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

11
12 In the Matter of the Accusation Against:
13 SUSAN SHRIVER RODNUNSKY, L.Ac.
14 26914 Deertrail Court
Calabasas, California 91301
15 Acupuncturist License No. AC 6386,
16 Respondent.

Case No. 1A-2017-153

ACCUSATION

17
18 Complainant alleges:

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 December 7, 1998, the Board issued Acupuncturist License Number AC 6386 to
23 Susan Shriver Rodnunsky, L.Ac. (Respondent). That license was in full force and effect at all
24 times relevant to the charges brought herein and will expire on March 31, 2020, unless 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 4928.1 of the Code states:

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

6 5. Section 4955 of the Code states:

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

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

10 “(a) Using or possessing any controlled substance as defined in Division 10 (commencing
11 with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an
12 extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and
13 to an extent that the use impairs his or her ability to engage in the practice of acupuncture with
14 safety to the public.

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

17 “...”

18 “...”

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

20 “...”

21 6. Section 4956 of the Code states:

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

25 “The board may order a license suspended or revoked, or may deny a license, or may
26 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
27 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
28 suspending the imposition of sentence irrespective of a subsequent order under the provisions of

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
2 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
3 complaint, information, or indictment.”

4 7. Section 490 of the Code states:

5 “(a) In addition to any other action that a board is permitted to take against a licensee, a
6 board may suspend or revoke a license on the ground that the licensee has been convicted of a
7 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
8 or profession for which the license was issued.

9 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
10 discipline a licensee for conviction of a crime that is independent of the authority granted under
11 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
12 of the business or profession for which the licensee's license was issued.

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

19 “(d) The Legislature hereby finds and declares that the application of this section has been
20 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
21 554, and that the holding in that case has placed a significant number of statutes and regulations
22 in question, resulting in potential harm to the consumers of California from licensees who have
23 been convicted of crimes. Therefore, the Legislature finds and declares that this section
24 establishes an independent basis for a board to impose discipline upon a licensee, and that the
25 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not
26 constitute a change to, but rather are declaratory of, existing law.”

27 8. Section 493 of the Code states:

28 “Notwithstanding any other provision of law, in a proceeding conducted by a board within

1 the department pursuant to law to deny an application for a license or to suspend or revoke a
2 license or otherwise take disciplinary action against a person who holds a license, upon the
3 ground that the applicant or the licensee has been convicted of a crime substantially related to the
4 qualifications, functions, and duties of the licensee in question, the record of conviction of the
5 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
6 and the board may inquire into the circumstances surrounding the commission of the crime in
7 order to fix the degree of discipline or to determine if the conviction is substantially related to the
8 qualifications, functions, and duties of the licensee in question.

9 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
10 ‘registration.’”

11 9. California Vehicle Code Section 23152 states in pertinent part:

12 “(a) It is unlawful for any person who is under the influence of any alcoholic beverage or
13 drug, or under the combined influence of any alcoholic beverage and drug, to drive the vehicle.

14 “(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his
15 or her blood to drive the vehicle ...”

16 10. California Vehicle Code Section 20002 states:

17 “(a) The driver of any vehicle involved in an accident resulting only in damage to any
18 property, including vehicles, shall immediately stop the vehicle at the nearest location that will
19 not impede traffic or otherwise jeopardize the safety of other motorists. Moving the vehicle in
20 accordance with this subdivision does not affect the question of fault. The driver shall also
21 immediately do either of the following:

22 “(1) Locate and notify the owner or person in charge of that property of the name and
23 address of the driver and owner of the vehicle involved and, upon locating the driver of any other
24 vehicle involved or the owner or person in charge of any damaged property, upon being
25 requested, present his or her driver’s license, and vehicle registration, to the other driver, property
26 owner, or person in charge of that property. The information presented shall include the current
27 residence address of the driver and of the registered owner. If the registered owner of an involved
28 vehicle is present at the scene, he or she shall also, upon request, present his or her driver’s

1 license information, if available, or other valid identification to the other involved parties.

2 “(2) Leave in a conspicuous place on the vehicle or other property damaged a written notice
3 giving the name and address of the driver and of the owner of the vehicle involved and a
4 statement of the circumstances thereof and shall without unnecessary delay notify the police
5 department of the city wherein the collision occurred or, if the collision occurred in
6 unincorporated territory, the local headquarters of the Department of the California Highway
7 Patrol.

8 “(b) Any person who parks a vehicle which, prior to the vehicle again being driven,
9 becomes a runaway vehicle and is involved in an accident resulting in damage to any property,
10 attended or unattended, shall comply with the requirements of this section relating to notification
11 and reporting and shall, upon conviction thereof, be liable to the penalties of this section for
12 failure to comply with the requirements.

13 “(c) Any person failing to comply with all the requirements of this section is guilty of a
14 misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail
15 not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both
16 that imprisonment and fine.

17 11. California Penal Code Section 647 states in pertinent part:

18 “Except as provided in paragraph (5) of subdivision (b) and subdivision (l), every person
19 who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

20 “(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute
21 conduct in any public place or in any place open to the public or exposed to public view.

22 “. . .”

23 12. California Vehicle Code Section 14601.2 states:

24 “(a) A person shall not drive a motor vehicle at any time when that person’s driving
25 privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the
26 person so driving has knowledge of the suspension or revocation.

27 “(b) Except in full compliance with the restriction, a person shall not drive a motor vehicle
28 at any time when that person’s driving privilege is restricted if the person so driving has

1 knowledge of the restriction.

2 “(c) Knowledge of the suspension or revocation of the driving privilege shall be
3 conclusively presumed if mailed notice has been given by the department to the person pursuant
4 to Section 13106. Knowledge of the restriction of the driving privilege shall be presumed if notice
5 has been given by the court to the person. The presumption established by this subdivision is a
6 presumption affecting the burden of proof.

7 “(d) A person convicted of a violation of this section shall be punished as follows:

8 “(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or
9 more than six months and by a fine of not less than three hundred dollars (\$300) or more than one
10 thousand dollars (\$1,000), unless the person has been designated a habitual traffic offender under
11 subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section
12 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of
13 subdivision (e) of Section 14601.3.

14 “(2) If the offense occurred within five years of a prior offense that resulted in a conviction
15 of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the
16 county jail for not less than 30 days or more than one year and by a fine of not less than five
17 hundred dollars (\$500) or more than two thousand dollars (\$2,000), unless the person has been
18 designated a habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of
19 Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall
20 be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

21 “(e) If a person is convicted of a first offense under this section and is granted probation,
22 the court shall impose as a condition of probation that the person be confined in the county jail for
23 at least 10 days.

24 “(f) If the offense occurred within five years of a prior offense that resulted in a conviction
25 of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the
26 court shall impose as a condition of probation that the person be confined in the county jail for at
27 least 30 days.

28 “(g) If a person is convicted of a second or subsequent offense that results in a conviction of

1 this section within seven years, but over five years, of a prior offense that resulted in a conviction
2 of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the
3 court shall impose as a condition of probation that the person be confined in the county jail for at
4 least 10 days.

5 “(h) Pursuant to Section 23575, the court shall require a person convicted of a violation of
6 this section to install a certified ignition interlock device on a vehicle the person owns or operates.
7 Upon receipt of the abstract of a conviction under this section, the department shall not reinstate
8 the privilege to operate a motor vehicle until the department receives proof of either the
9 “Verification of Installation” form as described in paragraph (2) of subdivision (h) of Section
10 13386 or the Judicial Council Form I.D. 100.

11 “(i) This section does not prohibit a person who is participating in, or has completed, an
12 alcohol or drug rehabilitation program from driving a motor vehicle that is owned or utilized by
13 the person’s employer, during the course of employment on private property that is owned or
14 utilized by the employer, except an offstreet parking facility, as defined in subdivision (c) of
15 Section 12500.

16 “(j) This section also applies to the operation of an off-highway motor vehicle on those
17 lands that the Chappie-Z’berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5
18 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in
19 Section 38001.

20 “(k) If Section 23573 is applicable, then subdivision (h) is not applicable.”

21 13. California Vehicle Code Section 12500 states:

22 “(a) A person may not drive a motor vehicle upon a highway, unless the person then holds a
23 valid driver’s license issued under this code, except those persons who are expressly exempted
24 under this code.

25 “(b) A person may not drive a motorcycle, motor-driven cycle, or motorized bicycle upon a
26 highway, unless the person then holds a valid driver’s license or endorsement issued under this
27 code for that class, except those persons who are expressly exempted under this code, or those
28 persons specifically authorized to operate motorized bicycles or motorized scooters with a valid

1 driver's license of any class, as specified in subdivision (h) of Section 12804.9.

2 “(c) A person may not drive a motor vehicle in or upon any offstreet parking facility, unless
3 the person then holds a valid driver's license of the appropriate class or certification to operate the
4 vehicle. As used in this subdivision, “offstreet parking facility” means any offstreet facility held
5 open for use by the public for parking vehicles and includes any publicly owned facilities for
6 offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for
7 the privilege to park and which are held open for the common public use of retail customers.

8 “(d) A person may not drive a motor vehicle or combination of vehicles that is not of a type
9 for which the person is licensed.

10 “(e) A motorized scooter operated on public streets shall at all times be equipped with an
11 engine that complies with the applicable State Air Resources Board emission requirements.

12 14. California Vehicle Code Section 23578 states:

13 “In addition to any other provision of this code, if a person is convicted of a violation of
14 Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood
15 of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a
16 special factor that may justify enhancing the penalties in sentencing, in determining whether to
17 grant probation, and, if probation is granted, in determining additional or enhanced terms and
18 conditions of probation.”

19 15. California Vehicle Code Section 23556 states:

20 “(a)

21 “(1) If the court grants probation to any person punished under Section 23554, in addition
22 to the provisions of Section 23600 and any other terms and conditions imposed by the court, the
23 court shall impose as a condition of probation that the person be confined in the county jail for at
24 least five days but not more than one year and pay a fine of at least three hundred ninety dollars
25 (\$390) but not more than one thousand dollars (\$1,000).

26 “(2) The person's privilege to operate a motor vehicle shall be suspended by the department
27 under paragraph (2) of subdivision (a) of Section 13352. The court shall require the person to
28 surrender the driver's license to the court in accordance with Section 13550.

1 “(b)

2 “(1) In a county where the county alcohol program administrator has certified, and the
3 board of supervisors has approved, a program or programs, the court shall also impose as a
4 condition of probation that the driver shall participate in, and successfully complete, an alcohol
5 and other drug education and counseling program, established pursuant to Section 11837.3 of the
6 Health and Safety Code, as designated by the court.

7 “(2) In any county where the board of supervisors has approved and the State Department
8 of Health Care Services has licensed an alcohol and other drug education and counseling
9 program, the court shall also impose as a condition of probation that the driver enroll in,
10 participate in, and successfully complete, a driving-under-the-influence program licensed
11 pursuant to Section 11836 of the Health and Safety Code, in the driver’s county of residence or
12 employment, as designated by the court. For the purposes of this paragraph, enrollment in,
13 participation in, and completion of, an approved program shall be subsequent to the date of the
14 current violation. Credit may not be given to any program activities completed prior to the date of
15 the current violation.

16 “(3) The court shall refer a first offender whose blood-alcohol concentration was less than
17 0.20 percent, by weight, to participate for three months or longer, as ordered by the court, in a
18 licensed program that consists of at least 30 hours of program activities, including those
19 education, group counseling, and individual interview sessions described in Chapter 9
20 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

21 “(4) The court shall refer a first offender whose blood-alcohol concentration was 0.20
22 percent or more, by weight, or who refused to take a chemical test, to participate for nine months
23 or longer, as ordered by the court, in a licensed program that consists of at least 60 hours of
24 program activities, including those education, group counseling, and individual interview sessions
25 described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health
26 and Safety Code.

27 “(c)

28 “(1) The court shall revoke the person’s probation pursuant to Section 23602, except for

1 good cause shown, for the failure to enroll in, participate in, or complete a program specified in
2 subdivision (b).

3 “(2) The court, in establishing reporting requirements, shall consult with the county alcohol
4 program administrator. The county alcohol program administrator shall coordinate the reporting
5 requirements with the department and with the State Department of Health Care Services. That
6 reporting shall ensure that all persons who, after being ordered to attend and complete a program,
7 may be identified for either (A) failure to enroll in, or failure to successfully complete, the
8 program, or (B) successful completion of the program as ordered.

9 “(d) The court shall advise the person at the time of sentencing that the driving privilege
10 shall not be restored until the person has provided proof satisfactory to the department of
11 successful completion of a driving-under-the-influence program of the length required under this
12 code that is licensed pursuant to Section 11836 of the Health and Safety Code.

13 “(e) This section shall become operative on September 20, 2005.”

14 COSTS

15 16. Section 4959 of the Code states:

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

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

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

28 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be

1 conclusive proof of the validity of the order of payment and the terms for payment.

2 “(e) All costs recovered under this section shall be considered a reimbursement for costs
3 incurred and shall be deposited in the Acupuncture Fund.”

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Conviction of a Crime)

6 17. Respondent is subject to disciplinary action for unprofessional conduct under Code
7 section 4955 subdivision (b), in that she was convicted of violating California Vehicle Code
8 section 20002, subdivision (a), hit and run, a misdemeanor crime which is substantially related to
9 the qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

10 **March 16, 2017 Hit and Run Conviction**

11 18. On or about March 16, 2007, in proceedings entitled *People of the State of California*
12 *v. Susan Elizabeth Rodnunsky*, then pending in the Superior Court of California, case number
13 7VY00470, after a plea of nolo contendere, Respondent was convicted of Count 1, a violation of
14 Vehicle Code section 20002, subdivision (a) which occurred on or about December 17, 2006.

15 19. Following Respondent’s plea of nolo contendere, the Court placed Respondent on
16 three (3) years summary probation, and ordered her, inter alia, to obey all laws, make restitution
17 to the owner of the vehicle Respondent damaged, pay a fine of \$1,176.00, to not drive a motor
18 vehicle unless insured, and not drive a motor vehicle without a valid California Driver’s license in
19 her possession.

20 20. The Court’s case file has been destroyed. The facts underlying Count 1 in the above
21 conviction are taken from a letter of explanation Respondent provided to the Board as set forth
22 below in the following paragraph.

23 21. In an undated handwritten letter Respondent provided to the Board regarding the
24 incident which occurred on or about December 17, 2006, and resulted in her misdemeanor
25 conviction in *People of the State of California v. Susan Elizabeth Rodnunsky*, case number
26 7VY00470, Respondent stated she was driving home at approximately 8:00 p.m. when her right
27 front tire hit the right front arm of a bulldozer parked on the street. As a result, Respondent’s
28 right front tire flattened and she had to leave the car parked at the curb. Respondent placed a note

1 on her vehicle with her contact information but did not leave a note on the bulldozer.

2 22. Respondent is subject to disciplinary action for unprofessional conduct under Code
3 section 4955 subdivision (b), in that she was convicted of violating California Penal Code section
4 647, subdivision (f), intoxicated in public, a crime which is substantially related to the
5 qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

6 **August 13, 2013, Public Intoxication Conviction**

7 23. Respondent is further subject to disciplinary action for unprofessional conduct under
8 Code section 4955 subdivision (b), in that she was convicted of violating California Penal Code
9 section 647, subdivision (f), intoxicated in public, as a misdemeanor, a crime which is
10 substantially related to the qualifications, functions, and duties of an acupuncturist. The
11 circumstances are as follows:

12 24. On or about January 7, 2013, a proceeding entitled *People of the State of California v.*
13 *Susan Rodnunsky*, case number 3MB00002, was filed in the Superior Court of California, which
14 alleged in Count 1 that on or about May 24, 2012, Respondent was in violation of California
15 Vehicle Code section 23152, subdivision (a), commonly known as driving while under the
16 influence of an alcoholic beverage and/or a drug and under their combined influence, and alleged
17 in Count 2 Respondent was in violation of California Vehicle Code section 23152, subdivision
18 (b), commonly known as driving while having a 0.08% or higher blood alcohol, crimes which are
19 substantially related to the qualifications, functions, and duties of an acupuncturist. It was further
20 alleged as to each count that Respondent was in violation of Vehicle Code Sections 23578 and
21 23556.

22 25. On or about August 13, 2013, in proceedings entitled *People of the State of California*
23 *v. Susan Rodnunsky*, then pending in the Superior Court of California, case number 3MB00002,
24 after a plea of nolo contendere, Respondent was convicted of Count 3, a violation of Penal Code
25 section 647, subdivision (f) which occurred on or about on or about May 24, 2012. Counts 1 and
26 2 were dismissed in the interests of justice.

27 26. Following Respondent's plea of nolo contendere, the Court placed Respondent on
28 three (3) years summary probation, and ordered her, inter alia, to obey all laws, serve 90 days in

1 County Jail, not drink or possess any alcoholic beverage, enroll and complete a six-month
2 outpatient treatment program, pay a fine of \$1,408.00, to not drive a motor vehicle unless insured,
3 and not drive a motor vehicle without a valid California Driver's license in her possession.

4 27. The Court's case file has been destroyed. The California Highway Patrol report
5 regarding the arrest has been destroyed.

6 28. Respondent is subject to disciplinary action for unprofessional conduct under Code
7 section 4955 subdivision (b), in that she was convicted of violating California Penal Code section
8 647, subdivision (f), intoxicated in public, a crime which is substantially related to the
9 qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

10 **December 4, 2013, Public Intoxication Conviction**

11 29. On or about December 4, 2013, in proceedings entitled *People of the State of*
12 *California v. Susan Shriver Rodnunsky*, then pending in the Superior Court of California, case
13 number case number 3BR03430, after a plea of nolo contendere, Respondent was convicted of
14 Count 1, a violation of Penal Code section 647, subdivision (f) as a misdemeanor, which occurred
15 on or about on or about November 1, 2013.

16 30. Following Respondent's plea of nolo contendere, the Court placed Respondent on
17 three (3) years summary probation, and ordered her, inter alia, to obey all laws, pay a fine of
18 \$818.00, attend at least two (2) NA/AA meetings per week for a total of 52 weeks, and pay fines
19 in the total amount of \$352.00.

20 31. The facts underlying Count 1 in the above conviction are taken from the Burbank
21 Police Department (BPD) incident report as follows:

22 32. On or about November 1, 2013, two BPD officers were dispatched to 1240 North
23 Griffith Par Boulevard in the City of Burbank, County of Los Angeles, where the officers
24 observed Respondent lying on the ground on the edge of the sidewalk, next to an empty Bacardi
25 rum bottle.

26 33. The officers spoke with Respondent, who displayed droopy eyelids, slurred speech,
27 and emitted a strong odor of alcohol. Respondent was unable to care for herself and the BPD
28 officers arrested her for public intoxication.

1 34. Respondent is subject to disciplinary action for unprofessional conduct under Code
2 section 4955 subdivision (b), in that she was convicted of violating California Vehicle Code
3 23152, subdivision (b), commonly known as driving while having a 0.08% or higher blood
4 alcohol, a crime which is substantially related to the qualifications, functions, and duties of an
5 acupuncturist. The circumstances are as follows:

6 **January 13, 2014, Driving a Motor Vehicle with More Than 0.08% Blood Alcohol Level**
7 **Conviction**

8 35. On or about March 5, 2013, a proceeding entitled *People of the State of California v.*
9 *Susan Shriver Rodnunsky aka Susan Shriver*, case number 3AV01593, was filed in the Superior
10 Court of California, which alleged in Count 1 that on or about January 25, 2013, Respondent was
11 in violation of California Vehicle Code section 23152, subdivision (a), commonly known as
12 driving while under the influence of an alcoholic beverage and/or a drug and under their
13 combined influence, and alleged in Count 2 Respondent was in violation of California Vehicle
14 Code section 23152, subdivision (b), commonly known as driving while having a 0.08% or
15 higher blood alcohol, crimes which are substantially related to the qualifications, functions, and
16 duties of an acupuncturist. It was further alleged as to each count that Respondent was in
17 violation of Vehicle Code Sections 23578 and 23556.

18 36. On or about January 13, 2014, in proceedings entitled *People of the State of*
19 *California v. Susan Shriver Rodnunsky aka Susan Shriver*, then pending in the Superior Court of
20 California, case number case number 3AV01593, after a plea of nolo contendere, Respondent was
21 convicted of Count 2, California Vehicle Code section 23152, subdivision (b), as a misdemeanor
22 commonly known as driving while having a 0.08% or higher blood alcohol. Count 1 was
23 dismissed due to plea negotiation.

24 37. Following Respondent's plea of nolo contendere, the Court placed Respondent on
25 three (3) years summary probation, and ordered her, inter alia, to obey all laws, spend nine (9)
26 days in county jail, attend one (1) AA/NA meeting a day every day until surrender into county
27 jail, enroll in and successfully complete a 9 month licensed First-Offender alcohol and drug
28 program, enroll in and complete the Hospital and Morgue program, enroll in and complete the

1 Victim Impact Program, not operate any motor vehicle without an installed ignition interlock
2 device, to not drive a motor vehicle unless insured, and not drive a motor vehicle without a valid
3 California Driver's license in her possession, and pay fines in the total amount of \$1,177.00.

4 38. At sentencing, the Court noted Respondent's blood alcohol content was 0.29 %.

5 39. The facts underlying Count 2 in the above conviction are taken from the Los Angeles
6 County Sherriff's Department (LASD) arrest report as follows:

7 40. On or about Friday, January 25, 2013, at approximately 4:15 p.m. LASD deputies
8 were dispatched to 407 West Palmdale Boulevard, in the city of Palmdale, County of Los
9 Angeles, where the deputies observed Respondent sitting in the driver's seat of her car with the
10 key in the ignition. Respondent's car was resting over the curb in the motel parking lot.

11 41. Respondent told the deputies she was trying to get home to Los Angeles. While
12 speaking with Respondent, the deputies smelled the strong odor of an alcoholic beverage emitting
13 from her breath and person and her eyes were watery and blood shot.

14 42. Respondent told the deputies she drank two twenty-four ounce beers and another beer
15 when she woke up and took one depression medication pill when she woke up at 6:30 a.m. that
16 morning. Respondent was unable to successfully perform standardized field sobriety

17 43. The deputies spoke with the driver who had called the LASD after he observed
18 Respondent driving. The driver said he was driving southbound on the 14 Freeway when he
19 observed Respondent's car swerving side to side on the freeway. The driver told the deputies he
20 cautiously drove by Respondent's car and saw that Respondent appeared to be trying to
21 concentrate on the road more than a normal driver. The driver told the deputies Respondent had
22 been driving approximately 20 miles per hour on the freeway. The driver said he was afraid
23 Respondent was going to get into a traffic collision so he called 911 and then followed
24 Respondent as she exited the 14 Freeway.

25 44. The deputies gave Respondent an opportunity to submit to a preliminary alcohol
26 screening test (PAS) to prove or disprove the presence of an alcoholic beverage in her system.
27 Prior to doing so, the deputies advised Respondent she had the right to decline the test and taking
28 the PAS did not replace the chemical test she was required to take by California law. Respondent

1 took the PAS test at 6:17 p.m. which indicated her blood alcohol level to be 0.36% at that time.
2 Respondent also provided a blood sample at 9:00 p.m. which indicated her blood level 0.29 % to
3 be at that time

4 45. Respondent is subject to disciplinary action for unprofessional conduct under Code
5 section 4955 subdivision (b), in that she was convicted of violating California Vehicle Code
6 12500, subdivision (a), commonly known as driving without a license, a crime which is
7 substantially related to the qualifications, functions, and duties of an acupuncturist. The
8 circumstances are as follows:

9 **May 10, 2016, Driving a Motor Vehicle with More Than 0.08% Blood Alcohol Level**
10 **Conviction**

11 46. On or about January 20, 2016, a proceeding entitled *People of the State of California*
12 *v. Susan Shriver*, case number 6VV06036, was filed in the Superior Court of California, which
13 alleged in Count 1 that on or about November 12, 2015, Respondent was in violation of
14 California Vehicle Code section 14601.2, subdivision (a), commonly known as driving when a
15 person's driving privilege is suspended or revoked for a conviction of a violation of California
16 Vehicle Code section 23152, subdivision (a) or California Vehicle Code section 23152,
17 subdivision (b), and alleged in Count 2 that Respondent was in violation of California Vehicle
18 Code section 23247, subdivision (e), commonly known as operating a motor vehicle which was
19 not equipped with a functioning ignition interlock device while the person's driving privilege was
20 restricted, crimes which are both substantially related to the qualifications, functions, and duties
21 of an acupuncturist.

22 47. On or about May 10, 2016, in proceedings entitled *People of the State of California v.*
23 *Susan Shriver*, then pending in the Superior Court of California, case number case number
24 6VV06036, after a plea of nolo contendere, Respondent was convicted of Count 1, a violation of
25 California Vehicle Code section 14601.2, subdivision (a), commonly known as driving when a
26 person's driving privilege is suspended or revoked for a conviction of a violation of California
27 Vehicle Code section 23152, subdivision (a) or California Vehicle Code section 23152,
28 subdivision (b), and Count 3, a violation of California Vehicle Code 12500, subdivision (a),

1 commonly known as driving without a license, which was added by interlineation on that date, as
2 misdemeanors.

3 48. On or about September 13, 2016, in proceedings entitled *People of the State of*
4 *California v. Susan Shriver*, then pending in the Superior Court of California, case number case
5 number 6VV06036, the Court granted Respondent's motion to withdraw her plea of nolo
6 contendere to Count 1 previously entered on May 10, 2016. The Court placed Respondent on two
7 (2) years summary probation, and ordered her, inter alia, to obey all laws, to not drive a motor
8 vehicle unless insured, to not drive a motor vehicle without a valid California Driver's license in
9 her possession, and pay fines in the total amount of \$850.00. The court dismissed Counts 1 and 2
10 in the interests of justice.

11 49. The LASD citation does not contain a narrative. The facts underlying the above
12 conviction are taken from a letter of explanation Respondent provided to the Board:

13 50. In an undated handwritten letter that Respondent provided to the Board regarding the
14 incident which occurred on or about November 12, 2015, and resulted in her misdemeanor
15 conviction in *People of the State of California v. Susan Shriver*, case number case number
16 6VV06036, Respondent stated she was in the process of getting her license back. Her daughter
17 needed to see the doctor on an emergency basis to be treated for asthma. Respondent's
18 daughter's father could not take her to the appointment and Respondent borrowed a friend's car
19 and drove her daughter to the doctor's appointment. The car Respondent borrowed had a tail
20 light problem and LASD pulled Respondent over and issued her the citation.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct)

23 51. Respondent is subject to disciplinary action under Code section 4955, for
24 unprofessional conduct pursuant to Code section 4955, subdivision (a), in that she used alcoholic
25 beverages or a dangerous drug to an extent or in a manner dangerous to herself, or to any other
26 person, or to the public. The circumstances are as follows:

27 52. The facts and circumstances in paragraphs 17 through 50 are incorporated by
28 reference as if set forth in full herein.

