

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6457
Facsimile: (916) 731-2117
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 1A-2019-84

13 DONG QING LU, L.Ac.

ACCUSATION

14 6530 Rhone Court
15 Highland, CA 92346-2669

16 Acupuncturist License No. AC 16367,
17 Respondent.

18
19 **PARTIES**

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

22 2. On or about November 3, 2014, the Acupuncture Board issued Acupuncturist License
23 Number AC 16367 to Dong Qing Lu, L.Ac. (Respondent). The Acupuncturist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on December
25 31, 2023, unless renewed.

26 **JURISDICTION**

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

1 indicated.

2 **STATUTORY PROVISIONS**

3 4. Section 4928.1 of the Code states:

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

8 5. Section 4928 of the Code states:

9 (a) The Acupuncture Board, which consists of seven members, shall enforce
10 and administer this chapter.

11 (b) This section shall remain in effect only until January 1, 2023, and as of that
12 date is repealed.

13 (c) Notwithstanding any other law, the repeal of this section renders the board
14 subject to review by the appropriate policy committees of the Legislature.

15 6. Section 4955 of the Code states, in applicable part:

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

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

19 ...

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

23 ...

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

26 ...

27 7. Section 4955.1 of the Code states:

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

(a) Securing a license by fraud or deceit.

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

(c) Committing any act involving dishonesty or corruption with respect to the

1 qualifications, functions, or duties of an acupuncturist.

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

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

6 **GENERAL STATUTES OR REGULATIONS**

7 8. Section 498 of the Code states:

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

11 **COST RECOVERY**

12 9. 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.

FIRST CAUSE FOR DISCIPLINE

(Obtaining License by Fraud)

10. Respondent is subject to disciplinary action under Code sections 498 and 4955.1,
subdivision (a), in that she procured her acupuncture license by means of knowingly submitting

1 false and fraudulent documents. The circumstances are as follows:

2 11. On April 7, 2014, the Board received an application for examination from
3 Respondent, the necessary precursor to granting an acupuncture license to an applicant who
4 graduated from a foreign educational institution. The application signed by Respondent on April
5 7, 2014, attested under penalty of perjury to the facts asserted in the application.

6 12. During the application process, Respondent submitted a Clean Needle Technique
7 [CNT] Course certificate from the Council of Colleges of Acupuncture and Oriental Medicine, as
8 well as an Evaluation Report from the Foundation of International Services, Inc. (FIS) to the
9 Board, and information regarding her employment history.

10 13. On or about and between August 19, 2014, Respondent took the Examination and
11 achieved a passing score. Based on the representations in Respondent's application, the Board
12 issued Acupuncturist License Number AC 16367 to Dong Qing Lu on November 3, 2014.

13 14. During the Board's investigation of another acupuncturist, the Board received
14 information regarding an allegation of fraud in obtaining the acupuncturist's license against
15 Respondent. Thereafter, the Board requested an investigation of the matter by the Division of
16 Investigation of the Department of Consumer Affairs and undertook a comprehensive review of
17 the validity of the documents Respondent provided in support of her application.

18 15. The investigation conducted by the Division of Investigation established that
19 Respondent's CNT certificate was fraudulent.

20 16. The investigation conducted by the Division of Investigation established that the
21 Evaluation Report from FIS was fraudulent.

22 17. The investigation conducted by the Division of Investigation established that the
23 employment history Respondent provided to the Board was fraudulent.

24 18. The Division of Investigation investigator attempted to schedule a Subject Interview
25 with the Respondent. The investigator sent a request to the Respondent by certified mail, which
26 asked the Respondent to supply the investigator with a date for the Subject Interview. The
27 Respondent failed to respond to the Investigator's request.

28 19. Respondent has subjected her license to disciplinary action under Code sections 498

1 and 4955.1, subdivision (a), in that she secured her license by fraudulently submitting false
2 documents with her application.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Dishonest and Corrupt Acts)

5 20. The allegations of paragraphs 10 through 19, above are incorporated by reference as
6 if set out in full. Respondent has subjected her license to disciplinary action for unprofessional
7 conduct, in that her knowing presentation of fraudulent documents to obtain her acupuncture
8 license was a violation of the statutes administered and enforced by the Acupuncture Board
9 (Chapter 12, Division 2 of the Code), in violation of Code section 4955, subdivisions (d) and (i).

10 **PRAYER**

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

- 13 1. Revoking or suspending Acupuncturist License Number AC 16367, issued to Dong
14 Qing Lu, L.Ac.;
- 15 2. Ordering Dong Qing Lu, L.Ac. to pay the Acupuncture Board the reasonable costs of
16 the investigation and enforcement of this case, pursuant to Business and Professions Code section
17 4959;
- 18 3. If placed on probation, ordering Respondent to pay the Acupuncture Board the costs
19 of probation monitoring; and,
- 20 4. Taking such other and further action as deemed necessary and proper.

21 DATED: 04/14/2022

Original Signature on File

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

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