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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **HYUN MO CHUNG**
13 **4725 First Street #270**
14 **Pleasanton, CA 94566**
15 **Acupuncture License**
16 Respondent.

Case No. 1A-2009-212

OAH No. 2010010209

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Janelle Wedge ("complainant") is the Executive Officer of the Acupuncture Board.
21 She brought this action solely in her official capacity and is represented in this matter by Edmund
22 G. Brown Jr., Attorney General of the State of California, by Kerry Weisel, Deputy Attorney
23 General.

24 2. Hyun Mo Chung ("respondent") is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 JURISDICTION

27 3. An Accusation in Case No. 1A-2009-212 was filed before the Acupuncture Board
28 ("Board"), Department of Consumer Affairs, and properly served on respondent with all other

1 statutorily required documents on January 13, 2010. The Board filed a First Amended
2 Accusation in Case No. 1A-2009-212 on January 26, 2010 and this First Amended Accusation is
3 currently pending against respondent. A copy of the First Amended Accusation in Case No. 1A-
4 2009-212 is attached as exhibit A and incorporated in this document by reference.

5 ADVISEMENT AND WAIVERS

6 4. Respondent has carefully read, and understands the charges and allegations in the
7 First Amended Accusation in Case No. 1A-2009-212. Respondent also has carefully read, and
8 understands the effects of this Stipulated Surrender of License and Order.

9 5. Respondent is fully aware of his legal rights in this matter, including the right to a
10 hearing on the charges and allegations in the First Amended Accusation; the right to be
11 represented by counsel, at his own expense; the right to confront and cross-examine the witnesses
12 against him; the right to present evidence and to testify on his own behalf; the right to the
13 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
14 the right to reconsideration and court review of an adverse decision; and all other rights accorded
15 by the California Administrative Procedure Act and other applicable laws.

16 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
17 every right set forth above.

18 CULPABILITY

19 7. Respondent understands that the charges and allegations in the First Amended
20 Accusation in Case No. 1A-2009-212, if proven at a hearing, constitute cause for imposing
21 discipline upon his Acupuncture License.

22 8. For the purpose of resolving the First Amended Accusation without the expense and
23 uncertainty of further proceedings, respondent agrees that, at a hearing, complainant could
24 establish a factual basis for the charges in the First Amended Accusation and that those charges
25 constitute cause for discipline. Respondent hereby gives up his right to contest that cause for
26 discipline exists based on those charges.


27 9. Respondent understands that by signing this stipulation he enables the Board to issue
28 an order accepting the surrender of his Acupuncture License without further process.

1 16. Respondent fully understands and agrees that if he ever files an application for
2 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
3 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
4 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
5 charges and allegations contained in the First Amended Accusation in Case No. 1A-2009-212
6 shall be deemed to be true, correct and admitted by respondent when the Board determines
7 whether to grant or deny the petition.

8 17. If the Board grants future reinstatement, respondent agrees to reimburse the Board for
9 its costs of investigation and enforcement of this matter in the amount of \$6,000.00 payable to the
10 Acupuncture Board upon the effective date of such reinstatement Decision

11 ACCEPTANCE

12 I have carefully read the Stipulated Surrender of License and Order. I understand the
13 stipulation and the effect it will have on my Acupuncture License. I enter into this Stipulated
14 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
15 by the Decision and Order of the Acupuncture Board.

16 DATED: 1/27/2010 
17 HYUN MO CHUNG
18 Respondent

19 ENDORSEMENT

20 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
21 for consideration by the Acupuncture Board of the Department of Consumer Affairs.

22 Dated: January 29, 2010

Respectfully submitted,

23 EDMUND G. BROWN JR.
24 Attorney General of California
25 JOSE R. GUERRERO
26 Supervising Deputy Attorney General

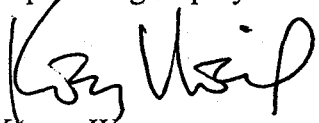

27 KERRY WEISEL
28 Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 1A-2009-212

FILED

JAN 27 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
 Attorney General of California
 2 JOSE R. GUERRERO
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Attorneys for Complainant

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 9 **ACUPUNCTURE BOARD**
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 11 **STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1A-2009-212

HYUN MO CHUNG

FIRST AMENDED ACCUSATION

12 **4725 First Street #270**
 13 **Pleasanton, CA 94566**
 14 **Acupuncture**

Acupuncture License No. AC 7067

Respondent.

Complainant alleges:

PARTIES

18 1. Janelle Wedge (Complainant) brings this First Amended Accusation solely in her
 19 official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
 20 Affairs.
 21

22 2. On or about January 27, 2000, the Acupuncture Board issued Acupuncture License
 23 Number AC 7067 to Hyun Mo Chung ("Dr. Chung" or "Respondent"). The Acupuncture License
 24 was in full force and effect at all times relevant to the charges brought in this Accusation and will
 25 expire on March 31, 2011, unless renewed.
 26

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Acupuncture Board ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4955 of the Code provides that "[t]he Board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct.

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

". . . .

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

". . . ."

5. Section 4956 of the Code provides that "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."

6. Section 726 of the Code provides that "[t]he commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action" against a licensee of the Acupuncture Board.

7. Section 4959 provides, in pertinent part, that "[t]he board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Substantially Related Conviction, Sexual Misconduct)

8. Respondent's license is subject to disciplinary action under Business and Professions Code section 4955 for unprofessional conduct pursuant to Business and Professions Code sections 4955, subdivision (b), and 726 in that he was convicted of violating Penal Code section

1 243.4(c), a crime involving sexual misconduct with a client which is substantially related to the
2 qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

3 9. On or about September 3, 2009, after a plea of nolo contendere, Respondent was
4 convicted of violating Penal Code section 243.4(c) which provides that "[a]ny person who
5 touches an intimate part of another person for the purpose of sexual arousal, sexual gratification,
6 or sexual abuse, and the victim is at the time unconscious of the nature of the act because the
7 perpetrator fraudulently represented that the touching served a professional purpose, is guilty of
8 sexual battery."

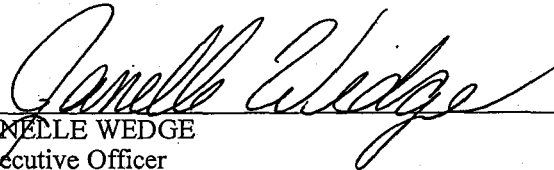
9 10. The court placed Respondent on five year's probation and ordered him to attend court
10 approved sex offender counseling, to stay away from Ms. Doe, and to register as a sex offender
11 pursuant to Penal Code section 290.

12 PRAYER

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

- 15 1. Revoking or suspending Acupuncture License Number AC 7067, issued to Hyun Mo
16 Chung;
- 17 2. Ordering Hyun Mo Chung to pay the Acupuncture Board the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 4959; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: JAN 27 2010


23 JANELLE WEDGE
24 Executive Officer
25 Acupuncture Board
26 Department of Consumer Affairs
27 State of California
28 Complainant

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1 EDMUND G. BROWN JR.
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Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 1A-2009-212

12 **HYUN MO CHUNG**

13 **4725 First Street #270**
14 **Pleasanton, CA 94566**
15 **Acupuncture**

SUPPLEMENTAL STATEMENT
TO RESPONDENT

[Gov. Code §§ 11505, 11506, 11507]

16 **Acupuncture License No. AC 7067**

17 Respondent.

18
19 **TO RESPONDENT:**

20 Enclosed is a copy of the First Amended Accusation that has been filed with the
21 Acupuncture Board of the Department of Consumer Affairs, pursuant to section 11507 of the
22 Government Code, and which is hereby served on you.

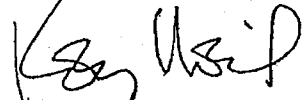
23 You have not filed a Notice of Defense with the Acupuncture Board, pursuant to sections
24 11505 and 11506 of the Business and Professions Code, requesting an administrative hearing to
25 present your defense to the charges and allegations in the Accusation but have indicated that you
26 wish to surrender your license. If you change your mind, you may still file a Notice of Defense,
27 two copies of which were served on you with the original Accusation in this matter, within fifteen
28

1 days of the date this First Amended Accusation is served on you, to request a hearing on the
2 charges in the First Amended Accusation.

3 Dated: January 26, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General


KERRY WEISEL
Deputy Attorney General
Attorneys for Complainant

14 SF2009405707
15 supp statement to respondent.rtf

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DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation filed Against:

HYUN MO CHUNG

Case No. 1A-2009-212

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95814-0226. I served a true copy of the attached:

**FIRST AMENDED ACCUSATION &
SUPPLEMENTAL STATEMENT TO RESPONDENT**

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Hyun Mo Chung, L.Ac.
4725 First Street, #270
Pleasanton, CA 94566

7009 1410 0002 2168 5086

Kerry Weisel, DAG
California Department of Justice
Office of the Attorney General, HQE
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102-7004

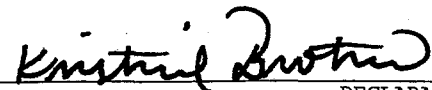
regular mail

Jose R. Guerrero, SDAG
California Department of Justice
Office of the Attorney General, HQE
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102-7004

regular mail

Each said envelope was, on January 27, 2010, sealed and deposited in the U.S. mail box at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for attempt at service on Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 27, 2010, at Sacramento, California.



DECLARANT