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

12 In the Matter of the Accusation Against:

Case No. 1A-2018-113

13 PEGGY CHUI MAY LO, L.Ac.

14 3750 Canfield Road
Pasadena, California 91107

15 Acupuncturist License No. AC 15088,

16 Respondent.

17 **A C C U S A T I O N**

18 Complainant alleges:

19 **PARTIES**

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

22 2. On October 3, 2012, the Board issued Acupuncturist License Number AC 15088 to
23 Peggy Chui May Lo, L.Ac. (Respondent). That license was in full force and effect at all times
24 relevant to the charges brought herein and will expire on May 31, 2020, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4928.1 of the Code states:

2 Protection of the public shall be the highest priority for the Acupuncture Board
3 in exercising its licensing, regulatory, and disciplinary functions. Whenever the
4 protection of the public is inconsistent with other interests sought to be promoted, the
5 protection of the public shall be paramount.

6 5. Section 4927 of the Code states, in pertinent part,

7 As used in this chapter, unless the context otherwise requires:

8 (a) – (c)

9 (d) ‘Acupuncture’ means the stimulation of a certain point or points on or near
10 the surface of the body by the insertion of needles to prevent or modify the perception
11 of pain or to normalize physiological functions, including pain control, treatment of
12 certain diseases or dysfunctions of the body and includes the techniques of
13 electroacupuncture, cupping, and moxibustion.

14 6. Section 4955.2 of the Code states, in pertinent part:

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

18 (a) Gross negligence.

19 **COST RECOVERY**

20 7. Section 4959 of the Code states:

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

26 (b) The costs to be assessed shall be fixed by the administrative law judge and
27 shall not in any event be increased by the board. When the board does not adopt a
28 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.

1 **DEFINITIONS**

2 8. Pneumothorax is a collapsed lung that occurs when air leaks into the space between
3 the lung and chest wall. The air pushes on the outside of the lung and makes it collapse. A
4 pneumothorax can be a complete lung collapse or a collapse of only a portion of the lung. A
5 pneumothorax can be caused by a blunt or penetrating chest injury, certain medical procedures, or
6 damage from underlying lung disease. Symptoms usually include sudden chest pain and
7 shortness of breath. A pneumothorax can be a life-threatening event. Treatment for a
8 pneumothorax usually involves inserting a needle or chest tube between the ribs to remove the
9 excess air.

10 9. The Heimlich chest tube is a small one-way valve used for chest drainage that
11 empties into a flexible collection device and prevents return of gases or fluids into the pleural
12 space. The Heimlich valve is less than 13 cm (5 inches) long and facilitates patient ambulation.
13 It can be used in many patients instead of a traditional water seal drainage system. The Heimlich
14 chest drainage valve was developed so that the process of draining the pleural cavity could be
15 accomplished in a safe, relatively simple, and efficient manner. This valve system has replaced
16 the cumbersome underwater drainage bottle system. The Heimlich valve system connects to
17 chest tubing and allows fluid and air to pass in one direction only. The valve drains into a plastic
18 bag that can be held at any level, allowing the patient undergoing chest drainage to be ambulatory
19 simply by carrying the bag.

20 **FACTUAL ALLEGATIONS**

21 10. Patient 1¹ was a 66-year-old woman when she saw Respondent for the first time for
22 acupuncture treatment on April 25, 2017.

23 11. Patient 1 filled in a pre-printed initial examination form and documented several
24 physical complaints for which she was presently under a physician's care, including asthma,
25 bronchitis, shortness of breath, and difficulty breathing.

26 12. Respondent's progress note for April 28, 2017, stated the patient's history included

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28 ¹ The names of the patient and/or witnesses are abbreviated to protect their privacy rights. The names will be provided to Respondent upon written request for discovery.

1 multiple respiratory issues.

2 13. Respondent's progress note stated that during the April 28, 2017, acupuncture session
3 when Respondent inserted a 1.0 inch, size .20 mm needle into the patient's back the patient "felt a
4 lightning shock, immediately the needle was pulled out a little bit, and the patient confirmed she
5 was fine," and Respondent left the room.

6 14. Respondent's progress note stated Respondent returned to the treatment room 15
7 minutes later back to check Patient 1. The patient told Respondent she did not feel "fine" and
8 Respondent removed all of the needles from the patient. After all of the needles were removed,
9 Patient 1 started experiencing difficulty breathing with internal abdominal pain.

10 15. Respondent's progress note stated after a minute Patient 1 felt better, and Respondent
11 asked Patient 1 to remain at her practice for 10 minutes to monitor her. After five minutes,
12 Patient 1 said she felt better and wanted to return to work. Respondent told Patient 1 to go to the
13 emergency room immediately if she experienced difficulty breathing. Respondent provided
14 Patient 1 with a phone number at which Respondent could be reached 24 hours a day, seven days
15 a week in case Patient 1 needed further assistance.

16 16. On April 25, 2017, Patient 1 was taken by ambulance and admitted to a hospital
17 emergency room approximately two hours after leaving Respondent's practice and remained
18 hospitalized for six days.

19 17. The patient was diagnosed with a 30-40 percent right side "Traumatic Pneumothorax,
20 acupuncture related," which diagnosis was confirmed by chest x-rays taken at 8:25 p.m. on April
21 25, 2017. A Heimlich chest tube was used to re-expand the patient's lung, which reversed to a
22 complete lung expansion the same day.

23 18. The Heimlich tube was removed on April 30, 2017. At discharge, Patient 1 was
24 advised not to return to work for at least a month.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 19. Respondent is subject to disciplinary action under 4955.2, subsection (a), of the Code
4 in that she was grossly negligent in her care and treatment of Patient 1. The circumstances are as
5 follows:

6 20. The standard of care requires that the needling of points in close proximity to the
7 lungs should be done with the proper needle length-depth and adequate angle to avoid a
8 Pneumothorax.

9 21. Respondent’s care and treatment of Patient 1 as set forth above produced a
10 Pneumothorax and constituted an extreme departure from the standard of care.

11 **PRAYER**

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


14 1. Revoking or suspending Acupuncturist License Number AC 15088, issued to Peggy
15 Chui May Lo, L.Ac.;

16 2. Ordering her to pay the Acupuncture Board the reasonable costs of the investigation
17 and enforcement of this case, pursuant to Business and Professions Code section 4959;

18 3. If placed on probation, ordering her to pay to the Acupuncture Board the costs of
19 probation monitoring; and

20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 11/20/19

23 
24 BENJAMIN BODEA
25 Executive Officer
26 Acupuncture Board
27 Department of Consumer Affairs
28 State of California

Complainant

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