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7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 1A-2015-93

13 **GREGORY WILLIS**  
14 1345 A 17<sup>th</sup> Street  
San Francisco, CA 94112

**STATEMENT OF ISSUES**

15  
16 Applicant.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On June 10, 2016, the Acupuncture Board (Board) received an application for an  
23 Acupuncture License from Gregory Willis (Applicant). The Board denied the application on June  
24 28, 2016. Applicant requested a hearing to contest the denial in a letter dated July 27, 2016.

25 **JURISDICTION**

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

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A. 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.

...

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(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.”

B. 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

1 impairs his or her ability to engage in the practice of acupuncture with safety to the  
2 public.

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

6 ...

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

9 C. Section 4956 of the Code states:

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

14 The board may order a license suspended or revoked, or may deny a license, or  
15 may impose probationary conditions upon a license, when the time for appeal has  
16 elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
17 order granting probation is made suspending the imposition of sentence  
18 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
19 Penal Code allowing the person to withdraw his or her pleas of guilty and to enter  
20 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
21 accusation, complaint, information, or indictment.@

22 D. Section 493 of the Code provides:

23 “Notwithstanding any other provision of law, in a proceeding conducted by a  
24 board within the department pursuant to law to deny an application for a license or  
25 to suspend or revoke a license or otherwise take disciplinary action against a  
26 person who holds a license, upon the ground that the applicant or the licensee has  
27 been convicted of a crime substantially related to the qualifications, functions, and  
28 duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of  
3 the crime in order to fix the degree of discipline or to determine if the conviction is  
4 substantially related to the qualifications, functions, and duties of the licensee in  
5 question. “

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**

7 **(Conviction of a Crime Substantially Related to the Practice of an Acupuncturist)**

8 4. Applicant's application is subject to denial under Code section 4955, subdivision (b),  
9 and section 480, subdivisions (a)(1) and (a)(3)(B) and/or (a)(3)(A), in that he was convicted of a  
10 crime substantially related to the qualifications, functions, and duties of an acupuncturist. The  
11 circumstances are as follows:

12 5. On January 14, 2015, in a criminal proceeding entitled *The People of the State of*  
13 *California v. Gregory Willis*, Case Number SCR101101 in Butte County Superior Court,  
14 Applicant was charged with one count of driving under the influence of alcohol [Vehicle Code  
15 section 23152(a)], one count of driving with a blood alcohol content of .08% [Vehicle Code  
16 section 23152(b)] and one count of refusal to take a chemical test to determine his blood alcohol  
17 level [Vehicle Code section 23578]. On April 20, 2015, Applicant was convicted in this criminal  
18 case, by plea of no contest, of a violation of Vehicle Code section 23152(a), driving under the  
19 influence of alcohol. The remaining charges were dismissed. Applicant was sentenced to 96  
20 hours in jail, and to three years of criminal probation which includes requirements that he abstain  
21 from alcohol and controlled substances, submit to alcohol testing, attend a DUI program, attend a  
22 12-step program three times a week, and not refuse a chemical test.

23 6. The facts underlying the criminal conviction are that on December 6, 2014, at 11:45  
24 p.m., a California Highway Patrol Officer observed Respondent attempting to make a left turn,  
25 losing control of his vehicle and then “spinning out” across the roadway. The officer observed  
26 objective signs of alcohol use, including red and watery eyes, slow and slurred speech, and a  
27 strong odor of alcohol. Respondent performed poorly on field sobriety tests, and then refused to  
28

1 submit to a chemical blood alcohol test as required by law. A blood sample was subsequently  
2 obtained after a warrant was issued, and showed a blood alcohol content of .12%.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Unprofessional Conduct/Dangerous Use of Alcohol and/or Controlled Substances)**

5 7. Applicant's application is further subject to denial under section 4955 and/or  
6 section 4955, subdivision (a) and/or subdivision (i) and/or section 480(a), subdivision (3)(A) of  
7 the Code.

8 8. Applicant's conduct in driving under the influence of alcohol with a blood alcohol  
9 level well over the legal limit, as more particularly alleged in the First Cause for Denial of  
10 Application, constitutes unprofessional conduct through the use of alcohol to an extent or in a  
11 manner dangerous to himself, or to any other person, or to the public, and to an extent that the use  
12 impairs his ability to engage in the practice of acupuncture with safety to the public.

13 9. In addition, on July 24, 2010, Applicant was stopped in Alameda County by the  
14 California Highway Patrol while he was in a car stopped at a highway off-ramp. Applicant was  
15 arrested and, at the time of his arrest, was found to be in possession of marijuana and a clear  
16 plastic bag containing 13 white tablets, which Applicant admitted to be Methadone, which were  
17 not prescribed to him.

18 **PRAYER**

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

- 21 1. Denying the application of Gregory Willis for an Acupuncture License; and  
22 2. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: SEP 30 2016

25   
26 BENJAMIN BODEA  
27 Interim Executive Officer  
28 Acupuncture Board  
Department of Consumer Affairs  
State of California  
*Complainant*

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