

FILED

MAY 3 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
 Attorney General of California
 2 PAUL C. AMENT
 Supervising Deputy Attorney General
 3 ALBERT Y. MURATSUCHI
 Deputy Attorney General
 4 State Bar No. 173609
 300 South Spring Street, Suite 1702
 5 Los Angeles, CA 90013
 Telephone: (213) 897-6334
 6 Facsimile: (213) 897-9395
 E-mail: Albert.Muratsuchi@doj.ca.gov
 7 *Attorneys for Complainant*

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

10
 11 In the Matter of the Statement of Issues
 Against:

Case No. 1A-2009-114

STATEMENT OF ISSUES

12 **CHANG JUN DOU**
 13 1954 Denton Ave., #C
 San Gabriel, CA 91776
 14 Acupuncturist License

15 Respondent.

16
 17 Complainant Janelle Wedge ("Complainant") alleges:

18 PARTIES

19 1. Complainant brings this Statement of Issues solely in her official capacity as the
 20 Executive Officer of the State of California Acupuncture Board ("Board").

21 2. On or about August 31, 2009, the Board received an application for an
 22 Acupuncturist's License from CHANG JUN DOU ("Respondent"). In a letter dated September
 23 24, 2009, the Board denied Respondent's application.

24 JURISDICTION

25 3. This Statement of Issues is brought before the Acupuncture Board of the State of
 26 California Department of Consumer Affairs, under the authority of the following laws. All
 27 section references are to the Business and Professions Code unless otherwise indicated.

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1 4. Pursuant to Business and Professions Code section 100, et seq. and section 4925, et
2 seq., the Acupuncture Board was established for the purpose of ensuring that the acupuncture
3 profession is adequately regulated in order to protect the people of California.

4 5. Section 480 of the Code states in relevant part:

5 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
6 one of the following:

7 "(1) Been convicted of a crime. A conviction within the meaning of this section
8 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

9

10 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to
11 substantially benefit himself or herself or another, or substantially injure another.

12 "(3)

13 "(A) Done any act that if done by a licentiate of the business or profession in
14 question, would be grounds for suspension or revocation of license.

15 "(B) The board may deny a license pursuant to this subdivision only if the
16 crime or act is substantially related to the qualifications, functions, or duties of the
17 business or profession for which application is made.

18

19 "(c) A board may deny a license regulated by this code on the ground that the applicant
20 knowingly made a false statement of fact required to be revealed in the application for the
21 license."

22 6. Section 4944 of the Code states:

23 "The board shall have the authority to investigate and evaluate each and every applicant
24 applying for a license to practice acupuncture and to make the final determination of the
25 admission of the applicant to the examination, or for the issuance of a license, in conformance
26 with the provisions of this chapter.

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1 7. Section 4955 of the Code states in relevant part:

2 "The board may deny . . . the license of any acupuncturist if he or she is guilty of
3 unprofessional conduct.

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

5

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

8"

9 8. Section 4956 of the Code states:

10 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
12 is deemed to be a conviction within the meaning of this chapter.

13 "The board . . . may deny a license . . . when the time for appeal has elapsed, or the
14 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
15 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
16 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
17 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
18 complaint, information, or indictment."

19 FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION

20 (Conviction of a Crime Substantially Related to the
21 Qualifications, Functions, or Duties of an Acupuncturist)

22 9. Respondent's application is subject to denial under Sections 480(a)(1), 4955(b), and
23 4956 because she has been convicted of a crime that is substantially related to the qualifications,
24 functions, or duties of an acupuncturist. On or about November 12, 2003, in a criminal
25 proceeding entitled People of the State of California vs. Chang Jun Dou, San Mateo County
26 Superior Court Case Number NM331089, Respondent was convicted following a plea of nolo
27 contendere to the charge of prostitution, a violation of Penal Code section 647(b), a misdemeanor.
28 The circumstances of this case were as follows:

1 a. On or about June 11, 2003, while working as a massage therapist at Dr. Chen's
2 Quantum Leap, AKA Quantum Leap Holistic Healing Acupuncture Clinic, Respondent was
3 arrested for soliciting an undercover law enforcement officer to engage in an act of prostitution in
4 violation of Penal Code section 647(b).

5 b. On or about July 24, 2003, Respondent was charged with one count of violating
6 Penal Code section 647(b), a misdemeanor, for willfully and unlawfully soliciting, engaging or
7 agreeing to engage in an act of prostitution and did some act in furtherance of an act of
8 prostitution, in People of the State of California vs. Chang Jun Dou, et al., San Mateo County
9 Superior Court case no. NM331089.

10 c. On or about September 29, 2003, Respondent entered a plea of nolo contendere
11 to Count Two for a violation of Penal Code section 647(b). On or about November 12, 2003, the
12 Superior Court ordered the imposition of sentence to be suspended, placed Respondent on
13 probation for 3 years, and ordered her to serve 30 days in county jail.

14 SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION

15 (Act Involving Dishonesty, Fraud, or Deceit Substantially Related
16 to the Qualifications or Duties of an Acupuncturist)

17 10. Respondent's application is subject to denial under Section 480(a)(2) in that she
18 committed an act involving dishonesty, fraud, or deceit that is substantially related to the
19 qualifications or duties of an acupuncturist. On or about March 18, 2009, Respondent filed an
20 Application for Examination with the Acupuncture Board in order for the Board to determine
21 Respondent's qualification for examination and licensure. As part of this Application,
22 Respondent indicated "No" to the following question:

23 Have you ever been convicted of, or pled nolo contendere to any offense,
24 misdemeanor or felony in any state, the United States, or a foreign country? NOTE:
25 You are required to list any conviction that has been set aside and dismissed under
Section 1203.4 Penal Code or under any other provision of law.

26 At the end of this Application, Respondent signed the following Statement of Applicant: "I
27 hereby certify under penalty of perjury under the laws of the State of California that all statements
28

1 made herein are true in every respect, and that misstatements, or omissions of materials facts may
2 be cause for denial of this application”

3 11. As discussed in paragraph 9(c) above, on or about September 29, 2003, Respondent
4 pled nolo contendere to the criminal misdemeanor offense of prostitution in the State of
5 California. By denying her prior plea of nolo contendere in her application for examination for an
6 acupuncturist’s license, Respondent committed an act of dishonesty, fraud, or deceit that is
7 substantially related to the qualifications or duties of an acupuncturist.

8 THIRD CAUSE FOR DENIAL OF LICENSE APPLICATION

9 (Unprofessional Conduct)

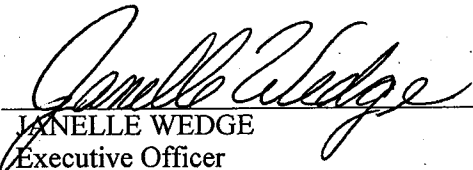
10 12. Respondent's application is subject to denial under Section 4955 of the Code in
11 that she is guilty of unprofessional conduct. In a letter received by the Acupuncture Board on or
12 about July 8, 2009, Respondent claims that she answered “No” to the question regarding any past
13 conviction in her application for examination because her 2003 criminal case had been dismissed
14 pursuant to Penal Code section 1203.4. Even assuming that Respondent was not dishonest in her
15 application, at the very least she engaged in unprofessional conduct in failing to disclose her prior
16 conviction despite the explicit instruction in the application that she was required to list any
17 conviction that has been set aside and dismissed under Penal Code section 1203.4.

18 PRAAYER

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

- 21 1. Denying the application of Chang Jun Dou for an Acupuncturist’s License;
- 22 2. Taking such other and further action as deemed necessary and proper.

23
24 DATED: MAY 03 2010


25 JANELLE WEDGE
26 Executive Officer
27 Acupuncture Board
28 State of California
Complainant

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