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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-2016-138

13 **SOON AE YOON**
14 **624 West Colorado Blvd. #A**
Monrovia, CA 91016

STATEMENT OF ISSUES

15
16 Applicant.

17
18 Complainant alleges:

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

22 2. On or about May 12, 2017, the Board received an application for an Acupuncturist
23 License from Soon Ae Yoon (Applicant). On or about May 9, 2017, Soon Ae Yoon certified
24 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on July 11, 2017. Applicant requested a hearing
26 on July 25, 2017.

27 **JURISDICTION**

28 3. This Statement of Issues is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 4. Section 4928.1 of the Code states:

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

8 5. Section 4938 of the Code states:

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

11 “... ”

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

13 “... ”

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

16 “... ”

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

18 “... ”

19 6. Section 4944 of the Code states:

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

24 “... ”

25 7. Section 4955 of the Code states:

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

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

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“... ”

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

“... ”

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

“... ”

8. Section 4955.1 of the Code states:

“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:

“... ”

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

“... ”

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.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 (Conviction)

3 10. Applicant's application is subject to denial under Code sections 4955, subdivision (b),
4 and 4955.1, subdivision (c), in that she has sustained a substantially related conviction. The
5 circumstances are as follows:

6 11. On or about February 12, 2016, Los Angeles Police Department (LAPD) Vice
7 officers were conducting a massage location compliance check for permit status and state
8 licensing at a massage business in Los Angeles, California.

9 12. One of the Los Angeles Police Department Vice officers received a massage from
10 Applicant who was not licensed as a massage technician and provided the massage at a massage
11 business operating without a written permit.

12 13. The LAPD officer determined that Applicant was acting as a massage therapist
13 without proper licensure and cited her for same.

14 14. On or about February 23, 2016, Applicant was charged in *People of the State of*
15 *California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 6VW00887, in Count 1
16 with a violation of Los Angeles Municipal Code section 103.205.1, subsection (b),¹ and in Count
17 2 with a violation of Los Angeles Municipal Code section 103.205,² as a result of her February

18 ¹ Los Angeles Municipal Code section 103.205.1 states, in pertinent part:

19 “(b) Effective January 1, 2016, all persons performing massage services from any location in the City shall
20 be required to possess a valid, unrevoked California Massage Therapy Council Massage Practitioner or Massage
Therapist certificate. All Massage Therapist permits issued by the Board prior to January 1, 2016, shall be considered
null and void.”

21 ² Los Angeles Municipal Code section 103.205 states, in pertinent part:

22 “The City recognizes that the practice of massage therapy without sufficient training and standards can be
23 dangerous to the public. State law has been created to provide for consistent statewide certification and oversight of
massage therapy professionals, and to ensure that schools approved by the California Massage Therapy Council are
providing the appropriate level of instruction. The purpose and intent of this section is to regulate massage businesses
24 in order to protect and promote the public health, safety and welfare.

(a) Definitions. Unless the context or subject matter clearly indicates that a different meaning is intended,
the following words and phrases shall have the following meanings when used in this section.

25 1. ‘Board’ means the Board of Police Commissioners.

26 2. ‘California Massage Therapy Council’ or ‘CAMTC’ means the State nonprofit organization created to
regulate and issue massage practitioner and therapist certificates pursuant to Business and Professions Code section
4600 et seq.

27 3. ‘Massage’ means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping,
28 pounding, or stimulating the external parts of the body with the hands or other parts of the body, or any other type of
(continued...)

1 system for treating or manipulating the human body with or without the aid of any mechanical or electrical apparatus
2 or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder,
3 creams, lotions, ointments or other similar preparations commonly used in this practice.

4 4. 'Massage Establishment' means any business or establishment having a fixed place of business where any
5 person engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, any massage as
6 defined in this section, for any form of consideration or gratuity.

7 5. 'Out-Call Massage Business' means any business or enterprise that engages in or performs massage for
8 any form of consideration or gratuity at a location other than a Massage Establishment.

9 6. 'Operator' means any person who supervises, manages, directs, organizes, controls or in any other way is
10 responsible for or in charge of the overall operation, conduct or activities of a Massage Establishment or Out-Call
11 Massage Business.

12 7. 'Owner' means any of the following:

13 (i) The sole proprietor of a Massage Establishment or Out-Call Massage Business. As used in this section,
14 the term 'sole proprietor' means a Massage Establishment or Out-Call Massage Business where the owner owns
15 100% of the business and is the only person who provides massage services for that Establishment or Out-Call
16 Massage Business pursuant to a valid and active State certificate issued by the California Massage Therapy Council;
17 or

18 (ii) All general partners of a partnership that owns and operates a Massage Establishment or Out-Call
19 Massage Business; or (iii) All officers of a corporation and all persons who own a controlling interest in a
20 corporation or other limited liability entity that owns and operates a Massage Establishment or Out-Call Massage
21 Business.

22 8. 'Massage Therapist' means a person who is certified as a 'Massage Therapist' by the California Massage
23 Therapy Council under Chapter 10.5 of the California Business and Professions Code.

24 9. 'Massage Practitioner' means a person who is certified as a 'Massage Practitioner' by the California
25 Massage Therapy Council under Chapter 10.5 of the California Business and Professions Code.

26 10. 'Permit' means the permit required to be obtained from the Board for the operation of a Massage
27 Establishment or Out-Call Massage Business.

28 (b) Massage Establishment or Out-Call Massage Business –Permit Required.

No person shall engage in, promote, advertise, conduct, or carry on, in or upon any premises within the City
of Los Angeles, the operation of a Massage Establishment or Out-Call Massage Business without a permit duly
issued by the Board pursuant to this subsection for each business location. This required permit shall be in addition to
any business tax registration certificate required by ordinance.

1. Application for Permit. Permit applications shall be made in accordance with Chapter X, Article 3,
Division 3 of this Code.

2. Additional Requirements. In addition to those requirements specified in Chapter X, Article 3, Division 3
of this Code, each applicant for a Massage Establishment or Out-Call Massage Business permit shall furnish the
following information to the Board:

(i) Each residence and business address of the applicant for the five years immediately preceding the date of
the application, and the dates residing at each address.

(ii) Written proof that the applicant is at least 18 years of age.

(iii) Applicant's height, weight, eye color and hair color.

(iv) Three photographs of applicant, of a size specified by the Board, taken within the six months
immediately preceding the date of application.

(v) Applicant's business, occupation and employment history for the five years immediately preceding the
date of application.

(vi) The permit history of the applicant and whether the person has ever had a license or permit issued by
any agency or board, City, County or State revoked or suspended, or has had any professional or vocational license or
permit revoked or suspended, and the reason for the revocation or suspension.

(vii) Any other identification and information as may be required by the Board.

(viii) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its
Articles of Incorporation or Charter, together with the State and date of incorporation and names and residence
addresses of each of its current officers and directors, and each stockholder holding more than 5% of the stock of the
corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each
of the partners, including limited partnership, and it shall furnish a copy of its certificate of limited partnership as

(continued...)

1 12, 2016, citation by Los Angeles Police Department Vice officers.

2 15. On or about May 16, 2016, in *People of the State of California vs. Soon Ae Yoon*, Los
3 Angeles County Superior Court Case 6VW00887, Applicant was convicted on her plea of nolo
4 contendere to Count 2.

5 16. As a result of her plea Applicant was sentenced, inter alia, to two years summary
6 probation, ordered to pay fines, to stay away from the location of the massage business, to stay
7 away from all massage and aroma therapy businesses, or any business requiring a female
8 employee to be alone with male customers unless properly licensed.

9 **SECOND CAUSE FOR DENIAL OF APPLICATION**

10 (Engaging in Conduct Which Warrants the Denial of an Acupuncture License)

11 17. Applicant's application is subject to denial under Code sections 4955, subdivision (i),
12 and 4955.1, subdivision (c), in that she engaged in actions or conduct that would have warranted
13 the denial of the acupuncture license. The circumstances are as follows:

14 18. On or about December 22, 2011, Los Angeles Police Department (LAPD) Vice
15 officers were conducting an undercover prostitution investigation at an acupuncture clinic in Los
16 Angeles, California.

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18 filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection
19 pertaining to corporation applicants shall apply. The applicant corporation or partnership shall designate a
20 responsible managing officer. This person shall complete and sign all application forms required for an individual
21 applicant under this ordinance, but only one application fee shall be charged. A new application shall be filed to
22 change the responsible managing officer but no additional inspection shall be necessary. The corporation's or
23 partnership's responsible managing officer must at all times meet all of the requirements set for permittees by this
24 section, or the corporation or partnership permit shall be suspended until a responsible managing officer who does
25 meet all these requirements is designated. If no person is named within 90 days, the corporation or partnership permit
26 is deemed cancelled and a new initial application for permit must be filed.

27 (ix) The name and address of the Owner or lessor of the real property upon or in which the business is to be
28 conducted, and a copy of the deed, lease or rental agreements.

(x) All convictions for any crime involving conduct which requires registration under California Penal Code
Section 290, or of conduct which is a violation of California Penal Code Sections 266i, 314, 315, 316, 318, 647(a),
647(b), or any crime involving dishonesty, fraud, deceit or moral turpitude.

(xi) A complete list of the names and residence addresses of all of the proposed Massage Practitioners,
Massage Therapists and employees working for the Massage Establishment or Out-Call Massage Business, and the
name of the manager or managing employee proposed to be principally in charge of the operation of the business.

(xii) A statement in writing by the applicant signed under penalty of perjury that all information contained in
the application is true and correct.

(continued...)

1 19. During the undercover investigation Applicant showed an undercover officer her bare
2 breast and offered to masturbate the officer for \$40.00. Applicant was subsequently arrested.

3 20. As a result of her arrest on December 22, 2011, Applicant was charged with a
4 violation of Penal Code section 647, subdivision (b),³ solicitation of prostitution, and a violation
5 of Los Angeles Municipal Code section 103.205.1, in the matter of *People of the State of*
6 *California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 1PY07174.

7 21. On or about April 3, 2012, following a jury trial in the matter of *People of the State of*
8 *California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 1PY07174, Applicant was
9 convicted of the two misdemeanor charges.

10 22. On or about April 3, 2012, Applicant was sentenced, inter alia, to two years summary
11 probation, ordered to pay fines, and to stay away from all massage and aroma therapy businesses,
12 or any businesses requiring a female employee to be alone with male customers unless properly
13 licensed.

14 _____
15 ³ Penal Code section 647 states, in pertinent part:

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

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

20 (b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution
21 with the intent to receive compensation, money, or anything of value from another person. An individual agrees to
22 engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer
23 or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person
24 who also possessed the specific intent to engage in an act of prostitution.

25 (2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with
26 another person who is 18 years of age or older in exchange for the individual providing compensation, money, or
27 anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific
28 intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of
age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the
specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with
another person who is a minor in exchange for the individual providing compensation, money, or anything of value to
the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she
manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the
offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not
constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done
within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance
of an offer or solicitation to engage in that act. As used in this subdivision, "prostitution" includes any lewd act
between persons for money or other consideration."

(continued...)

1 23. On or about April 23, 2014, Applicant's convictions in *People of the State of*
2 *California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 1PY07174 were
3 dismissed pursuant to Penal Code section 1203.4.⁴

4
5 ⁴ Penal Code section 1204.4 states, in pertinent part:

6 “(a) (1) In any case in which a defendant has fulfilled the conditions of probation for the entire period of
7 probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a
8 court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available
9 under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not
10 then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense,
11 be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not
12 guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and,
13 in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as
14 noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of
15 which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall
16 be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a
17 certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by
18 attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant
19 for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation
20 had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be
21 informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any
22 direct question contained in any questionnaire or application for public office, for licensure by any state or local
23 agency, or for contracting with the California State Lottery Commission.

24 (2) Dismissal of an accusation or information pursuant to this section does not permit a person to own,
25 possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2
26 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

27 (3) Dismissal of an accusation or information underlying a conviction pursuant to this section does not
28 permit a person prohibited from holding public office as a result of that conviction to hold public office.

 (4) This subdivision shall apply to all applications for relief under this section which are filed on or after
November 23, 1970.

 (2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its
discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

 (d) A person who petitions for a change of plea or setting aside of a verdict under this section may be
required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the
records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150),
and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the
records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one
hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the
petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed
one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the
standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's
eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have
the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this
subdivision.”

1 24. On or about February 23, 2012, LAPD Vice undercover officers were conducting a
2 massage location compliance check for permit status and state licensing at a massage business in
3 Los Angeles, California. The LAPD officer determined that Applicant was acting as a massage
4 therapist without proper licensure and cited her for same.

5 25. As a result of the citation issued February 23, 2012, Applicant was subsequently
6 charged with violating Los Angeles Municipal Code section 103.205.1, subsection (b), in the
7 matter of *People of the State of California vs. Soon Ae Yoon*, Los Angeles County Superior Court
8 Case 2PY01400.

9 26. On or about May 7, 2012, Applicant pled no contest to the charge in *People of the*
10 *State of California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 2PY01400 and
11 was sentenced to pay fines in the amount of \$490.00.

12 27. On or about August 13, 2013, Applicant's conviction in *People of the State of*
13 *California vs. Soon Ae Yoon*, Los Angeles County Superior Court Case 2PY01400 was dismissed
14 pursuant to Penal Code section 1203.4.

15 28. On or about October 23, 2015, Los Angeles Police Department (LAPD) Vice officers
16 were conducting an undercover prostitution investigation at a massage clinic in Los Angeles,
17 California.

18 29. During the undercover investigation Applicant agreed to masturbate the officer for
19 \$80.00. Applicant was subsequently arrested.

20 30. As a result of her arrest on October 23, 2015, Applicant was charged with a violation
21 of Penal Code section 647, subdivision (b), in the matter of *People of the State of California vs.*
22 *Soon Ae Yoon*, Los Angeles County Superior Court Case 5PY05905.

23 31. On or about March 4, 2016, in the matter of *People of the State of California vs. Soon*
24 *Ae Yoon*, Los Angeles County Superior Court Case 5PY05905, following a jury trial in which the
25 jury failed to reach a unanimous verdict the Court declared a mistrial and dismissed the case
26 against Applicant.

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Unprofessional Conduct)

3 32. Applicant’s application is subject to denial under Code sections 4955, subdivisions
4 (b), and (i), on the grounds that Applicant engaged in unprofessional conduct. The circumstances
5 are as follows:

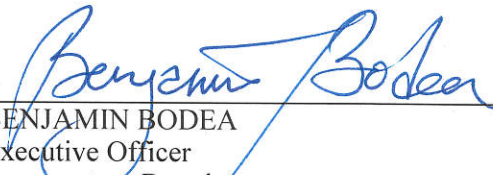
6 33. The facts and circumstances alleged in paragraph 10 through 16, 18 through 21 and
7 28 and 29 above are incorporated here as if fully set forth herein.

8 **PRAYER**

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

- 11 1. Denying the application of SOON AE YOON for a Acupuncturist License;
- 12 2. Taking such other and further action as deemed necessary and proper.

13 DATED: OCT 13 2017

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 15 _____
 16 BENJAMIN BODEA
 17 Executive Officer
 18 Acupuncture Board
 19 Department of Consumer Affairs
 20 State of California
 21 *Complainant*

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