BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against:	)	Case No.: 1A-2015-157
RANDALL JAMES NEUSTAEDTER 1779 WOODSIDE ROAD, SUITE 201C REDWOOD CITY, CA 94061	)	
Acupuncture License No. AC 1541	)	
Respondent.	)	

DECISION AND ORDER

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

This Decision shall become effective on MAR 24 2016.

IT IS SO ORDERED FEB 23 2016.

Terri Thorfinnson, Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California

KAMALA D. HARRIS
Attorney General of California
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BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **RANDALL JAMES NEUSTAEDTER** **1779 Woodside Road, Suite 201C** **Redwood City, CA 94061** **Acupuncture License No. AC 1541** Respondent.	Case No. 1A-2015-157 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Terri Thorfinnson ("Complainant") is the Executive Officer of the Acupuncture Board ("Board"). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Carolyne Evans, Deputy Attorney General.

2. Randall James Neustaedter ("Respondent") is represented in this proceeding by attorney George Eschoo, whose address is 702 Marshall Street, Suite 500, Redwood City, CA 94063.

3. On or about August 30, 1983, the Board issued Acupuncture License No. Ac 1541 to Respondent. The Acupuncture License was in full force and effect at all times relevant to the charges brought in the First Amended Accusation No. 1A-2015-157 and will expire on November 30, 2016, unless renewed. However, Respondent's license is currently suspended by virtue of an Interim Suspension Order that was issued on October 15, 2015, pursuant to Government Code Section 11529.

JURISDICTION

4. First Amended Accusation No. 1A-2015-157 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on January 19, 2016. A copy of the First Amended Accusation No. 1A-2015-157 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 1A-2015-157. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. 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.

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

CULPABILITY

8. Respondent understands that the charges and allegations in the First Amended Accusation No. 1A-2015-157, if proven at a hearing, constitute cause for imposing discipline upon his Acupuncture License No. 1541.

9. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest those charges and surrenders Acupuncture License No. 1541 for the Board's formal acceptance.

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

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Acupuncture Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. 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.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. 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 Acupuncture License No. Ac 1541, issued to Respondent Randall James Neustaedter, is surrendered and accepted by the Acupuncture Board.

1. The surrender of Respondent's Acupuncture 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 Acupuncture Board.

As noted above in paragraph eleven, the admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Acupuncture Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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

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

4. 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. Information gathered in connection with First Amended Accusation number 1A-2015-157 may be considered by the Board in determining whether or not to grant the petition for reinstatement, and all of the charges and allegations contained in the First

Amended Accusation No. 1A-2015-157 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. 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 the First Amended Accusation, No. 1A-2015-157 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.

6. Respondent's Acupuncture License may not be renewed or reinstated, and no application by Respondent to the Board for any license shall be considered, unless Respondent has reimbursed the Board for its costs of investigation and enforcement of this matter in the amount of twenty-eight thousand six hundred ninety-two dollars ($28,692.00).

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, George Eschoo. I understand the stipulation and the effect it will have on my Acupuncture 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. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as an acupuncturist in the State of California.

DATED: 02/16/16

RANDALL JAMES NEUSTAEDTER
Respondent

I have read and fully discussed with Respondent Randall James Neustaedter the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 2/16/16

GEORGE ESHOO
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:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 1A-2015-157

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FILED
JAN 19 2016
ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **RANDALL JAMES NEUSTAEDTER** 1779 WOODSIDE ROAD, SUITE 201C REDWOOD CITY, CA 94061 ACUPUNCTURE LICENSE NO. AC 1541 Respondent.	Case No. 1A-2015-157 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Terri Thorfinnson ("Complainant") brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs ("Board").

2. On or about August 30, 1983, the Board issued Acupuncture License Number AC 1541 to Randall James Neustaedter ("Respondent"). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30,

2016, unless renewed. However, Respondent's license is currently suspended by virtue of an Interim Suspension Order that was issued on October 15, 2015, pursuant to Government Code Section 11529.

JURISDICTION

3. This First Amended Accusation is brought before the Board, 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:

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

"(f) The use of threats or harassment against any patient or licensee for providing evidence in a disciplinary action, other legal action, or in an investigation contemplating a disciplinary action or other legal action.

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

5. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that

physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

COST RECOVERY

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."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Sexual Misconduct)

7. Respondent is subject to disciplinary action under Section 726 in that he engaged in unprofessional conduct and committed sexual misconduct while treating four patients.

8. The circumstances are as follows:

Patient V.V.

9. On or about June 25, 2015, Patient V.V.[1] arrived at Cure Guide in Redwood City for treatment with Respondent.

10. During the treatment, Respondent slid his hand underneath her underwear, and touched her anus, vagina and clitoris.

11. Patient V.V. could feel Respondent's erection, through his pants, touching her arm during this "treatment."

12. After the visit, Patient V.V. contacted the San Mateo Police Department and reported the sexual abuse.

13. On or about July 8, 2015, in cooperation with Detective S. Berberian and Detective J. Sebring, Patient V.V. contacted Respondent by telephone as part of a "pretext call." Patient V.V. confronted Respondent about him rubbing her vagina and anus area. Respondent told her that he was sorry if the massage got too personal. He told her that acupuncture channels go along the inside of the thighs and that if he inadvertently touched her closer than she felt comfortable with then he was sorry.

14. On or about July 13, 2015, Respondent was arrested by the San Mateo County Police for sexually molesting Patient V.V.

15. Following Respondent's arrest on or about July 13, 2015, he sent Patient V.V. an email on July 20, 2015. The subject line stated "Appeal" and the email read as follows:

"I respectfully and humbly request that you drop the charges against me. This case has caused tremendous distress in my family. My children are terribly frightened and afraid for their future. I'm planning to retire this year and the expense of legal expenses will be devastating to me financially. I beg you to find in your heart to *drop these charges and avoid the horrific ordeal of prosecution and court proceedings for both of us*. This case could effectively ruin my life and has already created tremendous hardship." (emphasis added).

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[1] Patient initials are used to protect the patient's privacy. Respondent may learn the name of the patients during the discovery process.

Patient E.B.

16. On or about July 16, 2015, Detective S. Berberian, received a telephone call from Patient E.B., who stated she read a news article regarding Respondent sexually assaulting one of his patients.

17. Patient E.B. stated that she too was sexually assaulted by Respondent in December 2013. In December 2013, Patient E.B. set up an appointment to see Respondent. During the consultation, Patient E.B. told Respondent that she had a sore throat and lower back pain. Respondent began to rub her back and then started to "move down." Respondent moved his hands underneath the pants she was wearing and proceeded to rub her anus. Respondent started to put his hand between her labia and was moving toward her clitoris. As Respondent touched her vagina, she was able to sit up, and tell him she was done. After this visit, Patient E.B. never went back to see Respondent.

18. On or about, August 14, 2015, Respondent sent Patient E.B. an email. The subject line stated "Where we find ourselves" and reads as follows:

" I just got word that you were upset by our visit nearly two years ago. I am deeply sorry that you felt uncomfortable. I would like to have a dialog if you are willing to resolve the issues ourselves *rather that [sic] involving the police state*. This has created an extremely stressful situation for me and my family and threatens to be financially ruinous and end my career of more than 30 years. I have plans to retire soon in any case, but now there is this nightmarish scenario . . . I am hopeful that we can come to some resolution within our community of healers and friends *rather than pursue a devastating course of prosecution*." (emphasis added).

Patient L.R.

19. On or about August 8, 2015, Detective S. Berberian, received a telephone call from Patient L.R., who stated that she had learned of Respondent's arrest for sexually assaulting patients.

20. Patient L.R. is an adult female, who stated that Respondent sexually assaulted her during acupuncture treatment sessions from the age of eight (8) or nine (9) years until she was 13

years of age. Patient L.R. stated that every time that she visited Respondent in his office, she was alone with him.

21. During one office visit, Respondent had Patient L.R. spread her legs and rubbed her vaginal area and then stuck his finger in her vagina. Respondent proceeded to then stick two fingers inside her vagina.

22. During another visit, Respondent asked Patient L.R. if she ever thought about sex and if she had ever touched herself. Patient L.R. responded that she was naive and did not know a lot about sex. While Respondent was asking these questions, Patient L.R. noticed that Respondent was rubbing himself through his pants.

23. On another visit, while Patient L.R. was laying down in Respondent's office, Respondent rubbed his clothed erect genitals up and down her arm.

Patient C.A.

24. On or about, August 19, 2015, Detective S. Berberian, received a telephone call from Patient C.A., who stated that she had learned of Respondent's arrest for sexually assaulting patients.

25. Patient C.A. stated that Respondent sexually assaulted her during an office visit on or about April 10, 2015. Patient C.A. stated that during one office visit, Respondent pulled her vagina lip outside of her underwear. Patient C.A. was able to push herself from the table, and tell him she was done. After this visit, Patient C.A. never went back to see Respondent.

26. Respondent's conduct, as described above, constitutes sexual misconduct and represents extreme departures from the standard of care, including but not limited to Respondent's inappropriate touching of Patient V.V., Patient E.B's, Patient L.R., and Patient C.A.'s genitals and anus areas.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Threats or Harassment)

27. Respondent is subject to disciplinary action under Section 4955 subdivision (d), in that he violated terms of this chapter or any regulation adopted by the Board; subdivision (f), in that he engaged in unprofessional conduct by the use of threats or harassment against any patient

or licensee for providing evidence in a disciplinary action, other legal action, or in an investigation contemplating a disciplinary action or other legal action; and subdivision (i), in that he committed any action that would have warranted the denial of the acupuncture license. The circumstances are as follows:

28. The facts alleged in paragraphs 10 through 26, above, are incorporated herein by reference as if fully set forth.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct/Failure to Comply with Court Orders and/or Failure to Cooperate with Board)

29. Respondent is subject to disciplinary action under Section 4955, in that he engaged in unprofessional conduct by failing to comply with a criminal court order and by not cooperating with the Board. The circumstances are as follows:

30. On or about August 21, 2015, San Mateo Superior Court Judge Elizabeth Lee ordered that "As a condition of remaining on bail, [Respondent] must have a Board appointed chaperone present for all office visits with any patient of the female sex (children or adults). If [Respondent] violates, he will be remanded."

31. Pursuant to Judge Lee's order, on or about August 27, 2015, the Board mailed a letter via overnight mail to [Respondent's] attorney of record, informing him of the Board's chaperone terms and conditions related to all visits with any female patients. The letter notified Respondent that he would need to submit to the Board, the name of a person, who would act as a chaperone for the Board's approval, within ten (10) calendar days of Judge Lee's order. Respondent failed to timely submit the name of a chaperone.

32. The Board made numerous attempts to obtain the name of a proposed chaperone from Respondent. As of the October 14, 2015, Interim Suspension Order hearing date, Respondent had not submitted the name of a proposed chaperone to the Board.

33. Respondent's conduct, as described above, constitutes unprofessional conduct due to his violation of a criminal court order and administrative court order, and failure to cooperate with the Board in implementing it's chaperone terms and conditions.

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 1541, issued to Randall James Neustaedter;

2. Ordering Randall James Neustaedter to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;

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

DATED: JAN 19 2016

TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California *Complainant*