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ACUPUNCTURE BOARD

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

11 In the Matter of the Accusation Against:

Case No. 1A-2019-211

12 **XIAO FENG LIU, L.Ac**
 13 **842 Coleman Avenue #12**
Menlo Park, CA 94025

ACCUSATION

14 **Acupuncture License No. 15978,**

15 Respondent.

16
17
18 **PARTIES**

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

21 2. On or about April 1, 2014, the Board issued Acupuncture License Number 15978 to
22 XIAO FENG LIU, L.Ac (Respondent). The Acupuncture License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on November 30, 2027, unless
24 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 498 of the Code states:

2 A board may revoke, suspend, or otherwise restrict a license on the ground that
3 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a
4 material fact or by knowingly omitting to state a material fact.

5 5. Section 581 of the Code states:

6 No person, company, or association shall purchase or procure by barter or by
7 any unlawful means or method, or have in possession any diploma, certificate,
8 transcript, or any other writing with intent that it shall be used as evidence of the
9 holder's qualifications to practice as a physician and surgeon, osteopathic physician,
10 podiatrist, any other system or mode of treating the sick or afflicted, as provided in
11 the Medical Practice Act, Chapter 5 (commencing with Section 2000), or to practice
12 as any other licentiate under this division or in any fraud of the law regulating this
13 practice or, shall with fraudulent intent, alter in a material regard, any such diploma,
14 certificate, transcript, or any other writing.

15 6. Section 4928.2 of the Code states:

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

20 7. Section 4939 of the Code states:

21 (a) For purposes of this chapter, "approved credential evaluation service"
22 means an agency or organization that is approved by the board to evaluate education
23 completed outside the United States and identify the equivalency of that education to
24 education completed within the United States.

25 (b) If an applicant completes education outside of the United States, the
26 applicant shall do both of the following:

27 (1) Submit documentation of his or her education to a board-approved
28 credential evaluation service for evaluation.

 (2) Have the results of the evaluation sent directly from the credential
 evaluation service to the board.

 (c) If the board receives the results of an applicant's evaluation pursuant to
 subdivision (b), the board shall examine the results and determine whether the
 applicant meets requirements for licensure. If the evaluated education is not sufficient
 to meet the requirements for licensure, the board may offer the applicant additional
 education, training, or standardized testing to satisfy the educational requirements.
 The board shall not require the applicant to complete education, training, or testing
 that is not otherwise required of applicants who complete education or training within
 the United States.

 (d) The board shall establish, by regulation, an application process, criteria, and
 procedures for approval of credential evaluation services. The regulations shall, at a
 minimum, require the credential evaluation service to meet all of the following
 requirements:

1 (1) Furnish evaluations written in English directly to the board.

2 (2) Be a member of a nationally recognized foreign credential evaluation
3 association, such as, but not limited to, the American Association of Collegiate
4 Registrars and Admissions Officers or the National Association of Credential
5 Evaluation Services.

6 (3) Undergo reevaluation by the board every five years.

7 (4) Certify to the board that the credential evaluation service maintains a
8 complete set of reference materials as determined by the board.

9 (5) Base evaluations only upon verified authentic, official transcripts, and
10 degrees.

11 (6) Have a written procedure for identifying fraudulent transcripts.

12 (7) Include in an evaluation report submitted to the board the specific method or
13 methods of authentication for the transcripts, certification, degrees, and other
14 education evaluated for the purposes of the report.

15 (8) Include in the evaluation report, for each degree held by the applicant, the
16 equivalent degree offered in the United States, the date the degree was granted, the
17 institution granting the degree, an English translation of the course titles, and the
18 semester unit equivalence for each course.

19 (9) Have an appeal procedure for applicants.

20 (10) Provide information concerning the credential evaluation service to the
21 board that includes, but is not limited to, resumes or curriculum vitae for each
22 evaluator and translator, which includes biographical information, three letters of
23 references from public or private agencies, statistical information on the number of
24 applications processed annually for the past five years, and any other information the
25 board may require to determine whether the credential evaluation service meets the
26 standards under this subdivision and the board's regulations.

27 8. Section 4955 of the Code states:

28 The board may deny, suspend, or revoke, or impose probationary conditions
upon, the license of any acupuncturist who is guilty of unprofessional conduct.

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

(a) Using or possessing any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, dangerous drug, or
alcoholic beverage to an extent or in a manner dangerous to the acupuncturist, or to
any other person, or to the public, and to an extent that the use impairs the
acupuncturist's ability to engage in the practice of acupuncture with safety to the
public.

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

(c) False or misleading advertising.

1 (d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the
2 violation of the terms of this chapter or any regulation adopted by the board pursuant
3 to this chapter.

4 (e) Except for good cause, the knowing failure to protect patients by failing to
5 follow infection control guidelines of the board, thereby risking transmission of
6 blood-borne infectious diseases from licensee to patient, from patient to patient, and
7 from patient to licensee. In administering this subdivision, the board shall consider
8 referencing the standards, regulations, and guidelines of the State Department of
9 Public Health developed pursuant to Section 1250.11 of the Health and Safety Code
10 and the standards, regulations, and guidelines pursuant to the California Occupational
11 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5
12 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other
13 blood-borne pathogens in health care settings. As necessary, the board shall consult
14 with healing arts boards within this division, including, but not limited to, the Medical
15 Board of California, the California Board of Podiatric Medicine, the Dental Board of
16 California, the Board of Registered Nursing, and the Board of Vocational Nursing
17 and Psychiatric Technicians, to encourage appropriate consistency in the
18 implementation of this subdivision.

19 The board shall seek to ensure that licensees are informed of the responsibility
20 of licensees and others to follow infection control guidelines, and of the most recent
21 scientifically recognized safeguards for minimizing the risk of transmission of
22 blood-borne infectious diseases.

23 (f) The use of threats or harassment against any patient or licensee for providing
24 evidence in a disciplinary action, other legal action, or in an investigation
25 contemplating a disciplinary action or other legal action.

26 (g) Discharging an employee primarily for attempting to comply with the terms
27 of this chapter.

28 (h) Disciplinary action taken by any public agency for any act substantially
related to the qualifications, functions, or duties of an acupuncturist or any
professional health care licensee.

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

(j) The violation of any law or local ordinance on an acupuncturist's business
premises by an acupuncturist's employee or a person who is working under the
acupuncturist's professional license or business permit, that is substantially related to
the qualifications, functions, or duties of an acupuncturist. These violations shall
subject the acupuncturist who employed the individuals, or under whose
acupuncturist license the employee is working, to disciplinary action.

(k) The abandonment of a patient by the licensee without written notice to the
patient that treatment is to be discontinued and before the patient has had a reasonable
opportunity to secure the services of another practitioner.

(l) the failure to notify the board of the use of any false, assumed, or fictitious
name other than the name under which the licensee is licensed as an individual to
practice acupuncture.

1 9. Section 4955.1 of the Code states:

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

4 (a) Securing a license by fraud or deceit.

5 (b) Committing a fraudulent or dishonest act as an acupuncturist.

6 (c) Committing any act involving dishonesty or corruption with respect to the
7 qualifications, functions, or duties of an acupuncturist.

8 (d) Altering or modifying the medical record of any person, with fraudulent
9 intent, or creating any false medical record.

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

11 COST RECOVERY

12 10. Section 4959 of the Code states:

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

18 (b) The costs to be assessed shall be fixed by the administrative law judge and
19 shall not in any event be increased by the board. When the board does not adopt a
20 proposed decision and remands the case to an administrative law judge, the
21 administrative law judge shall not increase the amount of any costs assessed in the
22 proposed decision.

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

28 (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.

25 FACTUAL ALLEGATIONS

26 11. The Foundation for International Services, Inc. (FIS), based in Edmonds,
27 Washington, is a company that evaluates academic credentials from a foreign country and
28 determines whether such credentials are equivalent to those earned in the United States.

