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ACUPUNCTURE BOARD

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

12 In the Matter of the Accusation Against:

Case No. 1A-2007-89

13 MARIA ANGELES GONZALEZ, L.Ac.
 2615 Camino Del Rio South, 201
 14 San Diego, CA 92108

A C C U S A T I O N

15 Acupuncture License No. AC9001

16 Respondent.

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 18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 18, 2003, the Acupuncture Board issued Acupuncture
 23 License No. AC9001 to MARIA ANGELES GONZALEZ, L.Ac. (Respondent). The
 24 Acupuncture License was in full force and effect at all times relevant to the charges brought
 25 herein and will expire on January 31, 2009, unless renewed.

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1 JURISDICTION

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

5 4. Section 4955.2 of the Code states:

6 "The board may deny, suspend, revoke, or impose probationary conditions upon
7 the license of any acupuncturist if he or she is guilty of committing any one of the
8 following:

9 "(a) Gross negligence.

10 "(b) Repeated negligent acts.

11 "(c) Incompetence."

12 5. Section 4959 of the Code states:

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

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

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

27 "(d) In any judicial action for the recovery of costs, proof of the board's decision
28 shall be conclusive proof of the validity of the order of payment and the terms for

1 payment.

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

4 6. Section 125.3 of the Code provides, in pertinent part, that the Board may
5 request the administrative law judge to direct a licentiate found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts)

10 7. Respondent is subject to disciplinary action under section 4955.2 of the
11 Code in that she committed repeated negligent acts in her care and treatment of patient D.E., as
12 more particularly alleged hereinafter:

13 (a) Between on or about March 5, 2005, and June 27, 2007, patient D.E.
14 received several acupuncture treatments at Pacific Center of Health. A majority of those
15 treatments were for neck pain and other minor complaints.

16 (b) On or about June 27, 2007, patient D.E. presented to respondent at Pacific
17 Center of Health for acupuncture treatment of a viral rash on her left arm.

18 (c) At the time of patient D.E.’s June 27, 2007, presentation to respondent,
19 Talia Hoke was a student at Pacific College of Oriental Medicine. As part of her education,
20 Hoke worked under respondent’s supervision and performed a number of modalities including
21 manipulation, removal of needles and electro acupuncture.

22 (c) Patient D.E. was treated with acupuncture and electro acupuncture to both
23 the right and left sides of her body in order to address the rash, a viral outbreak of Herpes zoster
24 (a painful, blistering, skin rash due to acute infection with varicella-zoster virus, the same virus
25 that causes chickenpox).

26 (d) The treatment patient D.E. received consisted of two parts. First,
27 respondent treated the right side of patient D.E.’s body with electro acupuncture. Second,
28 respondent treated the left side of patient D.E.’s body with electro acupuncture.

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2 (e) At one point during the first part of patient D.E.'s treatment (right side),
3 patient D.E. began to roll onto the needles. Respondent stopped patient D.E. before she could
4 roll onto the needles.

5 (f) During the second part of patient D.E.'s treatment (left side), after
6 respondent needled patient D.E.'s left side, respondent instructed Hoke to perform electro
7 acupuncture. Respondent then left the room. Patient D.E. told Hoke she was experiencing an
8 increase in pain, shortness of breath and overall discomfort. In response, Hoke manipulated two
9 or three of the needles. Two of the needles fell out. Hoke reinserted them.

10 (g) When respondent returned to the room, patient D.E. informed respondent
11 she could not continue with treatment due to the pain. Respondent directed Hoke to remove the
12 needles.

13 (h) After treatment was terminated, patient D.E. continued to express to
14 respondent that she was in pain and could only take shallow breaths.

15 (i) Respondent told patient D.E. to remain in the lobby for a few minutes.
16 Respondent did not check patient D.E.'s vital signs and sent her home.

17 (j) On or about June 28, 2007, at 4:30 a.m., patient D.E. was taken to the
18 hospital and diagnosed with hemothorax (collection of blood in the space between the chest wall
19 and the lung) and pneumothorax (collection of air or gas in space around the lungs). X-rays
20 taken at the hospital revealed needle fragments remained in patient D.E.'s lung.

21 (k) Respondent committed repeated negligent acts in her care and treatment of
22 patient D.E., on account of, but not limited to the following:

- 23 (1) Failing to properly and adequately supervise Hoke, a student intern;
- 24 (2) Improperly inserting an acupuncture needle into patient D.E.'s left side
25 resulting in injury to patient D.E.'s left lung; and,
- 26 (3) Failing to recognize the symptoms of patient D.E. (increasing pain,
27 difficulty breathing) and take appropriate measures.

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2 PRAYER

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

5 1. Revoking or suspending Acupuncture License No. AC9001, issued to
6 Maria Angeles Gonzalez, L.Ac. (Respondent);

7 2. Ordering Respondent to pay the Acupuncture Board the reasonable costs
8 of the investigation and enforcement of this case, pursuant to Business and Professions Code
9 section 4959; and,

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

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12 DATED: OCT 22 2008

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14 
15 JANELLE WEDGE
16 Executive Officer
17 Acupuncture Board
18 Department of Consumer Affairs
19 State of California
20 Complainant

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