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

11 In the Matter of the Accusation Against:

Case No. 1A-2015-270

12 **PEI SHENG WANG**  
13 **260 S. Sunnyvale Avenue #8**  
14 **Sunnyvale, CA 94086**  
15 **Acupuncturist License No. AC 13491**

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

Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about March 23, 2010, the Acupuncture Board issued Acupuncture License  
21 Number AC 13491 to PEI SHENG WANG (Respondent). The Acupuncture License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
23 2019, unless renewed.

24 **JURISDICTION**

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

28 4. Section 4955 of the Code states, in pertinent part:

1           “The board may deny, suspend, or revoke, or impose probationary conditions upon, the  
2 license of any acupuncturist if he or she is guilty of unprofessional conduct.

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

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

7                   “(c) False or misleading advertising.

8                   “(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly,  
9 the violation of the terms of this chapter or any regulation adopted by the board  
10 pursuant to this chapter.

11                   “(f) The use of threats or harassment against any patient or licensee for  
12 providing evidence in a disciplinary action, other legal action, or in an investigation  
13 contemplating a disciplinary action or other legal action.

14                   “(g) Discharging an employee primarily for attempting to comply with the terms  
15 of this chapter.

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

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

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

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

4           “(l) the failure to notify the board of the use of any false, assumed, or fictitious  
5 name other than the name under which he or she is licensed as an individual to  
6 practice acupuncture.”

7           5. Section 4955.1 of the Code states:

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

11           “(a) Securing a license by fraud or deceit.

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

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

15           “(d) Altering or modifying the medical record of any person, with fraudulent  
16 intent, or creating any false medical record.

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

19           6. Section 4956 of the Code states:

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

23           “The board may order a license suspended or revoked, or may deny a license, or may  
24 impose probationary conditions upon a license, when the time for appeal has elapsed, or the  
25 judgment of conviction has been affirmed on appeal, or when an order granting probation is made  
26 suspending the imposition of sentence irrespective of a subsequent order under the provisions of  
27 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to  
28

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

3 7. Section 4959 of the Code states:

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

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

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

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

18 (e) All costs recovered under this section shall be considered a reimbursement for costs  
19 incurred and shall be deposited in the Acupuncture Fund.

20 **STATEMENT OF FACTS COMMON TO ALL CAUSES FOR DISCIPLINE**

21 8. Respondent owns the PSW Acupuncture Clinic in Sunnyvale California. On  
22 November 9, 2017, Respondent pleaded nolo contendere and was convicted on five felony counts  
23 of making false or fraudulent claims for healthcare benefits in violation of Penal Code Section  
24 550(a)(6). Respondent also pleaded nolo contendere to one misdemeanor count of violating  
25 Labor Code Section 3700.5, failure to procure worker’s compensation benefits for an injured  
26 employee.

27 The facts that led to these convictions are as follows:  
28

1           9.     Beginning in around September 2014, the Santa Clara County District Attorney's  
2 Office and the California Department of Insurance (CDI) conducted a joint investigation on PSW  
3 Acupuncture, after learning that a patient of PSW Acupuncture was using health insurance  
4 benefits to acquire non-medical services such as pedicures, manicures, facials and the like.

5           10.    The investigators analyzed billing records from PSW, and determined that PSW was  
6 following a practice of billing for more acupuncture treatments than the practice would reasonably  
7 have been able to physically provide. For example, one acupuncturist would have had to work  
8 around twenty-five hours per day to provide the treatments reflected in the bills. These  
9 treatments were all billed to insurance companies under Respondent's taxpayer identification  
10 number, even though there was purportedly another acupuncturist who worked for the practice.

11          11.    In around April 2015, Santa Clara County District Attorney investigators conducted  
12 an undercover investigation at the clinic.

13          12.    On April 10, 2015, SCC DA Investigator Lorraine Tatsukawa made an appointment at  
14 PSW Acupuncture for a massage, utilizing an Anthem insurance policy provided by that company  
15 for the purpose of aiding in the investigation. After receiving the massage, PSW employees  
16 blatantly told Investigator Tatsukawa that they would back date her signature, that she need not  
17 provide the co-pay, and suborned false insurance form information by instructing Tatsukawa to  
18 write on the form that she had shoulder pain or neck pain. PSW employees also told Tatsukawa  
19 that the insurance form would say "acupuncture" because her insurance did not cover massage.  
20 Tatsukawa subsequently received the billing information, which showed two charges for two  
21 separate services, one of which was bogus and backdated to April 2, 2015. Each charge was for  
22 \$350.00 and reflected a \$9.50 co-pay—even though there had been no co-pay.

23          13.    On May 12, 2015, Investigator Tatsukawa received another massage, and did not  
24 remit any payment. Respondent greeted her following the massage and asked her to sign the  
25 insurance sheet once. He told the investigator he would ask her to sign it twice on her next visit.

26          14.    On May 21, 2015, Investigator Tatsukawa went to the business for a nail  
27 appointment. Respondent greeted the investigator, and discussed her nail appointment with her.  
28 Respondent said nothing about providing acupuncture treatment to the investigator. After the

1 investigator received a manicure, Respondent asked the investigator to sign her name twice. The  
2 following week, the investigator received billing information from Anthem Blue Cross, reflecting  
3 that PSW had billed for acupuncture services claimed to have been provided on April 27, April  
4 21, April 15, April 9 and April 2, with each visit billed at \$350. The investigator had not been at  
5 the clinic on any of those dates, and only received two massages and one manicure on other dates,  
6 and no acupuncture treatment, at all.

7 15. Eventually, the investigators interviewed employees of the clinic who reported that  
8 they were subjected to unfair employment practices. One employee reported that she suffered an  
9 injury to the skin on her hands, for which Respondent failed to provide her with worker's  
10 compensation benefits.

11 16. During the course of the investigation, in addition to the undercover operation, the  
12 investigators determined that PSW fraudulently billed six different insurance companies for a  
13 total of \$3,084,657 in false charges.

#### 14 **FIRST CAUSE FOR DISCIPLINE**

15 (Conviction of a Crime)

16 17. Respondent is subject to disciplinary action for unprofessional conduct under  
17 Business and Professions Code sections 4955 and 4955(d). The circumstances are as follows:

18 18. On or about July 18, 2017, Respondent Wang entered a plea of Nolo Contendere to  
19 five separate felony counts of knowingly making, or conspiring to make, fraudulent claims for  
20 health care benefits in violation under Penal Code Sections 550(A)(6); and one misdemeanor  
21 count of Labor Code Section 3700.5. In addition, Respondent Wang admitted the enhancements  
22 in that the fraudulent claims were related, resulted in thefts of more than one hundred thousand  
23 dollars (\$100,000) (Penal Code Section 120226(a)(3)) and that the false claims constituted  
24 aggravated circumstances of white collar crime in that the five counts of making or conspiring to  
25 make fraudulent claims involved a pattern of related felony conduct and that the felony conduct  
26 involved the taking of more than \$500,000.00 within the meaning of Penal Code Sections  
27 186.11(a)(1) and (a) (2).

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