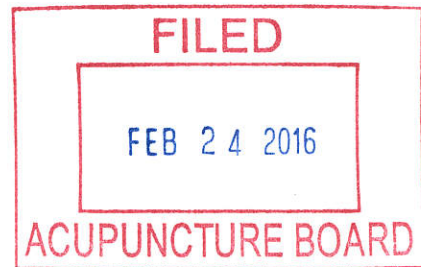


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9
10 **BEFORE THE**
ACUPUNCTURE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12
13 In the Matter of the Accusation Against:

Case No. 1A-2013-173

14 **TONI NARINS, L.Ac.**
3456 Camino Del Rio, #100
15 **San Diego, CA 92108**

A C C U S A T I O N

16 **Acupuncturist License No. AC4157,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Acupuncture Board (Board).

23 2. On or about July 11, 1991, the Board issued Acupuncturist License No. AC4157 to
24 Toni Narins, L.Ac. (respondent). The Acupuncturist License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on January 31, 2018, unless renewed.

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JURISDICTION

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

5 4. Section 4955 of the Code states:

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

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

9 “...

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

13 “...”

14 5. Section 4955.2 of the Code states:

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

17 “(a) Gross negligence.

18 “(b) Repeated negligent acts.

19 “(c) Incompetence.”

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6. California Code of Regulations, title 16, section 1399.451, states:

“In treating a patient, an acupuncturist shall adhere to the following procedures:

“... ”

“(c) Acupuncture points, where needles are to be inserted, shall be cleaned with an appropriate antiseptic before insertion of the needle.

“... ”

7. Section 4959 of the Code states:

“(a) The 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.

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

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

“(d) In any judicial action for the recovery of costs, proof of the board’s decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

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

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1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Gross Negligence)**

8 9. Respondent has subjected her Acupuncture License No. AC4157 to disciplinary
9 action under section 4955(d), as defined by section 4955.2, subdivision (a), of the Code, in that
10 she committed gross negligence in her care and treatment of patient K.K. The circumstances are
11 as follows:

12 10. On or about September 16, 2013, patient K.K. went to M. V. Acupuncture facility, in
13 order to receive acupuncture treatment from respondent.

14 11. During the above visit, patient K.K. requested respondent to clean the areas of his
15 body [with an antiseptic] where needles were going to be inserted. Respondent told patient K.K.
16 that he was being "silly." Patient K.K. made a second request. Respondent cleaned a few of the
17 areas, but not all of them.

18 12. On or about October 6, 2014, Investigator Timothy Tottres from Department of
19 Consumer Affairs, Division of Investigation (Investigator Tottres) interviewed respondent at M.
20 V. Acupuncture. When Investigator Tottres asked respondent whether she uses alcohol on the
21 skin to disinfect before insertion of an acupuncture needle, respondent stated that she does not and
22 she is not required to do so by law. Respondent further stated that this is a "controversial" issue
23 and according to her research, cleaning with alcohol merely moves bacteria to another area.
24 Respondent also stated that if a patient requests alcohol, then she complies.

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