

BEFORE THE
CALIFORNIA ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


In the Matter of the Accusation Against:) Case No. 1A-2017-4
)
Jeffrey Hongjae Suh)
100 Old Palisade Road, #3701)
Fort Lee, NJ 07024)
)
Acupuncture License No. AC-8146)
)
Respondent.)
_____)

DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on SEP 08 2017.

IT IS SO ORDERED AUG 29 2017.



Amy Matecki, MD, L.Ac., Chair
Acupuncture Board
Department of Consumer Affairs
State of California

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

12 In the Matter of the Accusation Against:

Case No. 1A-2017-4

13 **JEFFREY HONGJAE SUH, L. AC**
14 **100 Old Palisade Road, #3701**
Fort Lee, NJ 07024

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

15 **Acupuncture License No. AC 8146**

16 Respondent.

17
18 **FINDINGS OF FACT**

19 1. On or about May 25, 2017, Complainant Benjamin Bodea, in his official capacity as
20 the Executive Officer of the Acupuncture Board, Department of Consumer Affairs, filed
21 Accusation No. 1A-2017-4 against Jeffrey Hongjae Suh, L. AC (Respondent) before the
22 Acupuncture Board.

23 2. On or about October 5, 2001, the Acupuncture Board (Board) issued Acupuncture
24 License No. AC 8146 to Respondent. The Acupuncture License expired on October 31, 2014,
25 and has not been renewed. A true and correct copy of respondent's certified license history is
26 attached as Exhibit A to the accompanying Default Decision Evidence Packet.¹

27 ¹ All exhibits are true and correct copies of the originals, and are attached to the accompanying Default
28 Decision Evidence Packet. The Default Decision Evidence Packet is hereby incorporated by reference, in its entirety,
as if fully set forth herein.

1 3. Under the provisions of the California Code of Regulations, Title 16, section
2 1399.406, respondent is, and was at all times relevant to Accusation No. 1A-2017-4 required to
3 file his proper and current mailing address with the Board, and was at all times relevant to
4 Accusation No. 1A-2017-4 required to notify the Board, in writing, within thirty (30) days of any
5 and all changes of mailing address, giving both the old and new address.

6 4. On or about May 25, 2017, Cricket Borges, an employee of the Board, served by
7 Certified Mail a copy of Accusation No. 1A-2017-4, Statement to Respondent, Notice of Defense,
8 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 (the
9 service documents), to Respondent's address of record with the Board, which was 100 Old
10 Palisade Road, #3701, Fort Lee, NJ 07024. A true and correct copy of the service documents and
11 Declaration of Service are attached as Exhibit B.

12 5. On or about June 9, 2017 the Board received a signed U.S. Postal Service return
13 receipt card indicating receipt of the service documents, which were served at Respondent's
14 address of record with the Board which was 100 Old Palisade Road, #3701, Fort Lee, NJ 07024
15 (the first service). A true and correct copy of the signed return receipt card is attached as
16 Exhibit C.

17 6. Following this first service, pursuant to Government Code sections 11506,
18 subdivision (a), and 11505, subdivision (c),² Respondent was permitted to request a hearing on
19 the charges and allegations contained in the Accusation by delivering or mailing to the Office of
20 the Attorney General a Notice of Defense on or before June 9, 2017.

21 7. On or about June 7, 2017, Cricket Borges, Enforcement Analyst of the Board, sent via
22 Federal Express Delivery the service documents, along with payment for service of the
23 documents, to the Burlington County Sheriff, State of New Jersey. A copy of Ms. Borges'
24 Memorandum, check payable to the Burlington County Sheriff, and Federal Express Air Bill is
25 attached as Exhibit D.

26 _____
27 ² Read with California Code of Regulations, Title 16, section 1399.406, which requires
28 each person holding a license, registration, approval or any other authority issued by the Board to
file his or her proper and current mailing address with the board, and shall notify the board, in
writing, within thirty (30) days of any and all changes of mailing address, giving both the old and
new address.

1 8. On or about June 20, 2017, Joseph Mroczka, Special Deputy with the Burlington
2 County Sheriff, State of New Jersey, served by Personal Service the service documents on
3 Respondent at his current location at the Federal Correctional Institution, 5756 Hartford &
4 Pointville Road, Fort Dix, NJ 08640 (the second service). A copy of the Declaration of Personal
5 Service is attached as Exhibit E.

6 9. Following this second service, pursuant to Government Code sections 11506,
7 subdivision (a), and 11505, subdivision (c), Respondent was permitted to request a hearing on the
8 charges and allegations contained in the Accusation by delivering or mailing to the Office of the
9 Attorney General a Notice of Defense on or before July 6, 2017.

10 10. Both the first and second service of the Accusation and other service documents were
11 effective as a matter of law under the provisions of Government Code section 11505, subdivision
12 (c).

13 11. No Notice of Defense was received from Respondent in response to either the first or
14 second service. (Declaration of Deputy Attorney General Tessa L. Heunis, Exhibit I.)

15 12. Government Code section 11506 states, in pertinent part:

16 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
17 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
18 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
19 respondent’s right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

20 13. On or about July 5, 2017, Deputy Attorney General Heunis mailed to Respondent via
21 certified mail, return receipt requested, both to his address of record and also to him at his current
22 location in the federal correctional institution at Fort Dix, a Courtesy Notice of Default informing
23 him that he had failed to submit a Notice of Defense, and if it was not immediately received, a
24 Default would be filed against him. (Exhibit F, Courtesy Notice of Default from Deputy Attorney
25 General Tessa L. Heunis.)

26 14. On or about July 13, 2017, a signed certified mail receipt was received at the Office
27 of the Attorney General, showing that the Courtesy Notice of Default had been delivered to
28 Respondent at his address of record at Fort Lee, New Jersey. (Exhibit G.)

1 15. On or about July 24, 2017, a signed certified mail receipt was received at the Office
2 of the Attorney General, showing that the Courtesy Notice of Default had been delivered to
3 Respondent at his current location at the federal correctional institution at Fort Dix, New Jersey.
4 (Exhibit H.)

5 16. No communication whatsoever has been received from Respondent in response to the
6 Courtesy Notice of Default, or in response to the first and second service. (Exhibit I.)

7 17. Respondent failed to file a Notice of Defense within 15 days after service upon him
8 of Accusation No. 1A-2017-4 (Exhibit I), and therefore waived his right to a hearing on the
9 merits of Accusation No. 1A-2017-4.

10 18. California Government Code section 11520 states, in pertinent part:

11 “(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
12 agency may take action based upon the respondent’s express admissions or upon other evidence
13 and affidavits may be used as evidence without any notice to respondent.”

14 19. Pursuant to its authority under Government Code section 11520, the Board finds
15 Respondent is in default. The Board will take action without further hearing and, based on
16 Respondent’s express admissions by way of default and the evidence before it, contained in
17 Exhibits A through L, finds that the allegations in Accusation No. 1A-2017-4 are true:

18 **A. Cause for Discipline – Conviction of a Crime**

19 1. Respondent is subject to disciplinary action under section sections 4995, as
20 defined by section 4956, of the Code, in that he has been convicted of an offense
21 substantially related to the qualifications, functions, or duties of a physician and
22 surgeon.

23 2. On or about June 12, 2015, in the case entitled United States of America against
24 Jeffrey Suh et al, United States District Court, Eastern District of New York, Case
25 No. CR 15-300, a felony indictment was filed against respondent and five other
26 defendants. The indictment charged respondent with Conspiracy to Commit Health
27 Care Fraud (Count 1: Title 18, United States Code, Sections 1347, 1349 and 3551 et

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1 seq.), and Falsification of Records in Federal Investigation (Count 4: Title 18, United
2 States Code, Sections 287 and 3551 et seq.).

3 3. On or about March 3, 2016, in Case No. CR 15-300, respondent pled guilty to
4 Conspiracy to Commit Healthcare Fraud, a Class C felony. Count 4 was dismissed on
5 the motion of the United States. On the same date, respondent was sentenced to
6 imprisonment for a total term of forty-two (42) months. In addition, respondent was
7 ordered to pay an assessment fine of \$100.00, and, together with four co-defendants,
8 jointly and severally, ordered to make restitution to Centers for Medicare and
9 Medicaid Services in the amount of \$2,685,580.30. Defendant also agreed to forfeit
10 all right, title and interest in two properties pursuant to 18 U.S.C. § 982(a)(7), as
11 property which constitutes or is derived from proceeds traceable to his violation of 18
12 U.S.C. §1349, and/or as substitute assets, pursuant to 21 U.S.C. §853(p).

13 4. **Supporting evidence** – certified copy of Judgment In A Criminal Case, Case
14 No. CR15-00300-01(CBA) (Exhibit J).

15 **B. Cause for Discipline – Insurance Fraud.**

16 1. Respondent is subject to disciplinary action under section 810, subdivision
17 (a)(2), and/or section 810, subdivision (b), of the Code, in that he knowingly prepared,
18 made, or subscribed a writing, with intent to present or use the same, or to allow it to
19 be presented or used in support of any false or fraudulent claim, and/or engaged in
20 conduct prohibited under Section 549 or Section 550 of the Penal Code.

21 2. The Medicare program (“Medicare”) is a federal health care program providing
22 benefits to persons who are over the age of 65 or disabled. Medicare is administered
23 by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency under
24 the United States Department of Health and Human Services (“HHS”). Individuals
25 who receive benefits under Medicare are referred to as Medicare “beneficiaries.”

26 3. Physicians who provide services to beneficiaries or order that services be
27 provided to beneficiaries are referred to as “referring physicians.”

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1 4. Medicare is a “health care benefit program,” as defined by Title 18, United
2 States Code, Section 24(b).

3 5. Medicare includes coverage under two primary components, hospital insurance
4 (“Medicare Part A”) and medical insurance (“Medicare Part B”). Medicare Part B
5 covered the costs of physicians’ services and outpatient care, including physical
6 therapy, occupational therapy, chiropractic services and diagnostic tests. Generally,
7 Medicare Part B covers these costs only if, among other requirements, they are
8 medically necessary and ordered by a physician.

9 6. Medical providers submit a Medicare Enrollment Application (“Medicare
10 Application”) to Medicare to participate in Medicare and bill for claims. The
11 Medicare Application requires a provider to provide Medicare with information, such
12 as insurance forms, Internal Revenue Service forms and corporate documents. To
13 electronically receive funds from the Medicare program, providers also submit
14 Electronic Funds Transfer Authorization Agreements, which list the bank account
15 where Medicare will deposit reimbursements.

16 7. Medical providers certified to participate in Medicare, whether clinics or
17 individuals, are assigned a provider identification number (“PIN”) or provider
18 transaction access number (“PTAN”) for billing purposes. After a medical provider
19 renders a service, the provider is required to use its assigned PIN/PTAN when
20 submitting a claim for reimbursement to Medicare.

21 8. Medical providers are authorized to submit claims to Medicare only for services
22 they actually render and are required to maintain patient records verifying the
23 provision of services. By submitting a claim, the provider certifies, among other
24 things, that the services were rendered to the patient and were medically necessary.

25 9. Providers submit claims to Medicare using billing codes, also called current
26 procedural terminology or “CPT” codes, which are numbers referring to specific
27 descriptions of the medical services provided to beneficiaries.

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1 10. At all relevant times, Plaza Medi Group, Inc., and New Plaza Group, Inc.
2 (collectively, "Plaza"), were New York corporations conducting business in Flushing,
3 New York. Plaza was not certified to participate in the Medicare program but used
4 medical professionals and their companies that were certified to participate in the
5 Medicare program to submit claims to Medicare for Medicare beneficiaries. Plaza,
6 through the medical professionals and their companies, purported to provide, among
7 other things, physical therapy, occupational therapy and chiropractic treatment to
8 Medicare beneficiaries.

9 11. At all relevant times, respondent was the owner of Plaza, and was not certified to
10 participate in the Medicare program.

11 12. From approximately December 2010 through June 2013, respondent and his five
12 (5) co-defendants, together with others, agreed to execute and executed a fraudulent
13 scheme at Plaza through which they unlawfully enriched themselves as follows: (1)
14 They artificially increased demand for medical services by providing Medicare
15 beneficiaries with free goods and services such as massages, lunches, cash-equivalent
16 coupons and recreational classes; (2) required beneficiaries to provide their Medicare
17 numbers to staff members and to see a physician, regardless of medical need, to
18 receive the free, non-medical inducements; and (3) submitted and caused to be
19 submitted to Medicare claims for physical therapy, occupational therapy and
20 chiropractic services even though such services were not medically necessary, were
21 often not provided, and otherwise did not qualify for reimbursement.

22 13. Contrary to respondent and his co-defendants' representations in claims
23 submitted to Medicare, Medicare beneficiaries were not evaluated and did not receive
24 physical therapy, occupational therapy and chiropractic services in the amount
25 claimed. Rather, Medicare beneficiaries were typically ushered to unlicensed massage
26 therapists for massages and other free goods and services. In an effort to conceal the
27 fraudulent scheme, respondent, together with others, completed paperwork reflecting
28 that physical therapy, occupational therapy and chiropractic services had been

1 provided to the beneficiaries by licensed physical therapists, occupational therapists
2 and chiropractors when, in fact, such services had not been provided and not been
3 provided in the amount claimed.

4 14. In sum, respondent together with others, submitted approximately \$4 million in
5 claims to Medicare for medical services purportedly rendered to Medicare
6 beneficiaries at Plaza.

7 15. **Supporting evidence** – certified copy of Indictment, Case No. CR15-300
8 (Exhibit K).

9 **C. Cause for Discipline – Dishonesty or Corruption.**

10 1. Respondent is subject to disciplinary action under section 4995, as defined by
11 section 4995.1, subdivisions (b), (c), (d), and/or (e), in that he committed a fraudulent
12 or dishonest act as an acupuncturist, and/or committed an act involving dishonesty or
13 corruption with respect to the qualifications, functions, or duties of an acupuncturist,
14 and/or altered or modified the medical record of any person, with fraudulent intent, or
15 created a false medical record, and/or failed to maintain adequate and accurate
16 records relating to the provision of services to his patients.

17 2. Paragraphs 1 through 3 under “Cause for Discipline – Conviction of a Crime,”
18 above, and paragraphs 1 through 12 under “Cause for Discipline – Insurance Fraud,”
19 above, are hereby incorporated by reference and realleged as if fully set forth herein.

20 3. **Supporting evidence** – certified copy of Indictment, Case No. CR15-300, and
21 Judgment In A Criminal Case, Case No. CR15-00300-01(CBA) (Exhibits J and K).

22 **D. Cause for Discipline – General Unprofessional Conduct.**

23 1. Respondent is subject to disciplinary action under section 4995, as defined by
24 California Code of Regulations, title 16, section 1399.469.2, in that he failed to report

25 2. to the Board within 30 days the bringing of an indictment or information
26 charging a felony against respondent and/or his conviction of a felony.

27 3. **Supporting evidence** – Declaration of Cricket Borges (Exhibit L).

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1 COST RECOVERY

2 20. Section 4959 of the Code states, in pertinent part, that the board may request the
3 administrative law judge, under his or her proposed decision in resolution of a disciplinary
4 proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay
5 to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution
6 of the case.

7 21. The Board further finds that pursuant to Business and Professions Code section 4959,
8 and based on Exhibit I, the Declaration of Tessa Heunis dated August 21, 2017, the costs of
9 enforcement of the case prayed for in the above-entitled matter, as of August 21, 2017, total
10 \$3,130.00.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Jeffrey Hongjae Suh, L. AC has
13 subjected his Acupuncture License No. AC 8146 to discipline.

14 2. A copy of the Accusation and the related documents and Declarations of Service are
15 attached.

16 3. The agency has jurisdiction to adjudicate this case by default.

17 4. Pursuant to its authority under California Government Code section 11520, and based
18 on the evidence before it, the Board hereby finds that the charges and all allegations contained in
19 Accusation No. 1A-2017-4, and the Findings of Fact contained in paragraphs 1 through 21,
20 above, and each of them, separately and severally are true and correct.

21 5. Pursuant to its authority under California Government Code section 11520, and by
22 reason of the Findings of Fact contained in paragraphs 1 through 21 above, and Determination of
23 Issues 1, 2, 3, and 4 above, the Board hereby finds that respondent Jeffrey Hongjae Suh, L. AC
24 has subjected his Acupuncture License No. AC 8146 to disciplinary action and the Acupuncture
25 Board is authorized to revoke Respondent's Acupuncture License based upon the following
26 violations alleged in the Accusation:

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1 a. Respondent is subject to disciplinary action under section sections 4995, as
2 defined by section 4956, of the Code, in that he has been convicted of an offense substantially
3 related to the qualifications, functions, or duties of an acupuncturist.

4 b. Respondent is further subject to disciplinary action under section 810,
5 subdivision (a)(2), and/or section 810, subdivision (b), of the Code, in that he knowingly
6 prepared, made, or subscribed a writing, with intent to present or use the same, or to allow it to be
7 presented or used in support of any false or fraudulent claim, and/or engaged in conduct
8 prohibited under Section 549 or Section 550 of the Penal Code.

9 c. Respondent is further subject to disciplinary action under section 4995, as
10 defined by section 4995.1, subdivisions (b), (c), (d), and/or (e), in that he committed a fraudulent
11 or dishonest act as an acupuncturist, and/or committed an act involving dishonesty or corruption
12 with respect to the qualifications, functions, or duties of an acupuncturist, and/or altered or
13 modified the medical record of any person, with fraudulent intent, or created a false medical
14 record, and/or failed to maintain adequate and accurate records relating to the provision of
15 services to his patients.

16 d. Respondent is further subject to disciplinary action under section 4995, as
17 defined by California Code of Regulations, title 16, section 1399.469.2, in that he failed to report
18 to the Board within 30 days the bringing of an indictment or information charging a felony
19 against respondent and/or his conviction of a felony.

20 6. Pursuant to its authority under California Government Code section 4959, and by reason
21 of the Findings of Fact contained in paragraphs 1 through 21 above, and Determination of Issues
22 1 through 4, above, the Board hereby determines that the costs of enforcement and prosecution
23 are \$ 3,130.00.

24 **ORDER**

25 **IT IS HEREBY ORDERED THAT:**

26 1. Acupuncture License No. AC 8146, heretofore issued to Respondent Jeffrey Hongjae
27 Suh, L. AC, is revoked for each of the violations, separately and severally, of the California
28 Business and Professions Code found in the Determination of Issues, above;

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2. It is further ordered that Respondent Jeffrey Hongjae Suh, L. AC, shall pay the Board costs of enforcement and prosecution in the sum of \$3,130.00, which shall be due upon the effective date of this Order;

3. Pursuant to Government Code section 11520, subdivision (c), Respondent Jeffrey Hongjae Suh, L. AC, may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on _____.

It is so ORDERED _____

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS