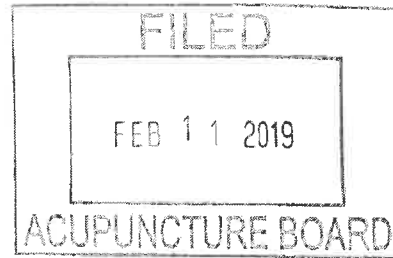


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8
9 **BEFORE THE**
10 **ACUPUNCTURE BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 1A-2018-91

14 **NATALYA B. MINER, L.AC.**
900 N. San Antonio Road, Suite 103
15 Los Altos, CA 94022

ACCUSATION

16 **Acupuncture License No. AC 11313**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about October 3, 2006, the Acupuncture Board issued Acupuncture License
24 Number AC 11313 to Natalya B. Miner, L.Ac. (Respondent). The Acupuncture License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2020, unless renewed.

27 ///

28 ///

1 JURISDICTION

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

5 4. Section 4955.1 of the Code states, in relevant part:

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

9 “. . . .”

10 “(e) Failing to maintain adequate and accurate records relating to the provision of services
11 to their patients.”

12 5. Section 4955.2 of the Code states:

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

15 “(a) Gross negligence.

16 “(b) Repeated negligent acts.

17 “(c) Incompetence.”

18 6. California Code of Regulations, title 16, 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 COST RECOVERY

23 7. Section 4959 of the Code states:

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

1 “(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in
2 any event be increased by the board. When the board does not adopt a proposed decision and
3 remands the case to an administrative law judge, the administrative law judge shall not increase
4 the amount of any costs assessed in the proposed decision.

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

9 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
10 conclusive proof of the validity of the order of payment and the terms for payment.

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

13 CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct, Gross Negligence, and/or Repeated Negligent Acts, and/or
15 Incompetence; and/or Inaccurate Medical Records)

16 8. Respondent is subject to disciplinary action under sections 4955.1(e) [failing to keep
17 accurate medical records], and/or 4955.2(a) [gross negligence], and/or 4955.2(b) [repeated
18 negligent acts], and/or 4955.2(c) [incompetence], and/or California Code of Regulations, title 16,
19 section 1399.453 [failing to keep accurate medical records] based on the case provided to Patient
20 A.¹ The circumstances are as follows:

21 9. On or about March 31, 2016, Patient A, a then 33 year old female, began seeing
22 Respondent for migraines, lower back pain, neck spasms, and bloating following a motor vehicle
23 accident. From March 31, 2016 to May 9, 2016, Respondent treated Patient A nine times.
24 Respondent's handwritten progress notes for the care provided to Patient A are difficult to read.
25 Additionally, for all nine visits, Respondent failed to document the length of the needles, angle of
26 insertion, and the depth of insertion.

27 _____
28 ¹ The patient is identified herein as Patient A to protect her privacy. Respondent will learn
the identity of the Patient during discovery.

1 10. On or about May 18, 2016, Patient A again went to Respondent for treatment.
2 According to Patient A, Respondent placed needles in her right and left chest area. As with prior
3 appointment notes, Respondent did not document the length of the needles used, the angle of
4 insertion, or the depth of the insertion.

5 11. Within 30 minutes of leaving Respondent's office, Patient A began experiencing
6 shortness of breath and had sharp pain on the right side of her chest. Patient A was seen at Urgent
7 Care and was sent home with pain medication. Overnight, Patient A began coughing and could
8 not lay flat on her back.

9 12. On or about May 19, 2016, Patient A was seen by her primary care provider, who
10 then referred Patient A to an orthopedist. This doctor ordered a chest x-ray which showed a right
11 sided pneumothorax caused by the acupuncture.² Patient A was then sent to the Stanford
12 emergency room, where she was hospitalized for treatment.

13 13. During Patient A's treatment, she notified Respondent of the injury. Respondent
14 apologized and informed Patient A that she had malpractice insurance. Respondent also texted
15 Patient A while she was in the hospital to check on her. Respondent did not document in the
16 medical record these interactions with the Patient or that the patient had a pneumothorax.

17 14. Respondent provided a statement to the Board indicating that on May 18, 2016, she
18 placed Patient A in a supine position and that she inserted "1.5 inch needles obliquely (about 30
19 degree) laterally at points stomach 13, 14, 15 at a depth of less than 0.5 inches of the needle
20 length."

21 15. Respondent's overall conduct, acts, and/or omissions with regard to Patient A
22 constitute unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or
23 incompetence, and failure to keep accurate medical records. More specifically, Respondent is
24 guilty of unprofessional conduct as follows:

25 a. Respondent's use of 1.5 inch length needles in the thoracic region;

27 ² A pneumothorax, or a collapsed lung, is a potentially life threatening condition. A
28 pneumothorax occurs when air leaks into the space between the lung and chest wall. A
pneumothorax can be caused by a blunt or penetrating chest injury.

1 b. Respondent failed to document in Patient A's medical records the length of the
2 needles and the needling depth-angle used; and

3 c. Respondent failed to document the follow-up communication with Patient A
4 regarding the pneumothorax diagnosis.

5 PRAYER

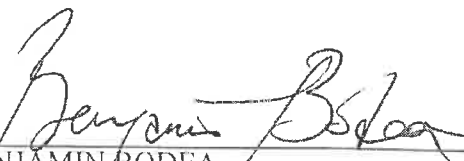
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Acupuncture Board issue a decision:

8 1. Revoking or suspending Acupuncture License Number AC 11313, issued to Natalya
9 B. Miner, L.Ac.;

10 2. Ordering Natalya B. Miner, L.Ac. to pay the Acupuncture Board the reasonable costs
11 of the investigation and enforcement of this case, pursuant to Business and Professions Code
12 section 4959; and,

13 3. Taking such other and further action as deemed necessary and proper.
14

15 DATED: FEB 11 2019



16 _____
17 BENJAMIN BODEA
18 Executive Officer
19 Acupuncture Board
20 Department of Consumer Affairs
21 State of California
22 Complainant

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