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FILED

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ACUPUNCTURE BOARD

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

12 In the Matter of the First Amended Accusation
13 Against:

Case No. 1A-2010-168

14 **DONG MEI LI**
15 **11740 San Pablo Avenue, Suite A**
16 **El Cerrito, CA 94530**

FIRST AMENDED
ACCUSATION

Acupuncture License No. AC 5809

Respondent

17 Complainant alleges:

18 PARTIES

19 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

21 2. On or about March 16, 1997, the Acupuncture Board issued Acupuncture License
22 Number AC 5809 to Dong Mei Li (Respondent). The Acupuncture License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on October 31, 2014,
24 unless renewed.

25 JURISDICTION

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

1 4. Section 4955 of the Code states:

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

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

5 "..."

6 "(c) False or misleading advertising.

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

10 5. Section 4955.1 of the Code states:

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

14 "..."

15 "(e) Failing to maintain adequate and accurate records relating to the provision
16 of services to their patients."

17 CALIFORNIA CODE OF REGULATIONS

18 6. California Code of Regulations, title 19, section 1399.453, states:

19 "An acupuncturist shall keep complete and accurate records on each patient who is given
20 acupuncture treatment, including but not limited to, treatments given and progress made as a
21 result of the acupuncture treatments"

22 7. California Code of Regulations, title 19, section 1399.456, states:

23 "It is unprofessional conduct for an acupuncturist to use the title "Doctor" or the
24 abbreviation "Dr." in connection with the practice of acupuncture unless he or she possesses a
25 license or certificate which authorizes such use or possesses an earned doctorate degree from an
26 accredited, approved or authorized educational institution as set forth under Article 4
27 (commencing with Section 94760) of Chapter 7 of Part 59 which is in acupuncture, Oriental
28

1 medicine, a biological science, or is otherwise related to the authorized practice of an
2 acupuncturist as set forth in Sections 4927 and 4937 of the Code.

3 "The use of the title "Doctor" or the abbreviation "Dr." by an acupuncturist as authorized
4 above without further indicating the type of license, certificate or degree which authorizes such
5 use, constitutes unprofessional conduct."

6 COST RECOVERY

7 8. Section 4959 of the Code states:

8 "(a) The board may request the administrative law judge, under his or her
9 proposed decision in resolution of a disciplinary proceeding before the board, to
10 direct any licensee found guilty of unprofessional conduct to pay to the board a sum
11 not to exceed actual and reasonable costs of the investigation and prosecution of the
12 case.

13 "(b) The costs to be assessed shall be fixed by the administrative law judge and
14 shall not in any event be increased by the board. When the board does not adopt a
15 proposed decision and remands the case to an administrative law judge, the
16 administrative law judge shall not increase the amount of any costs assessed in the
17 proposed decision.

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

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

26 "(e) All costs recovered under this section shall be considered a reimbursement
27 for costs incurred and shall be deposited in the Acupuncture Fund."
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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional conduct: Failure to maintain adequate medical records)

3 9. On or about 2007, Respondent and her husband, Guo Zhi Wan, Acupuncture License
4 number 5326, owned two acupuncture clinics. One clinic is located in San Francisco, California,
5 and the second clinic is located in El Cerrito, California. On or about August through November
6 2007, Respondent provided acupuncture care and treatment to Patient X.M. and his wife Patient
7 Y.H.¹ at Respondent's acupuncture clinic in El Cerrito, California. Respondent provided
8 approximately nineteen acupuncture treatment sessions to each patient.

9 10. Respondent failed to document acupuncture care and treatment she provided to
10 Patient X.M. in approximately nineteen treatment sessions in 2007.

11 11. Respondent failed to document acupuncture care and treatment she provided to
12 Patient Y.H. in approximately nineteen treatment sessions in 2007.

13 12. Therefore, Respondent's license is subject to disciplinary action for unprofessional
14 conduct in violation of code sections 4955(d), 4955.1(e) [failure to maintain adequate medical
15 records] and CCR 1399.453 [record keeping.]

16 SECOND CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct: Mis-use of the title "Doctor")

18 13. On or about January 2010, Respondent's business card and brochure identified her as
19 "Dr." Li, L.Ac. and the brochure identified Respondent as a "physician."

20 14. Respondent's license is subject to disciplinary action for unprofessional conduct in
21 violation of code sections 4955(c) [false or misleading advertising] and CCR section 1399.456
22 [mis-use of "doctor"] in that Respondent's use of the abbreviation "Dr." and the title "physician"
23 in connection with the practice of acupuncture was misleading to the public since Respondent's
24 acupuncture license did not authorize such use.

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27 ¹ Initials are used to protect patient privacy. Patient names will be provided upon a
28 request for discovery.

