

FILED

JAN 27 2010

ACUPUNCTURE BOARD

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8
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**

FIRST AMENDED ACCUSATION

16 **Acupuncture License No. AC 7067**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

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

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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."

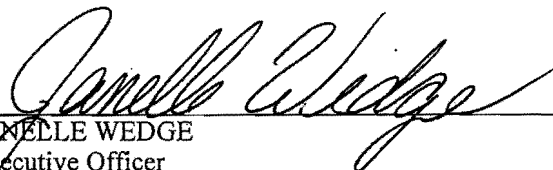
9 10. The court placed Respondent on five year's probation and ordered him to attend court
10 approved sex offender counseling, to stay away from Ms. Doe, and to register as a sex offender
11 pursuant to Penal Code section 290.

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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