

conclusive proof of the validity of the order of payment and the terms for payment.

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

FACTUAL ALLEGATIONS

8. On or about April 30, 1990, the Board of Registered Nursing issued Registered Nurse License Number 452770 to Respondent. On or about August 14, 2015, in a disciplinary action entitled *In the Matter of the Accusation Against Bongja Bena Won, AKA Bongja Bena Seo,* before the Board of Registered Nursing, in Case Number 2015-359, Respondent's Registered Nursing License was placed on three years probation based on the following allegations:

A. Unprofessional conduct in violation of Business and Professions Code section 2761, subdivision (a), on the basis of her working as a registered nurse between 2009 and 2013 without proper physician supervision.

B. Unprofessional conduct in violation of Business and Professions Code section 2761, subdivision (d), on the basis of Respondent's Standardized Procedures and Protocols not being in compliance with California Code of Regulations, title 16, section 1474, between 2009 and 2014.

C. Unprofessional conduct in violation of Business and Professions Code section 2761, subdivision (a), in conjunction with Business and Professions Code section 2762, subdivision (a), on the basis of her unlawfully prescribing, furnishing and or administering prescription medications to patients.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Disciplinary Action Taken by Another Public Agency)

9. Respondent is subject to disciplinary action under Code section 4955, subdivision (h), in that disciplinary action was taken by another public agency for an acts substantially related to the qualification, function, or duties of a professional health care license, to wit, a registered nurse license. The circumstances are as follows.

A. The facts and circumstances alleged in paragraph 8 above are incorporated here as if fully set forth.

SECOND CAUSE FOR DISCIPLINE

(Failure to Register Change of Address)

10. Respondent is subject to disciplinary action under Code section 4961, subdivision (c), in that Respondent failed to notify the Board of her change of the location of her place of practice within thirty (30) days. The circumstances are as follows.

A. In or about 2004, Respondent opened an acupuncture clinic in Studio City, California located at 11239 Ventura Blvd, #214, under the name of Accumed Corporation, which was also incorporated by another individual for the purpose of engaging in the profession of medicine. Respondent failed to notify the Board of her change of practice location within 30 days of making that change.

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 AC4975, issued to BONGJA BENA WON, L.Ac.;

2. Ordering Bongja Bena Won, 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; and,

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

DATED: SEP 26 2016

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

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