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

13 In the Matter of the Accusation Against:	Case No. 1A-2009-212
14 HYUN MO CHUNG	
15 4725 First Street #270	ACCUSATION
16 Pleasanton, CA 94566	
17 Acupuncture License No. AC 7067	
18 Respondent.	

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20 Complainant alleges:

21 **PARTIES**

- 22 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as
23 the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.
- 24 2. On or about January 27, 2000, the Acupuncture Board issued Acupuncture License
25 Number AC 7067 to Hyun Mo Chung ("Dr. Chung" or "Respondent"). The Acupuncture License
26 was in full force and effect at all times relevant to the charges brought in this Accusation and will
27 expire on March 31, 2011, unless renewed.

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JURISDICTION

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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."

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct, Sexual Misconduct)

3 8. Respondent is subject to disciplinary action under section 4955 for unprofessional
4 conduct pursuant to section 726 in that he kissed the vagina of patient Jane Doe¹ during the
5 course of acupuncture treatment. The circumstances are as follows:

6 9. Respondent is a licensed acupuncturist. He operates the Tahara Center clinic in
7 Pleasanton, California.

8 10. On or about August 5, 2008, patient Jane Doe went to the Tahara Center for treatment
9 for stress-related symptoms. Ms. Doe had seen Respondent for stress-related symptoms on three
10 previous occasions.

11 11. On the August 5, 2008 visit, Ms. Doe saw Dr. Chung in an examination room dressed
12 only in her underwear and an examination gown. Dr. Chung massaged Ms. Doe's feet, legs,
13 lower back, shoulders, and neck and applied heat therapy to her shoulder area and her neck. He
14 then asked Ms. Doe if she had had a breast cancer examination and she replied that she had had
15 one three years before. He told Ms. Doe that he wanted to look and lifted up the front of her
16 gown and pressed on areas of her breasts with the index and middle fingers of his right hand.

17 12. Next, Dr. Chung pressed Ms. Doe's abdomen and asked if she felt any pain. She
18 responded that she did not. Then, with her gown still up, he told her that there was one area he
19 had not yet examined. He pulled Ms. Doe's underpants down, asked her if she had felt an orgasm
20 recently, spread her legs apart by the knees, and kissed her vagina.

21 13. Ms. Doe was frightened by Dr. Chung's actions. She dressed and left the office.

22 14. On September 3, 2008, Ms. Doe, in cooperation with the Pleasanton Police
23 Department, participated in a "pretext" telephone call to Dr. Chung. Ms. Doe made the call from
24 the Pleasanton Police Department while a certified Korean translator who is also a special agent
25 with the FBI listened in. The conversation was recorded. Ms. Doe identified herself and asked
26 Respondent why he had kissed her between her legs. Respondent acknowledged that what he had

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28 ¹ The patient is referred to in this Accusation by the pseudonym used in the police report.

1 done was wrong, said that he had "lost his mind," and explained to Ms. Doe, "You know how
2 men are." Dr. Chung was arrested for oral copulation on a person unconscious of the essential
3 characteristics of the act pursuant to Penal Code section 288a(f).

4 15. Respondent's license is subject to discipline and Respondent is guilty of
5 unprofessional conduct in violation of section 726 of the Code in that he sexually abused his
6 patient, Ms. Doe.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct, Substantially Related Conviction)

9 16. Respondent is subject to disciplinary action under section 4955 for unprofessional
10 conduct pursuant to section 4955, subdivision (b), in that he was convicted of a crime
11 substantially related to the qualifications, functions, and duties of an acupuncturist. The
12 circumstances are as follows:

13 17. The allegations of the First Cause for Discipline are incorporated in this cause for
14 discipline by reference as if fully set forth.

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

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

24 20. Respondent's license is subject to discipline and Respondent is guilty of
25 unprofessional conduct in violation of section 4955, subdivision (b), of the Code in that he was
26 convicted of violating Penal Code section 243.4(c), a crime substantially related to the practice of
27 acupuncture.

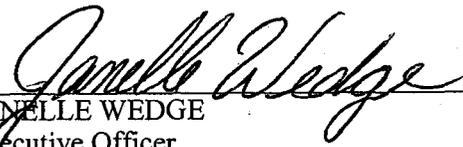
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PRAYER

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 Acupuncture License Number AC 7067, issued to Hyun Mo Chung;
2. Ordering Hyun Mo Chung 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: **JAN 13 2010**



JANELLE WEDGE
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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