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FILED

JUL 8 2011

ACUPUNCTURE BOARD

**BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. **1A-2009-77**

ROMAN ROBLES, L.AC
328 North Bank Court, Apt. #55
Stockton, CA 95207

ACCUSATION

Acupuncturist License No. 10537

Respondent.

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 September 21, 2005, the Board issued Acupuncturist License Number 10537 to Roman Robles, L.AC. (hereinafter "Respondent"). During the period of the allegations stated herein, Respondent's license was delinquent from October 18, 2008 until December 18, 2008 when the delinquent status was removed. A continuing education hold was in place on the license from December 18, 2008 until April 22, 2009 due to insufficient education units. Respondent's license is presently active, and will expire September 30, 2012.

1 **JURISDICTION**

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

5 4. Section 4928.1 of the Code states:

6 "Protection of the public shall be the highest priority for the Acupuncture
7 Board in exercising its licensing, regulatory, and disciplinary functions. Whenever
8 the protection of the public is inconsistent with other interests sought to be
9 promoted, the protection of the public shall be paramount."

10 5. Section 4937 of the Code states:

11 "An acupuncturist's license authorizes the holder thereof:

12 "(a) To engage in the practice of acupuncture.

13 "(b) To perform or prescribe the use of oriental massage, acupressure,
14 breathing techniques, exercises, or nutrition, including the incorporation of drugless
15 substances and herbs as dietary supplements to promote health. Nothing in this
16 section prohibits any person who does not possess an acupuncturist's license or
17 another license as a healing arts practitioner from performing, or prescribing the use
18 of, oriental massage, breathing techniques, exercises, or nutrition, to promote
19 health, so long as those activities are not performed or prescribed in connection
20 with the practice of acupuncture."

21 6. Section 4955 of the Code, in pertinent part, provides:

22 "The board may deny, suspend, or revoke, or impose probationary conditions
23 upon, the license of any acupuncturist if he or she is guilty of unprofessional
24 conduct.

25 "Unprofessional conduct shall include, but not be limited to, the following:

26 "...
27
28

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

3 “....”

4 7. Section 4955.1 of the Code, in pertinent part, provides:

5 “The board may deny, suspend, revoke, or impose probationary conditions
6 upon the license of any acupuncturist if he or she is guilty of committing a
7 fraudulent act including, but not be limited to, any of the following:

8 “... ”

9 “(e) Failing to maintain adequate and accurate records relating to the provision
10 of services to their patients

11 “....”

12 8. Section 4959 of the Code states:

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

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

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

1 "(d) In any judicial action for the recovery of costs, proof of the board's
2 decision shall be conclusive proof of the validity of the order of payment and the
3 terms for payment.

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

6 **FIRST CAUSE FOR DISCIPLINE**
7 **(Practicing Acupuncture without a Valid License)**
8 **[Bus & Prof. Code § 4937]**

9 9. Respondent is subject to disciplinary action under section 4937 in that he practiced
10 acupuncture without a current and valid license. The circumstances are as follows:

11 10. Respondent was employed as a Physician Assistant under the medical office of T.M.,
12 MD, during the period of September 28, 2008 until March 23, 2009.

13 11. Respondent practiced acupuncture during the period of October 2008 until April
14 2009, while his license was delinquent or on hold due to insufficient continuing education.

15 Respondent practiced on the following occasions:

16 A. On or about December of 2008, Respondent practiced acupuncture on clinic
17 employee M.R.¹. Respondent wrote M.R. a prescription for Adipex (phentermine) and
18 inserted small needles in her ear for weight loss. Respondent did not document the
19 acupuncture that he performed on her in their charts.

20 B. On or about two occasions in November and December of 2008 Respondent practiced
21 acupuncture on clinic employee V.R. Respondent inserted small needles in V.R. ears
22 and prescribed Adipex (phentermine). The needles had a small bandage covering and
23 were left in the ear until they fell out. Respondent did not document the acupuncture
24 that he performed on her in their charts.

25
26
27 ¹ Patient names are abbreviated herein to protect patient confidentiality. Patients' full
28 names will be provided upon receipt of a properly executed and served Request for Discovery.

1 C. On or about September or October 2008, Respondent practiced acupuncture on clinic
2 employee Z.M. Respondent placed one to four needles in each ear. Respondent did not
3 document the acupuncture that he performed on her in their charts.

4 12. Respondent violated section 4937 of the code when he practiced acupuncture without
5 a valid license.

6 **SECOND CAUSE FOR DISCIPLINE**
7 **(Failure to Maintain Patient Records)**
8 **[Bus & Prof. Code § 4955 & §4955.1 (e)]**

9 13. Complainant refers to and, by this reference, incorporates herein paragraphs 11, 12,
10 above, as though fully set forth.

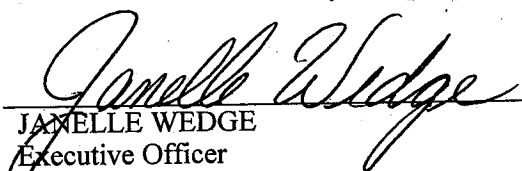
11 14. Respondent violated section 4955 and 4955.1 (e) when he failed to maintain adequate
12 and accurate records relating to the provision of services to his patients.

13 **PRAYER**

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

- 16 1. Revoking or suspending Acupuncturist License Number 10537, issued to
17 Respondent;
18 2. Ordering Respondent to pay the Acupuncture Board the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 4959; and
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: **JUL 08 2011**
23 _____

24 
25 JANELLE WEDGE
26 Executive Officer
27 Acupuncture Board
28 State of California
Complainant

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