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FILED
JAN 20 2015
ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: SAMANTHA HODGES 1456 Grove Street San Francisco, CA 94117 Applicant.	Case No. 1A-2014-173 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Terri Thorfinnson ("Complainant") brings this Statement of Issues solely in her official capacity as the Executive Officer of the Acupuncture Board of California ("Board"), Department of Consumer Affairs.

2. On or about September 24, 2014, the Board received an application for an Acupuncturist License from Samantha Hodges ("Applicant"). On or about September 20, 2014, Applicant certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on November 14, 2014.

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JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 480 of the Code states:

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

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"...

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

"..."

5. Section 4928 of the Code states:

"The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter."

"..."

6. Section 4938 of the Code states:

"The Board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

"...

"(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

"..."

7. Section 4944 of the Code states:

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

"..."

8. Section 4955 of the Code states:

"The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she 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, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her 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.

"..."

9. Section 4956 of the Code states:

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

"The board may order a license suspended or revoked, or may deny a license, or may impose probationary conditions upon a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to

enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

CAUSE FOR DENIAL OF APPLICATION

(Substantially-related convictions)

10. Applicant's application is subject to denial under code sections 4955(a), 4955(b), and 4956, in that she has two substantially related convictions. The circumstances are as follows:

2008 conviction

11. On or about April 9, 2008, in the City of San Diego, State of California, Applicant drove a vehicle while under the influence of alcohol. Applicant was stopped by an Officer of the San Diego Police Department. Applicant refused to submit to a chemical test.

12. A criminal complaint, case no. M048098, was filed in San Diego Superior Court, charging Applicant with a violation of Vehicle Code sections 23152(a), driving a vehicle under the influence, 23152(b), driving a vehicle with BAC .08% or higher, and 12500, operating a vehicle without a valid license. It was further alleged that Applicant had been previously convicted of driving under the influence within ten years and that she had refused to submit to a chemical test.

13. On or about May 21, 2008, Applicant was convicted by plea of guilty to violations of Vehicle Code 23152(a) and Vehicle Code 12500, both misdemeanors. Applicant was sentenced as follows: five years probation, 96 hours work-release program, $2858.00 in fines, enroll and complete a multiple conviction program, and not drive without a license.

2000 conviction

14. On or about June 22, 2000, in the County of Dare, State of Georgia, Applicant drove a vehicle while under the influence of alcohol. Applicant was stopped by an Officer of the KDH Police Department. Applicant submitted a breath test that indicated a BAC of .10%. At the time of her arrest, she was under the age of 21.

15. A criminal citation, case no. 00CR3668, was filed in Dare County Court, charging Applicant with a violation of Georgia Statute section 20-138.1, driving a vehicle under the influence of alcohol.

16. On or about June 22, 2000, Applicant was convicted by plea of guilty to a violation of Georgia Statute section 20-138.1, a misdemeanor. Applicant was sentenced as follows: one year unsupervised probation, 60 days in jail, $340.00 in fines, and obtain a substance abuse assessment.

17. Therefore, Applicant's application is subject to discipline based on her substantially related convictions, which are in violation of code sections 4955(a), 4955(b), and 4956.

PRAYER

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

1. Denying the application of Samantha Hodges to be a Licensed Acupuncturist;

2. Taking such other and further action as deemed necessary and proper.

DATED: JAN 20 2015

TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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