

AUG 25 2009

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
Attorney General of California
2 DOUG KNOLL
Deputy Attorney General
3 State Bar No. 077040
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-6404
5 Facsimile: (213) 897-9395
Attorneys for Complainant
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7 **BEFORE THE**
8 **ACUPUNCTURE BOARD OF THE STATE OF CALIFORNIA**

<p>9 In the Matter of the Accusation Against: 10 ZHEN QING CAO, L.AC. 11 1300 North Indian Canyon Drive 12 Palm Springs, CA 92262 13 Acupuncture No. AC 11785, 14 Respondent.</p>	<p>Case No. 1A-2008-162 OAH No. ACCUSATION</p>
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15 Complainant alleges:

16 PARTIES

17 1. Janelle Wedge ("Complainant") brings this Accusation solely in her official capacity
18 as the Executive Officer of the Acupuncture Board ("Board").
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20 2. On or about April 11, 2007, the Board issued Acupuncture License Number AC
21 11785 to Zhen Qing Cao, L.Ac. ("Respondent"). That license was in full force and effect at all
22 times relevant to the charges brought herein, and will expire on October 31, 2010, unless
23 renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
27 indicated.

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1 4. Section 480(c) of the Code states:

2 “(c) A board may deny a license regulated by this code on the ground that the applicant
3 knowingly made a false statement of fact required to be revealed in the application for such
4 license.”

5 5. Section 498 of the Code states:

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

9 6. Section 4955 of the Code states, *inter alia*:

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

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

13 (b) Conviction of a crime substantially related to the qualifications, functions, or duties of
14 an acupuncturist, the record of conviction being conclusive evidence thereof. . . .

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

16 CALIFORNIA PENAL CODE - PROSTITUTION

17 7. Section 647 of the California Penal Code (“Penal Code”) states, in pertinent part:

18 “Every person who commits any of the following acts is guilty of disorderly conduct, a
19 misdemeanor: . . .

20 (b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A
21 person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she
22 manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or
23 solicitation was made by a person who also possessed the specific intent to engage in prostitution.
24 No agreement to engage in an act of prostitution shall constitute a violation of this subdivision
25 unless some act, in addition to the agreement, is done within this state in furtherance of the
26 commission of an act of prostitution by the person agreeing to engage in that act. As used in this
27 subdivision, ‘prostitution’ includes any lewd act between persons for money or other
28 consideration.”

1 FIRST CAUSE FOR DISCIPLINE

2 [Unprofessional Conduct (Criminal Conviction)]

3 7. Respondent is subject to disciplinary action under section 4955(b) of the Code, in that
4 she has been convicted of a violation of Penal Code 647(b) [Prostitution], under circumstances
5 which make the crime substantially related to her qualifications, functions and duties as an
6 acupuncturist. Said circumstances are as follows:

7 8. At all times relevant, Respondent held herself out to the public as a duly licensed
8 acupuncturist, legally conducting the business of acupuncture at Chen's Acupuncture, 4531½
9 Van Nuys Boulevard, Van Nuys, California (hereinafter "the premises").

10 9. On or about March 21, 2007, Respondent was arrested on the premises during
11 business hours, for a violation of Penal Code 647(b) after soliciting and/or agreeing to perform an
12 act of prostitution upon Los Angeles Police Department undercover police officer, M. Hogan,
13 Serial No. 314917.

14 10. On March 22, 2007, the Los Angeles City Attorney filed a Misdemeanor Complaint,
15 in Case No. 7PY01646, charging Respondent with two criminal counts: *Count One*: violation of
16 Penal Code 647(b) [prostitution], and *Count Two*: violation of Los Angeles Municipal Code
17 103.205.1(b) [acting as a massage technician without holding a valid massage technician permit
18 issued by the Los Angeles Board of Police Commissioners].

19 11. On November 13, 2007, in Department 121 of the Los Angeles County Superior
20 Court, Northeast District, Respondent pled *nolo contendere* to Count One of said Misdemeanor
21 Complaint, was found guilty of said charge by the judge presiding, and was convicted of one
22 count of violating Penal Code 647(b). The Court dismissed Count Two. The Court placed
23 Respondent on summary probation for a period of twenty-four months on condition that she serve
24 forty-five days in the County Jail.

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SECOND CAUSE FOR DISCIPLINE

[Unprofessional Conduct (Fraud in Obtaining License)]

12. On or about July 19, 2000, in a prior criminal proceeding entitled *People v. Cao*, in Los Angeles Superior Court, Case Number 0GL02035, Respondent was convicted of violating Penal Code 647(b), a misdemeanor.

13. On or about April 18, 2003, Respondent applied to take the Board's licensing examination. In said written application, Respondent was asked the following:

"Have you ever been convicted of, or pled *nolo contendere* to any offense, misdemeanor or felony in any state, the United States, or a foreign country?

If yes, please explain on a separate sheet of paper and include dates, charge/violation, location and penalty or disposition."

14. Knowing her answer to be false, Respondent replied, "No" to the foregoing question.

15. On or about February 15, 2007, Respondent applied to the Board for a license to practice acupuncture. In said written application, Respondent was asked the following:

"Have you ever been convicted of, or pled *nolo contendere* to any offense, misdemeanor or felony in any state, the United States, or a foreign country?

If yes, please explain on a separate sheet of paper and include dates, charge/violation, location and penalty or disposition."

16. Knowing her answer to be false, Respondent replied, "No" to the foregoing question.

17. Respondent's false statements of fact were grounds for denial of her license, pursuant to section 480(c) of the Code. Pursuant to section 4955(i) of the Code, Respondent is guilty of unprofessional conduct, warranting the discipline prayed for herein.

18. Separate and apart from sections 480(c) and 4955(i) of the Code, Respondent's false statements of fact constitute grounds for the discipline prayed for herein, pursuant to section 498 of the Code.

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PRAYER


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

1. Revoking or suspending Acupuncture License Number AC 11785, issued to Zhen Qing Cao, L.Ac. ;

2. Ordering Zhen Qing Cao to pay the Board the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring, pursuant to Business and Professions Code section 4959;

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

DATED: AUG 25 2009



JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

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