BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	Case No. 1A-2010-126
	)	
KWANG CHOON YOO, L.AC.	)	
a.k.a. Casey K. Yoo	)	
3545 Wilshire Blvd., Suite 315	)	
Los Angeles, CA 90010	)	
	)	
Acupuncture License No. AC 4228	)	
	)	
Respondent.	)	
	)	

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on JAN 13 2011.

It is so ORDERED DEC 14 2010.

Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

EDMUND G. BROWN JR.
Attorney General of California
PAUL C. AMENT
Supervising Deputy Attorney General
VLADIMIR SHALKEVICH
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Attorneys for Complainant

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended First Amended Accusation Against: **KWANG CHOON YOO a.k.a. CASEY K. YOO** **3545 Wilshire Blvd., Suite 315** **Los Angeles, CA 90010** **Acupuncturist License No. AC 4228** Respondent.	Case No. 1A-2010-126 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Vladimir Shalkevich, Deputy Attorney General.

2. Kwang Choon Yoo aka Casey K. Yoo (Respondent) is represented in this proceeding by attorney Joseph T. Vodnoy, whose address is 316 West Second Street, Ste. 1200 Los Angeles, California 90012.2. On or about July 15, 1991, the Acupuncture Board issued Acupuncturist License No. AC 4228 to Kwang Choon Yoo a.k.a. Casey K. Yoo (Respondent).

The Acupuncturist License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 1A-2010-126 and will expire on February 29, 2012, unless renewed.

JURISDICTION

3. First Amended Accusation No. 1A-2010-126 was filed before the Acupuncture Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on or about November 4, 2010. Respondent has not filed a Notice of Defense, but sought instead to surrender his license pursuant to this Stipulation. A copy of First Amended Accusation No. 1A-2010-126 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 1A-2010-126. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

5. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

7. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 1A-2010-126, agrees that cause exists for discipline and hereby surrenders his Acupuncturist License No. AC 4228 for the Board's formal acceptance.

8. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Acupuncturist License without further process.

CONTINGENCY

9. This stipulation shall be subject to approval by the Acupuncture Board. Respondent understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

10. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

11. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Acupuncturist License No. AC 4228, issued to Respondent Kwang Choon Yoo aka Casey K. Yoo, is surrendered and accepted by the Acupuncture Board.

12. The surrender of Respondent's Acupuncturist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

13. Respondent shall lose all rights and privileges as an acupuncturist in California as of the effective date of the Board's Decision and Order.

14. Respondent shall cause to be delivered to the Board his wall license certificate and, if one was issued, his pocket license on or before the effective date of the Decision and Order.

15. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 1A-2010-126 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

16. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 1A-2010-126 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

17. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $ 3,072.90 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Joseph T. Vodnoy. I understand the stipulation and the effect it will have on my Acupuncturist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Acupuncture Board.

DATED: 11-15-10

KWANG CHOON YOO
Respondent

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I have read and fully discussed with Respondent Kwang Choon Yoo aka Casey K. Yoo the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11-15-10

JOSEPH T. VODNOY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

Dated: Nov. 18, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
PAUL C. AMENT
Supervising Deputy Attorney General

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

LA2010504369
Stipulation.rtf

Exhibit A

First Amended Accusation No. 1A-2010-126

EDMUND G. BROWN JR.
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Attorneys for Complainant

FILED

NOV 4 2010

ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the ACCUSATION Against: **KWANG CHOON YOO, a.k.a. CASEY K. YOO** **3545 Wilshire Blvd., Suite 315** **Los Angeles, CA 90010** **Acupuncturist License No. AC 4228** Respondent.	Case No. 1A-2010-126 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about July 15, 1991, the Acupuncture Board issued Acupuncturist License Number AC 4228 to Kwang Choon Yoo, aka Casey K. Yoo (Respondent). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2012, unless renewed.

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 states, in pertinent part:

"The 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:

...

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

5. Section 4956 of the Code states:

"A plea or verdict of guilty or 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.

"The board may order a license suspended or revoked, or may deny a license, or may impose probationary conditions upon a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

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6. 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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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

7. Respondent is subject to disciplinary action under section 4956 of the Code in that Respondent was convicted of a crime substantially related to the practice of acupuncture. The circumstances are as follows:

8. On or about October 25, 2007, after pleading nolo contendere, Respondent was convicted of two misdemeanor counts of violating Penal Code section 242 [battery] in the criminal proceeding entitled *The People of the State of California v. Casey Kwangchoon Yoo* (Super. Ct. Los Angeles County, 2007, No. 7CA07736). The Court issued a restraining order against Respondent and limitations on his chiropractic practice with females. The Court sentenced Respondent to 60 days in jail or 45 days of Cal Trans, placed him on 36 months probation, and ordered him to be psychologically evaluated, attend counseling sessions, and pay fines and penalties.

9. The events underlying the conviction are set forth in the finding of the California Board of Chiropractic Examiners' Decision No 2009-646, which is attached hereto as Exhibit A, and is incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Discipline by Other Agency)

10. Respondent is subject to disciplinary action under section 4955 in that Respondent was disciplined by the California Board of Chiropractic Examiners for acts substantially related to the qualifications, functions, or duties of an acupuncturist or any professional health care licensee. The circumstances are as follows:

11. On or about September 14, 2010, in the matter entitled *In the Matter of the Accusation Against Casey K.C. Yoo, D.C. a.k.a. Casey Kwangchoon Yoo, Chiropractic License*

No. DC 19339, Case number 2009-646, Office of Administrative Hearings Case Number 2009090159, the Board of Chiropractic Examiners issued a Decision which revoked Respondent's Chiropractor's License, but stayed a revocation, and placing Respondent on probation on various terms and conditions, including requiring him to have a chaperone whenever treating female patients.

12. The circumstances underlying the discipline imposed against Respondent by the Board of Chiropractic examiners is as follows:

a. The Board of Chiropractic Examiners' Decision is attached hereto as Exhibit A, and is incorporated herein by reference.

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 AC 4228, issued to Kwang Choon Yoo, a.k.a. Casey K. Yoo.

2. Ordering Kwang Choon Yoo, a.k.a. Casey K. Yoo, 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, if placed on probation, the costs of probation monitoring.

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

DATED: NOV 04 2010

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

LA2010504369

EXHIBIT A

DECISION

OF THE BOARD OF CHIROPRACTIC EXAMINERS

IN THE CASE No. 2009646

OAH CASE NUMBER 200909159

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: CASEY K.C. YOO, D.C. aka CASEY KWANGCHOON YOO Chiropractic License No. DC 19339, Respondent.	Case No. 2009-646 OAH No. 2009090159

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Chiropractic Examiners as its Decision in the above-entitled matter.

This Decision shall become effective OCT 14 2010.

It is so ORDERED SEP 14 2010.

Frederick N. Lerner, D.C., Chair
Board of Chiropractic Examiners

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2009-646
CASEY K. C. YOO, D.C. aka CASEY KWANGCHOON YOO	OAH No. 2009090159
Chiropractic License No. DC 19339	
Respondent.	

PROPOSED DECISION

This matter came on regularly for hearing on June 29, 2010, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Brian Stiger (Complainant) was represented by Alvaro Mejia, Deputy Attorney General.

Casey K. C. Yoo, D.C. (Respondent) was present and was represented by Joseph T. Vodnoy, Attorney at Law.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following factual findings:

1. Complainant made the Accusation in his official capacity as Executive Officer of the Board of Chiropractic Examiners of the State of California (Board).

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2. On January 1, 1988, the Board issued License No. DC 19339 to Respondent. The address of record for that license is 2140 West Olympic Boulevard, #306, Los Angeles, California 90006. The license will expire on February 28, 2011, unless renewed. Respondent formerly held Satellite Certificate number SAT 7398 for an address in Gardena, California. That certificate went into forfeiture status as of May 1, 2007, for failure to pay the renewal fee.

3. On October 25, 2007, in the Superior Court of California, County of Los Angeles, in Case No. 7CA07736, Respondent pled nolo contendere to two counts of violating Penal Code section 242 (Battery) and was convicted of those crimes. The crimes were misdemeanors that are substantially related to the qualifications, functions, and duties of a chiropractor. One count of sexual battery (Pen. Code, §243.4, subd. (e)(1)) was dismissed in furtherance of justice pursuant to Penal Code section 1385.

4. Respondent was placed on summary probation for a period of 36 months under various terms and conditions including incarceration for 60 days or performance of 45 days of CalTrans service, payment of fines and assessments totaling $120, a prohibition against being with a female patient without a third-party chaperone in the room, evaluation by a licensed psychiatrist or psychologist for appropriate sexually deviant behavior counseling, and attendance at counseling sessions at a rate and duration to be determined by that evaluator.

5. The facts and circumstances underlying the conviction involved a female patient Respondent was treating for soft tissue head, neck, shoulder, arm, mid-back, lower-back, and hip injuries she had suffered in an automobile accident. Respondent's treatment included hot packs, electro-stimulation, ultrasound, inter-segmental traction, and chiropractic manipulation. On approximately the patient's fifth visit, Respondent placed the ultrasound wand on the patient's back without first checking its temperature. The wand was extremely hot, and it burned the patient, leaving a visible red mark on her back. Respondent was remorseful for his mistake. In an effort to mollify it, he asked the patient to turn onto her back[1] and he used a massage machine weighing approximately six pounds on her body from her abdomen to her feet in an attempt to release her chi (flowing inner energy) to break up areas of fat about which the patient had previously complained. With the machine on, Respondent could not feel the patient's body parts because of its strong vibration.

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[1] The patient was fully clothed at all times during this, and all other, therapy sessions.

6. The massage treatment was not indicated on Respondent's treatment plan, and Respondent did not request the patient's consent to use the massage machine on her. The patient had signed a consent to treatment form during her first visit which stated: "I give consent to medical doctor, chiropractor and acupuncturist for diagnosis, treatment and medication." Respondent admitted that the massage was not part of the patient's treatment for the injuries she suffered in the automobile accident. Therefore, she never consented to Respondent's use of the massage machine on her body. However, the patient did not object to the massage, and she did not instruct Respondent to stop.

7. Complainant failed to establish that Respondent used the massage machine on his patient's body from her abdomen to her feet for the purpose of sexual arousal, sexual gratification, sexual abuse, or for any other prurient interest or purpose.[2]

8. Respondent is still on criminal probation. He has complied with all of the probationary terms and conditions ordered by the criminal court. He completed 45 days of CalTrans service in lieu of the jail time. His medical assistant serves as his third-party chaperone when he treats female patients.

9. Respondent did not offer any evidence of rehabilitation.

10. Pursuant to Title 16, California Code of Regulations, section 317.5, Complainant's counsel requested that Respondent be ordered to pay to the Board $5,846.25 for its costs of investigation and prosecution of the case. Included in that total is a request for $765 for 4.5 hours of anticipated work by the Deputy Attorney General between June 25, 2010, the last day of documented billings, and June 29, 2010, the day of the hearing. Those costs were not established. Complainant will recover costs of $5,081.25.

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[2] The patient failed to appear at the hearing. All statements attributable to her in the documentary evidence constituted hearsay for which no exception could be established. Those statements, all of which drew hearsay objections, did not supplement or explain any other admissible evidence, and were therefore insufficient to support a finding as "administrative hearsay" pursuant to Government Code section 11513, subdivision (d).

LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's license, pursuant to the Chiropractic Act, as set forth in Business and Professions Code section 1000-10, in conjunction with California Code of Regulations, title 16, section 317, subdivision (g), for unprofessional conduct, in that Respondent was convicted of a crime substantially related to the qualifications, functions and duties of a chiropractor, as set forth in Findings 3, 4, 5, and 6.

2. Cause does not exist to discipline Respondent's license, pursuant to the Chiropractic Act, as set forth in Business and Professions Code section 1000-10, in conjunction with California Code of Regulations, title 16, section 317, subdivision (h), for unprofessional conduct arising out of a conviction for a crime involving moral turpitude, dishonesty, physical violence or corruption, as set forth in Findings 3, 4, 5, 6, and 7.

3. Cause exists to discipline Respondent's license, pursuant to the Chiropractic Act, as set forth in Business and Professions Code section 1000-10, in conjunction with California Code of Regulations, title 16, section 317, subdivision (e), for unprofessional conduct, in that Respondent engaged in conduct which endangered the health, welfare and safety of the public, as set forth in Findings 5 and 6.

4. Cause exists to order Respondent to pay costs claimed under California Code of Regulations, title 16, section 317.5, as set forth in Finding 10.

ANALYSIS

5. "Where a doctor obtains consent of the patient to perform one type of treatment and subsequently performs a substantially different treatment for which consent was not obtained, there is a clear case of battery." (*Cobbs v. Grant* (1972) 8 Cal.3d 229, 239.)

6. By pleading nolo contendere to the charge of Battery, Respondent established his guilt of that crime. "Regardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

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7. However, although the evidence supported the allegation that Respondent is subject to discipline pursuant to California Code of Regulations, title 16, section 317, subdivision (g), for conviction of a substantially related crime, it did not support the allegation that Respondent is subject to discipline pursuant to California Code of Regulations, title 16, section 317, subdivision (h), in that the crime for which Respondent was convicted did not involve moral turpitude, physical violence, dishonesty, or corruption.

8. Battery is defined as "any willful and unlawful use of force or violence upon the person of another." (Pen. Code, §242.)

9. California courts have held that the crime of simple battery is not necessarily an act involving moral turpitude. (*People v. Mansfield* (1988) 200 Cal. App. 3d 82, 89; *People v. Thornton* (1992) 3 Cal.App.4th 419.)

10. In *Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1027, the court stated:

> Our Supreme Court has defined moral turpitude as "an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." (*In re Craig* (1938) 12 Cal.2d 93, 97 [82 P.2d 442].) Moral turpitude has also been described as any crime or misconduct committed without excuse, or any "dishonest or immoral" act not necessarily a crime. (*In re Higbie* (1972) 6 Cal.3d 562, 569 [99 Cal.Rptr. 865, 493 P.2d 97].) The definition depends on the state of public morals and may vary according to the community or the times, as well as on the degree of public harm produced by the act in question. (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 181 [159 Cal.Rptr. 864].) Its purpose as a legislated standard is not punishment but protection of the public. (*Rice v. Alcoholic Beverage etc. Appeals Bd.* (1979) 89 Cal.App.3d 30, 36 [152 Cal.Rptr. 285].)

11. The term "violence" has been defined as "the unjust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage, or fury." (*People v. McIlvain* (1942) 55 Cal.App.2d 322, 328-329.)

12. "Corruption" has been defined as "[t]he act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others." (*Adams v. Commission on Judicial Performance* (1994) 8 Cal.4th 630, 660, quoting Black's Law Dict. (6th ed. 1990), p. 545.)

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13. In this case, Respondent committed a battery on his patient when he performed a procedure to which she did not consent. Although the patient had signed a consent form, that consent was to the treatment outlined in Respondent's treatment plan. That plan did not include massage of the anterior portion of the body from the abdomen to the feet. However, the evidence did not establish that Respondent's conduct rose to the level of moral turpitude, dishonesty, physical violence or corruption.

14. Absent admissible evidence of a sexual motive, the evidence adduced at the hearing demonstrated acts closer to negligence[3] than sexual deviancy. Respondent battered his patient via a non-consensual touching, and he endangered a member of the public by burning his patient with a hot ultrasound wand which he had failed to test.

15. Respondent failed to demonstrate any rehabilitation, and he is scheduled to remain on criminal probation until approximately October 25, 2010. Since people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that an applicant has engaged in good behavior while on probation or parole. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

16. Although the evidence did not establish that Respondent's misconduct rose to the level that mandates outright revocation, his lack of rehabilitation evidence is troubling. He will be permitted to continue to practice chiropractic with a probationary license. However, the terms and conditions of probation will include safeguards to ensure the public's health, safety, welfare and interest.

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[3] Negligence was not alleged in the Accusation, and no ruling is made as to that issue.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

License No. DC 19339, issued to Respondent Casey K. C. Yoo, aka Casey Kwangchoon Yoo, is revoked pursuant to Legal Conclusions 1 and 3, separately and together. However, the revocation is stayed, and Respondent is placed on probation for five years upon the following terms and conditions:

1. Respondent shall take and pass a written or practical examination within the first two years of probation. If Respondent is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If Respondent fails this examination, he must take and pass a re-examination. Respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass a required examination prior to the termination date of probation shall constitute a violation of probation and automatically extend the period of probation.

2. During probation, Respondent shall have a third party present while examining and/or treating female patients. Respondent shall, within 30 days of the effective date of this decision, submit to the Board or its designee for its approval the name(s) of persons who will be the third party present and a plan describing the third party's duties. Respondent shall execute a release authorizing the third party(ies) present to divulge any information that the Board or its designee may request on a periodic basis during the probation monitoring.

3. Respondent shall notify all current and potential patients of the probation, especially any term or condition of probation which will affect their treatment or the confidentiality of their records. Such notification shall be signed by each patient prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board, satisfactory evidence of compliance with this term of probation. Terms of probation which require such notification include, but are not limited to, suspension of practice, supervised practice, and restricted practice.

4. Respondent shall obey all federal, state and local laws, and all statutes and regulations governing the practice of chiropractic in California. A full and detailed account of any and all arrests and or convictions for any violations of law shall be reported by Respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of this decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2" photograph of himself within 45 days of the effective date of the final decision.

5. Respondent shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" (No. QPR100 (Rev. 7/04)), certifying and documenting whether there has been compliance with all conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

6. Respondent shall comply with the Board's probation compliance monitoring program. Failure to comply with probation monitoring shall be considered a violation of probation.

7. Respondent shall appear in person for interviews with the Board's enforcement staff, the full Board, or its designee upon request at various intervals and with reasonable notice.

8. Respondent shall provide evidence of continuing education, required for license renewal, if requested by the Board.

9. Respondent shall reimburse to the Board its costs of investigation and enforcement in the amount of $5,081.25. Respondent shall complete the reimbursement no later than six months prior to the scheduled expiration of this probationary order.

10. If Respondent fails to pay the costs as directed by the Board and on the date(s) determined by the Board, probation shall be automatically extended until such time that all costs are paid in full.

11. If Respondent leaves California to reside or practice outside this state, or for any reason should Respondent stop practicing chiropractic in California, Respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which Respondent is not engaging in the practice of chiropractic or any time the license is inactive or in forfeiture status. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of three years.

12. Respondent shall not supervise any chiropractic student (intern) participating in a preceptor program or any unlicensed chiropractic graduate and shall not perform any of the duties of a preceptor.

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13. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been met or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

14. Within 10 days of a change in employment -- either leaving or commencing employment -- Respondent shall so notify the Board in writing, including the address of the new employer.

15. Respondent shall notify all present and prospective employers of the decision in case No. 2009-646 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the decision in case No. 2009-646. "Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

16. Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in chiropractic operations are made aware of all the terms and conditions of probation, either by posting a notice of the conditions of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of all the terms and conditions by posting a notice, circulating a notice, or both. "Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.

17. Respondent shall, if requested, provide proof to the Board or its designee that all employees are aware of the decision in case No. 2009-646 since its effective date.

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18. Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation. Respondent shall relinquish his wall license and pocket renewal license to the Board or its designee within 10 days from the date of acceptance. Respondent may not petition the Board for reinstatement of his surrendered license for two years from the acceptance date of surrender. If Respondent owes any outstanding costs associated with the investigation and enforcement of this disciplinary action, the outstanding amount shall be paid in full at the time the petition is submitted to the Board.

19. Upon successful completion of probation, Respondent's license will be fully restored.

DATED: July 22, 2010

H. Stuart Waxman

H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation Against:

KWANG CHOON YOO — Case No. 1A-2010-126

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95811. I served a true copy of the attached:

STIPULATED SURRENDER OF LICENSE AND ORDER

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS	CERTIFIED MAIL NO.
Kwang Choon Yoo 3545 Wilshire Blvd., Ste. 315 Los Angeles, CA 90010	7009 3410 0000 0533 1271
Vladimir Shalkevich, DAG California Department of Justice Office of the Attorney General/HQE 300 So. Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Paul C. Ament, SDAG California Department of Justice Office of the Attorney General/HQE 300 So. Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Joseph T. Vodnoy 316 West Second St., Ste. 1200 Los Angeles, CA 90012	regular mail

Each said envelope was, on December 14, 2010, sealed and deposited in the U.S. mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for an attempt at service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2010 at Sacramento, California.

Kristine Brothers
DECLARANT