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ACUPUNCTURE BOARD

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

11 In the Matter of the Accusation Against:

Case No. 1A-2013-97

12 **CHAN JOON PARK, L.Ac.**
5330 Falls Way, Suite M
Buena Park CA 90621

A C C U S A T I O N

13 **Acupuncturist License No. AC12692,**

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

20 2. On or about September 15, 2008, the Acupuncture Board issued Acupuncturist
21 License Number AC12692 to Chan Joon Park, L.Ac. (Respondent). The Acupuncturist License
22 was in full force and effect at all times relevant to the charges brought herein and will expire on
23 May 31, 2016, unless renewed.

24 **JURISDICTION**

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

28 4. Section 4928 of the Code provides in part as follows:

1 “(a) The Acupuncture Board, which consists of seven members, shall enforce and
2 administer this chapter [the Acupuncture Licensure Act].”

3 5. 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
6 the public is inconsistent with other interests sought to be promoted, the protection of the
7 public shall be paramount.

8 6. Section 4955 of the Code states:

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

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

12 “(a) Using or possessing any controlled substance as defined in Division 10
13 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug
14 or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or
15 to any other person, or to the public, and to an extent that the use impairs his or her
16 ability to engage in the practice of acupuncture with safety to the public.

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

20 “(c) False or misleading advertising.

21 “(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly,
22 the violation of the terms of this chapter or any regulation adopted by the board
23 pursuant to this chapter.

24 “(e) Except for good cause, the knowing failure to protect patients by failing to
25 follow infection control guidelines of the board, thereby risking transmission of
26 blood-borne infectious diseases from licensee to patient, from patient to patient, and
27 from patient to licensee. In administering this subdivision, the board shall consider
28 referencing the standards, regulations, and guidelines of the State Department of

1 Health Services developed pursuant to Section 1250.11 of the Health and Safety Code
2 and the standards, regulations, and guidelines pursuant to the California Occupational
3 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5
4 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other
5 blood-borne pathogens in health care settings. As necessary, the board shall consult
6 with the Medical Board of California, the California Board of Podiatric Medicine, the
7 Dental Board of California, the Board of Registered Nursing, and the Board of
8 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
9 consistency in the implementation of this subdivision.

10 “The board shall seek to ensure that licensees are informed of the responsibility
11 of licensees and others to follow infection control guidelines, and of the most recent
12 scientifically recognized safeguards for minimizing the risk of transmission of
13 blood-borne infectious diseases.

14 “(f) The use of threats or harassment against any patient or licensee for
15 providing evidence in a disciplinary action, other legal action, or in an investigation
16 contemplating a disciplinary action or other legal action.

17 “(g) Discharging an employee primarily for attempting to comply with the terms
18 of this chapter.

19 “(h) Disciplinary action taken by any public agency for any act substantially
20 related to the qualifications, functions, or duties of an acupuncturist or any
21 professional health care licensee.

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

24 “(j) The violation of any law or local ordinance on an acupuncturist's business
25 premises by an acupuncturist's employee or a person who is working under the
26 acupuncturist's professional license or business permit, that is substantially related to
27 the qualifications, functions, or duties of an acupuncturist. These violations shall
28 subject the acupuncturist who employed the individuals, or under whose

1 acupuncture license the employee is working, to disciplinary action.

2 “(k) The abandonment of a patient by the licentiate without written notice to the
3 patient that treatment is to be discontinued and before the patient has had a reasonable
4 opportunity to secure the services of another practitioner.

5 “(l) the failure to notify the board of the use of any false, assumed, or fictitious
6 name other than the name under which he or she is licensed as an individual to
7 practice acupuncture.”

8 7. Section 4955.2 of the Code states:

9 “The board may deny, suspend, revoke, or impose probationary conditions upon the license
10 of any acupuncturist if he or she is guilty of committing any one of the following:

11 “(a) Gross negligence.

12 “(b) Repeated negligent acts.

13 “(c) Incompetence.”

14 8. Section 4959 of the Code states:

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

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

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

1 Respondent asked D.A. to take off her clothes for the treatment. He gave her a towel to
2 cover herself. Then for about an hour Respondent, while sitting on a chair next to the
3 treatment table, massaged D.A.'s back, including her buttocks. After that, Respondent had
4 D.A. lie on her back without any clothing on. Respondent then massaged her breasts and
5 vaginal area. Respondent stated that the massaging would help with the patient's blood
6 circulation. He then began sucking on her left breast. At the same time one or more of his
7 fingers penetrated her vagina. Respondent then started sucking on the patient's vagina,
8 stating that he had to get out the bad toxins.

9 B. Subsequently, the patient got dressed, left the clinic and flagged down a police
10 officer to report what had happened to her.

11 C. The location of Respondent's acupuncture practice was not registered with the
12 Board.

13 SECOND CAUSE FOR DISCIPLINE

14 (Gross Negligence)

15 12. Respondent is subject to disciplinary action under section 4955.2, subdivision (a), of
16 the Code in that Respondent was grossly negligent in the care and treatment of a patient. The
17 circumstances are as follows:

18 A. The facts and circumstances alleged in paragraph 11 above are incorporated
19 here as if fully set forth.

20 THIRD CAUSE FOR DISCIPLINE

21 (Failure to Register Practice Location)

22 13. Respondent is subject to disciplinary action under sections 4961, subdivision (a), and
23 4955, subdivision (d), of the Code in that Respondent failed to register his place of practice as
24 required by law. The circumstances are as follows:

25 A. The facts and circumstances alleged in paragraphs 11 above are incorporated
26 here as if fully set forth.

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FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to disciplinary action under section 4955 of the Code in that Respondent engaged in unprofessional conduct. The circumstances are as follows:

A. The facts and circumstances alleged in paragraphs 11 through 13 above are incorporated here as if fully set forth.

PRAYER

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

1. Revoking or suspending Acupuncturist License Number AC12692, issued to Chan Joon Park, L.Ac.;

2. Ordering Chan Joon Park, L.Ac. to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959; and

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

DATED: SEP 04 2015



TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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