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10 **BEFORE THE**
11 **BOARD OF PODIATRIC MEDICINE**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 500-2015-000174

14 **JAZMIN S. LIU, DPM**
15 **2521 Michelle Drive**
Tustin, CA 92780

A C C U S A T I O N

16 **Podiatrist License No. E4931**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Brian Naslund (Complainant) brings this Accusation solely in his official capacity as
22 the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs.

23 2. On or about February 23, 2011, the Board of Podiatric Medicine issued Podiatrist
24 License Number E4931 to Jazmin S. Liu, DPM (Respondent). The Podiatrist License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on February 28,
26 2019, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board of Podiatric Medicine (Board), under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 (Code) unless otherwise indicated.

5 4. Section 2222 of the Code states:

6 “The California Board of Podiatric Medicine shall enforce and administer this article
7 as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations
8 proscribed by this chapter are applicable to licensed doctors of podiatric medicine and
9 wherever the Medical Quality Hearing Panel established under Section 11371 of the
10 Government Code is vested with the authority to enforce and carry out this chapter as to
11 licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that
12 same authority as to licensed doctors of podiatric medicine.

13 “The California Board of Podiatric Medicine may order the denial of an application
14 or issue a certificate subject to conditions as set forth in Section 2221, or order the
15 revocation, suspension, or other restriction of, or the modification of that penalty, and the
16 reinstatement of any certificate of a doctor of podiatric medicine within its authority as
17 granted by this chapter and in conjunction with the administrative hearing procedures
18 established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code.
19 For these purposes, the California Board of Podiatric Medicine shall exercise the powers
20 granted and be governed by the procedures set forth in this chapter.”

21 5. Section 2497 of the Code states:

22 “(a) The board may order the denial of an application for, or the suspension of, or the
23 revocation of, or the imposition of probationary conditions upon, a certificate to practice
24 podiatric medicine for any of the causes set forth in Article 12 (commencing with Section
25 2220) in accordance with Section 2222.

26 “(b) The board may hear all matters, including but not limited to, any contested case
27 or may assign any such matters to an administrative law judge. The proceedings shall be
28 held in accordance with Section 2230. If a contested case is heard by the board itself, the

1 administrative law judge who presided at the hearing shall be present during the board's
2 consideration of the case and shall assist and advise the board.”

3 6. Section 2227 of the Code states:

4 “(a) A licensee whose matter has been heard by an administrative law judge
5 of the Medical Quality Hearing Panel as designated in Section 11371 of the
6 Government Code, or whose default has been entered, and who is found guilty, or
7 who has entered into a stipulation for disciplinary action with the board, may, in
8 accordance with the provisions of this chapter:

9 “(1) Have his or her license revoked upon order of the board.

10 “(2) Have his or her right to practice suspended for a period not to exceed one
11 year upon order of the board.

12 “(3) Be placed on probation and be required to pay the costs of probation
13 monitoring upon order of the board.

14 “(4) Be publicly reprimanded by the board. The public reprimand may
15 include a requirement that the licensee complete relevant educational courses
16 approved by the board.

17 “(5) Have any other action taken in relation to discipline as part of an order of
18 probation, as the board or an administrative law judge may deem proper.

19 “(b) Any matter heard pursuant to subdivision (a), except for warning letters,
20 medical review or advisory conferences, professional competency examinations,
21 continuing education activities, and cost reimbursement associated therewith that
22 are agreed to with the board and successfully completed by the licensee, or other
23 matters made confidential or privileged by existing law, is deemed public, and
24 shall be made available to the public by the board pursuant to Section 803.1.”

25 7. Section 2234 of the Code states, in pertinent part:

26 “The board shall take action against any licensee who is charged with
27 unprofessional conduct. In addition to other provisions of this article, unprofessional
28 conduct includes, but is not limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
2 abetting the violation of, or conspiring to violate any provision of this chapter.

3 “(b) Gross negligence.

4 “(c) Repeated negligent acts. To be repeated, there must be two or more
5 negligent acts or omissions. An initial negligent act or omission followed by a
6 separate and distinct departure from the applicable standard of care shall constitute
7 repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically
9 appropriate for that negligent diagnosis of the patient shall constitute a single
10 negligent act.

11 “(2) When the standard of care requires a change in the diagnosis, act, or
12 omission that constitutes the negligent act described in paragraph (1), including,
13 but not limited to, a reevaluation of the diagnosis or a change in treatment, and
14 the licensee’s conduct departs from the applicable standard of care, each
15 departure constitutes a separate and distinct breach of the standard of care.

16 “(d) Incompetence.

17 “...”

18 **COST RECOVERY**

19 8. Section 2497.5 of the Code states:

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

25 “(b) The costs to be assessed shall be fixed by the administrative law judge and
26 shall not be increased by the board unless the board does not adopt a proposed
27 decision and in making its own decision finds grounds for increasing the costs to be

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1 assessed, not to exceed the actual and reasonable costs of the investigation and
2 prosecution of the case.

3 “...

4 “(f) All costs recovered under this section shall be deposited in the Board of
5 Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the
6 costs are actually recovered or the previous fiscal year, as the board may direct.”

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Gross Negligence)**

9 9. Respondent has subjected her Podiatrist License No. E4931 to disciplinary action
10 under sections 2497, 2222, 2227 and 2234, subdivision (b), of the Code, in that Respondent
11 committed gross negligence in her care and treatment of Patient A,¹ as more particularly alleged
12 hereinafter:

13 10. On or about July 23, 2012, Respondent commenced providing podiatric care to
14 Patient A, a female patient then 59 years old. Patient A complained of a painful bunion on her
15 left foot. Following an initial physical examination and a review of the patient's x-rays,
16 Respondent diagnosed Patient A with a left foot bunion, and discussed treatment options,
17 including surgery. At some point after this appointment, Patient A decided to undergo a left foot
18 distal metatarsal bunionectomy.

19 11. On or about February 4, 2013, Respondent performed a distal first metatarsal chevron
20 osteotomy with single 3-0 cannulated screw fixation placed dorsal to plantar proximal on Patient
21 A's left foot. Initial postoperative x-rays showed the hallux (great toe) in a varus² position. Prior
22 to discharge, Respondent provided Patient A with post-surgical instructions that included but not
23 limited to, keeping the dressings clean and dry, ice and elevate the foot, limit activities, and wear
24 postoperative shoes at all times.

25 12. On or about February 11, 2013, Patient A was seen by Respondent for her first post-
26 operative evaluation, and reported being compliant with all post-surgical instructions. The

27 ¹ To protect the privacy of all patients involved, patient names have not been included in this
28 pleading. Respondent is aware of the identity of the patients referred to herein.

² Hallux varus is a deformity of the great toe joint where the hallux is deviated medially (towards
the midline of the body) away from the first metatarsal bone.

1 radiology report from x-rays taken that day noted, "Persistent medial deviation of the great toe
2 and the metatarsal phalangeal joint." Following a physical examination and a review of the
3 patient's x-rays, Respondent noted small wound dehiscence at the distal incision, and
4 recommended the patient continue to use surgical shoe, ice and elevate the foot, and to limit
5 activities.

6 13. On or about February 18, 2013, Patient A was seen by Respondent for another post-
7 operative evaluation, and reported being compliant with all post-surgical instructions. Following
8 a physical examination, Respondent noted mild hyperkeratosis over the distal surgical wound, the
9 hallux to be in rectus position, and recommended the patient return in one week for suture
10 removal.

11 14. On or about February 25, 2013, Patient A was seen by Respondent for suture
12 removal, and reported being compliant with all post-surgical recommendations. Following a
13 physical examination, Respondent noted the wound had healed and the hallux to be in rectus
14 position.

15 15. On or about February 28, 2013, Patient A called into Respondent's office and
16 reported that her great toe was turning outward again since Respondent removed the bandages at
17 the prior appointment.

18 16. On or about March 1, 2013, Patient A was seen by Respondent for an evaluation, with
19 complaints of the hallux deviating medially, and mild pain at the plantar first metatarsal head with
20 ambulation. Following a physical examination and a review of the patient's x-rays, Respondent
21 noted a lateral displacement of the first metatarsal head, and the hallux in varus position.
22 Respondent recommended the patient undergo a second surgery to correct the evident hallux
23 varus deformity.

24 17. On or about March 5, 2013, Respondent performed an interval revision first
25 metatarsal osteotomy on Patient A's left foot. During this procedure Respondent removed the
26 previous screw and replaced it with two 0.045 K-wires, placed in close proximity, parallel to each
27 other to maintain the correction. Respondent buried the K-wires to ensure they would maintain
28 permanent placement. Prior to discharge, Respondent provided Patient A with post-surgical

1 instructions that included, but were not limited to, keeping the dressings clean and dry, ice and
2 elevate the foot, limit activities, and wear postoperative shoes at all times.

3 18. On or about March 11, 2013, Patient A was seen by Respondent for a post-surgical
4 evaluation, and reported being compliant with all post-surgical instructions. Following a physical
5 examination and a review of the patient's x-rays, Respondent noted the hallux to be in rectus
6 position.

7 19. On or about March 18, 2013, Patient A was seen by Respondent for suture removal,
8 and reported being compliant with all post-surgical instructions. Following a physical
9 examination, Respondent noted the hallux to be in rectus position.

10 20. On or about April 15, 2013, Patient A was seen by Respondent for a post-surgical
11 evaluation, and reported being compliant with all post-surgical instructions. Following a physical
12 examination, Respondent noted the hallux to be in a slight varus position.

13 21. On or about April 18, 2013, Patient A called into Respondent's office and reported a
14 lump in her foot at the location of her surgery that was causing her severe pain.

15 22. On or about April 22, 2013, Patient A was seen by Respondent for an evaluation, with
16 continued complaints of pain, and reports of blood at the wound site where the K-wire was noted
17 to be backing out. No additional x-rays were ordered or reviewed at this time. Following a
18 physical examination, Respondent noted the hallux to be in a slight varus position, and removed
19 the K-wire that had retracted through the patient's skin.

20 23. On or about April 29, 2013, Patient A returned for a post-surgical evaluation, with
21 complaints of pain with ambulation. No additional x-rays were ordered or reviewed at this time.
22 Following a physical examination, Respondent noted the hallux to still be in a slight varus
23 position.

24 24. On or about May 20, 2013, Patient A was seen by Respondent for a post-surgical
25 evaluation, with continued complaints of pain with ambulation. No additional x-rays were
26 ordered or reviewed at this time. Following a physical examination, Respondent noted the hallux
27 to still be in a slight varus position.

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1 25. On or about January 16, 2014, Patient A was seen by Respondent for an evaluation,
2 with continued complaints of pain. Respondent reviewed x-rays taken on or about December 19,
3 2013, that revealed the hallux medially dislocated from the first metatarsal. Following a physical
4 examination, Respondent noted the hallux to still be in a varus position.

5 26. On or about April 23, 2013, Patient A continued to be in pain and was seen by J.E.,
6 D.P.M., who subsequently removed the second K-wire that had also retracted.

7 27. Respondent committed gross negligence in her care and treatment of patient A, which
8 included, but was not limited to, the following:

9 A. Improperly placing the capital segment during Patient A's first surgery on or
10 about February 4, 2013, resulting in a negative intermetatarsal angle and exposing the
11 medial sesamoid;

12 B. Failing to achieve complete fixation of the capital segment with two 0.45 K-
13 wires placed parallel in close proximity during Patient A's second surgery on or about
14 March 5, 2013.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Repeated Negligent Acts)**

17 28. Respondent has further subjected her Podiatrist License No. E4931 to disciplinary
18 action under sections 2497, 2222, 2227 and 2234, subdivision (c), of the Code, in that Respondent
19 committed repeated negligent acts in her care and treatment of patients A and B, as more
20 particularly alleged hereinafter:

21 29. On or about November 17, 2011, Respondent commenced providing podiatric care to
22 Patient B, a female patient then 46 years old. Patient B had a history of a prior right
23 bunionectomy, and presented with complaints of pain and development of lateral deviation of the
24 right hallux one year prior. Following an initial physical examination and a review of the
25 patient's x-rays, Respondent noted very small sesamoids, and a mild to moderate hallux valgus.
26 Respondent discussed treatment options, including surgery. At some point after this appointment,
27 Patient B decided to undergo surgery.

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1 30. On or about June 28, 2012, Respondent performed a modified lapidus bunionectomy
2 and lengthening of the extensor hallucis longus tendon on Patient B's right foot. The procedure
3 was performed utilizing hardware consisting of a plate and screws to maintain the fusion site at
4 the first metatarsocuneiform joint of the right foot. During the surgery, Respondent noted the
5 hallux was dorsiflexed, so she lengthened the extensor hallucis longus to bring the toe down.
6 Prior to discharge, Respondent provided Patient B with post-surgical instructions that included
7 but not limited to, keeping the cast dry, elevate and ice the foot, and walk with crutches only.

8 31. On or about July 6, 2012, Patient B was seen by Respondent for her first post-
9 operative evaluation, and reported being compliant with all post-surgical instructions.

10 32. On or about July 13, 2012, Patient B was seen by Respondent for suture removal, and
11 reported being compliant with all post-surgical instructions.

12 33. On or about August 13, 2012, Patient B was seen by Respondent for a post-operative
13 evaluation, and reported being compliant with all post-surgical instructions. X-rays taken that
14 day revealed, in part, "Mild degenerative changes at the first metatarsal phalangeal joint and
15 interfrontal joints of the toes. Possible mild periarticular erosion with overhanging edge along the
16 distal medial margin of the first metatarsal suspicious for gout arthritis."

17 34. On or about September 17, 2012, Patient B was seen by Respondent for the last time
18 for a post-surgical evaluation, with complaints of pain on plantar metatarsal, and the hallux not
19 touching the ground. Following a physical examination, Respondent noted the bunion had been
20 corrected, but the hallux to be in a dorsiflexed position. Respondent discussed treatment options,
21 including surgery.

22 35. Sometime after her last appointment with Respondent, Patient B sought multiple
23 second opinions from other podiatrists due to the hallux not touching the ground, and continued
24 complaints of significant pain restricting her from walking or standing.

25 36. On or about December 20, 2012, Patient B underwent a corrective surgery by an
26 orthopedic surgeon, J.C., M.D. (Dr. J.C.), which included fusing of the first metatarsophalangeal
27 joint and freeing up the extensor hallucis longus tendon and nerve. Intraoperatively, Dr. J.C.

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1 noted the dorsal half of the cartilage on the first metatarsal head had been worn away secondary
2 to the dorsiflexed position of the hallux and was contributing to the patient's pain.

3 37. Respondent committed repeated negligent acts in her care and treatment of patients A
4 and B, which included but were not limited to, the following:

5 A. Paragraphs 9 through 27, above, are hereby incorporated by reference and
6 realleged as if fully set forth herein.

7 B. Performing a modified ligidus bunionectomy on Patient B instead of utilizing
8 another surgical technique.

9 C. Excessively plantar flexing the first metatarsal during Patient B's surgery on or
10 about June 28, 2012.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Incompetence)**

13 38. Respondent has further subjected her Podiatrist License No. E4931 to disciplinary
14 action under sections 2497, 2222, 2227 and 2234, subdivision (d), of the Code, in that she
15 demonstrated incompetence in her care and treatment of patients A and B, as more particularly
16 alleged in paragraphs 9 through 37, above, which are hereby realleged and incorporated by this
17 reference as if fully set forth herein.

18 **PRAYER**

19 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Podiatric Medicine issue a decision:

21 1. Revoking or suspending Podiatrist License Number E4931, issued to Respondent
22 Jazmin S. Liu, D.P.M.;

23 2. Ordering Respondent Jazmin S. Liu, D.P.M., to pay the Board of Podiatric Medicine
24 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 2497.5; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: February 8, 2018



BRIAN NASLUND
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California
Complainant