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FILED

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ACUPUNCTURE BOARD

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

11 In the Matter of the Accusation Against:

Case No. 1A-2013-2

12 **Hong Ki Yoon, L.Ac.**
13 **1010 Arlington Avenue**
14 **Los Angeles, California 90019**

A C C U S A T I O N

15 **Acupuncture License No. AC 2219**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about December 29, 1983, the Board issued Acupuncture License No. AC 2219
22 to Hong Ki Yoon (Respondent). The license has been in effect at all times relevant to the charges
23 herein and will expire on March 31, 20014, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

27 4. Section 4955 of the Code states:

28 "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.

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

2 "(a) Using or possessing any controlled substance as defined in Division 10
3 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug
4 or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or
5 to any other person, or to the public, and to an extent that the use impairs his or her
6 ability to engage in the practice of acupuncture with safety to the public.

7 "(b) Conviction of a crime substantially related to the qualifications, functions,
8 or duties of an acupuncturist, the record of conviction being conclusive evidence
9 thereof.

10 "(c) False or misleading advertising.

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

14 "(e) Except for good cause, the knowing failure to protect patients by failing to
15 follow infection control guidelines of the board, thereby risking transmission of
16 blood-borne infectious diseases from licensee to patient, from patient to patient, and
17 from patient to licensee. In administering this subdivision, the board shall consider
18 referencing the standards, regulations, and guidelines of the State Department of
19 Health Services developed pursuant to Section 1250.11 of the Health and Safety Code
20 and the standards, regulations, and guidelines pursuant to the California Occupational
21 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5
22 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other
23 blood-borne pathogens in health care settings. As necessary, the board shall consult
24 with the Medical Board of California, the California Board of Podiatric Medicine, the
25 Dental Board of California, the Board of Registered Nursing, and the Board of
26 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
27 consistency in the implementation of this subdivision.

28 "The board shall seek to ensure that licensees are informed of the responsibility

1 of licensees and others to follow infection control guidelines, and of the most recent
2 scientifically recognized safeguards for minimizing the risk of transmission of
3 blood-borne infectious diseases.

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

7 "(g) Discharging an employee primarily for attempting to comply with the
8 terms of this chapter.

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

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

14 "(j) The violation of any law or local ordinance on an acupuncturist's business
15 premises by an acupuncturist's employee or a person who is working under the
16 acupuncturist's professional license or business permit, that is substantially related to
17 the qualifications, functions, or duties of an acupuncturist. These violations shall
18 subject the acupuncturist who employed the individuals, or under whose
19 acupuncturist license the employee is working, to disciplinary action.

20 "(k) The abandonment of a patient by the licentiate without written notice to the
21 patient that treatment is to be discontinued and before the patient has had a reasonable
22 opportunity to secure the services of another practitioner.

23 "(l) the failure to notify the board of the use of any false, assumed, or fictitious
24 name other than the name under which he or she is licensed as an individual to
25 practice acupuncture."

26 5. Section 4959 of the Code states:

27 "(a) The board may request the administrative law judge, under his or her
28 proposed decision in resolution of a disciplinary proceeding before the board, to

1 direct any licensee found guilty of unprofessional conduct to pay to the board a sum
2 not to exceed actual and reasonable costs of the investigation and prosecution of the
3 case.

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

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

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

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

19 6. Section 4955.1 of the Code states:

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

23 "(a) Securing a license by fraud or deceit.

24 "(b) Committing a fraudulent or dishonest act as an acupuncturist.

25 "(c) Committing any act involving dishonesty or corruption with respect to the
26 qualifications, functions, or duties of an acupuncturist.

27 "(d) Altering or modifying the medical record of any person, with fraudulent intent,
28 or creating any false medical record.

1 “(e) Failing to maintain adequate and accurate records relating to the provision of
2 services to their patients.”

3 7. Section 4955.2 of the Code states:

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

6 “(a) Gross negligence.

7 “(b) Repeated negligent acts.

8 “(c) Incompetence.”

9 8. Section 4956 of the Code states:

10 AA plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
12 is deemed to be a conviction within the meaning of this chapter.

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

20 9. Section 490 of the Code states:

21 “(a) In addition to any other action that a board is permitted to take against a licensee, a
22 board may suspend or revoke a license on the ground that the licensee has been convicted of a
23 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
24 or profession for which the license was issued.

25 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
26 discipline a licensee for conviction of a crime that is independent of the authority granted under
27 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
28 of the business or profession for which the licensee's license was issued.

1 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code.

7 "(d) The Legislature hereby finds and declares that the application of this section has been
8 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
9 554, and that the holding in that case has placed a significant number of statutes and regulations
10 in question, resulting in potential harm to the consumers of California from licensees who have
11 been convicted of crimes. Therefore, the Legislature finds and declares that this section
12 establishes an independent basis for a board to impose discipline upon a licensee, and that the
13 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not
14 constitute a change to, but rather are declaratory of, existing law."

15 10. Section 493 of the Code states:

16 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
17 the department pursuant to law to deny an application for a license or to suspend or revoke a
18 license or otherwise take disciplinary action against a person who holds a license, upon the
19 ground that the applicant or the licensee has been convicted of a crime substantially related to the
20 qualifications, functions, and duties of the licensee in question, the record of conviction of the
21 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
22 and the board may inquire into the circumstances surrounding the commission of the crime in
23 order to fix the degree of discipline or to determine if the conviction is substantially related to the
24 qualifications, functions, and duties of the licensee in question.

25 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
26 'registration.'"

27 ////

28 ////

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of a Crime)

3 11. Respondent is subject to disciplinary action under section 4955, subdivision (b), and
4 section 490 of the Code in that he was convicted of a crime substantially related to the
5 qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

6 12. On or about February 6, 2012, in the case of *The People of the State of California v.*
7 *Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146, an information was
8 filed alleging in count 1 that Respondent had violated Penal Code section 12316, subdivision
9 (b)(1), convicted felon in possession of ammunition, a felony.¹

10 13. On or about March 1, 2012, in the case of *The People of the State of California v.*
11 *Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146, Respondent plead not
12 guilty to count 1 as more set forth above in paragraph 12.

13 14. On or about October 16, 2012, in the case of *The People of the State of California v.*
14 *Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146, the court ordered the
15 information to be amended to add count 2, a violation of Penal Code section 459, second degree
16 commercial burglary, a felony. Respondent pled nolo contendere to, and was found guilty, and
17 convicted of, count 2. Imposition of sentence was suspended and Respondent was placed on
18 formal probation for three years and ordered to spend 44 days in County Jail, pay fines and fees
19 and perform 400 hours of community service. Count 1 was dismissed pursuant to the plea
20 agreement.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Conviction of a Crime)

23 15. Respondent is subject to disciplinary action under section 4955, subdivision (b), and
24 section 490 of the Code in that he was convicted of a crime substantially related to the

25 ¹ Section 12316, added by Stats.1994, c. 714 (A.B.2449), § 5, amended by Stats.1993-94,
26 1st Ex.Sess., c. 32 (S.B.37), § 4; Stats.1995, c. 377 (S.B.1095), § 10; Stats.1997, c. 158 (A.B.78),
27 § 7; Stats.1997, c. 463 (A.B.1221), § 2; Stats.2005, c. 681 (S.B.48), § 1; Stats.2009, c. 628
28 (A.B.962), § 5, relating to punishment for offenses relating to sale or possession of ammunition or
reloaded ammunition, was repealed by Stats.2010, c. 711 (S.B.1080), § 4, operative Jan. 1, 2012.
See Penal Code § 30305.

1 qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

2 16. On or about August 13, 2004, Los Angeles Police officers responded to a radio call
3 regarding a child abuse investigation at Wilton Place Elementary School. The officers were met
4 by the assistant principal who indicated that the child's teacher having observed a red mark on the
5 child's thigh and was told by the child that the father punished him the night before for not
6 completing his home work. The child subsequently confirmed this to the officers.

7 17. On or about September 20, 2004, a criminal complaint was filed in the case of *The*
8 *People of the State of California v. Hong Ki Yoon*, County of Los Angeles Superior Court case
9 number 4CR13124, alleging in count 1 a violation of Penal Code section 273d, subdivision (a),
10 corporal punishment or injury of a child, a misdemeanor, and, in count 2, a violation of Penal
11 Code section 273a, subdivision (b), child endangerment, a misdemeanor.

12 18. On or about October 6, 2004, in the case of *The People of the State of California v.*
13 *Hong Ki Yoon*, County of Los Angeles Superior Court case number 4CR13124, Respondent pled
14 not guilty to counts 1 and 2.

15 19. On or about December 17, 2004, in the case of *The People of the State of California*
16 *v. Hong Ki Yoon*, County of Los Angeles Superior Court case number 4CR13124, the complaint
17 was amended to add count 3, a violation of Penal Code section 242, battery, a misdemeanor.
18 Respondent pled nolo contendere to count 3 and was found guilty and convicted of that count.
19 Imposition of sentencing was suspended and Respondent was placed on 36 months of summary
20 probation and ordered to complete a one year parenting class and not to use physical discipline.
21 Counts 1 and 2 were dismissed as part of the plea negotiation.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Conviction of a Crime)

24 20. Respondent is subject to disciplinary action under section 4955, subdivision (b), and
25 section 490 of the Code in that he was convicted of a crime substantially related to the
26 qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

27 21. On or about November 12, 1990, Respondent was consuming alcohol on a public
28 street in the MacArthur Park area of Los Angeles. He engaged in an argument with another

1 individual during which he hit that person, the victim, over the head with a bottle of alcohol,
2 breaking the bottle. He then stabbed the victim in the back with the broken bottle. Respondent
3 was arrested based on Penal Code section 245, assault with a deadly weapon.

4 22. On or about February 13, 1991, in the case of *The People of the State of California v.*
5 *Hong Ki Yoon*, County of Los Angeles Superior Court case number BA033721, a felony
6 complaint was filed against Respondent alleging in count 1 a violation of Penal Code section 245,
7 subdivision (a)(1), assault with a deadly weapon based on the circumstances set forth in
8 paragraph 20 above.

9 23. On or about March 25, 1991, Los Angeles Police officers were called to a hotel on
10 Silverlake Boulevard in Los Angeles where it was reported that an assault with a deadly weapon
11 was in progress. Officers were directed to room 408, where they found the door open. Upon
12 entering the room, Respondent was observed standing over a bed in which a bloody female victim
13 was lying under bloodied sheets. Among other things, the police officers found a bloodied bottle
14 of Thunderbird wine in the room and three teeth of the victim under the bed. When Respondent
15 was arrested he spontaneously stated, "Why are you arresting me? We are not hurting anyone.
16 She asked me to tie her up and beat her so I did."

17 24. On or about March 27, 1991, in the case of *The People of the State of California v.*
18 *Hong Ki Yoon*, County of Los Angeles Superior Court case number BA033721, Respondent pled
19 not guilty to count 1 as more fully set forth in paragraph 22 above.

20 25. On or about March 27, 1991, in the case of *The People of the State of California v.*
21 *Hong Ki Yoon*, County of Los Angeles Superior Court case number BA036240, a further felony
22 complaint was filed against Respondent alleging in count 1 a violation of Penal Code section 245,
23 subdivision (a)(1), assault with a deadly weapon; in counts 2, 3 and 4, violations of Penal Code
24 section 288a, subdivision (c), oral copulation; and in counts 5, 6 and 7, violations of Penal Code
25 section 289, subdivision (a), forcible acts of sexual penetration, based on the circumstances set
26 forth in paragraph 23 above. Respondent pled not guilty to all counts.

27 26. On or about May 6, 1991, in the case of *The People of the State of California v. Hong*
28 *Ki Yoon*, County of Los Angeles Superior Court case number BA033721, a preliminary hearing

1 was conducted and Respondent was held to answer.

2 27. On or about May 6, 1991, in the case of *The People of the State of California v. Hong*
3 *Ki Yoon*, County of Los Angeles Superior Court case number BA036240, a preliminary hearing
4 was conducted and Respondent was held to answer on counts 1, 5, 6 and 7, as more fully set forth
5 in paragraph 25 above.

6 28. On or about May 20, 1991, on the court's own motion, the case of *The People of the*
7 *State of California v. Hong Ki Yoon*, County of Los Angeles Superior Court case number
8 BA036240, was consolidated into the case of *The People of the State of California v. Hong Ki*
9 *Yoon*, County of Los Angeles Superior Court case number BA033721 as counts 1, 2, 3, 4 and 5.

10 29. On or about August 19, 1991, in the case of *The People of the State of California v.*
11 *Hong Ki Yoon*, County of Los Angeles Superior Court case number BA033721, Respondent
12 withdrew his plea of not guilty to counts 1 and 2 and plead guilty to counts 1 and 2. Respondent
13 was found guilty and convicted of two counts of a violation of Penal Code section 245,
14 subdivision (a)(1), assault with a deadly weapon, a felony. Respondent was sentenced to 8 years
15 in prison. All remaining counts were dismissed in the interests of justice. Respondent was
16 remanded to the custody of the Sheriff to be delivered forthwith into the custody of the
17 Department of Corrections and Rehabilitation at its Reception Center in Chino, California.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Abuse of Alcohol)

20 30. Respondent is subject to disciplinary action under section 4955, subdivision
21 (a), of the Code in that Respondent used alcoholic beverages to an extent or in a manner
22 dangerous to himself, or to any other person, or to the public, and to an extent that the use
23 impairs his ability to engage in the practice of acupuncture with safety to the public. The
24 circumstances are as follows:

25 31. The facts and circumstances alleged in paragraphs 21 and 23 above are incorporated
26 here as if fully set forth.

27 32. On or about January 1, 2013, Respondent was at the residence of an acquaintance in
28 Los Angeles. Respondent and the acquaintance were drinking. Respondent engaged in an

1 argument regarding fishing with the acquaintance. Respondent became angry and hit the
2 acquaintance over the head with a tequila bottle. The acquaintance subsequently went to the
3 hospital which reported the matter to the police. Respondent was subsequently taken into custody
4 based on Penal Code section 245, subdivision (a)(1), assault with a deadly weapon. Thereafter,
5 Respondent's probation, which was based on his conviction in *The People of the State of*
6 *California v. Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146, was
7 revoked and Respondent was remanded into custody.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 (Dishonesty)

10 33. Respondent is subject to disciplinary action under section 4955.1, subdivision (c), of
11 the Code in that he engaged in an act involving dishonesty or corruption with respect to the
12 qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

13 34. On or about March 2, 2006, the Board received a certification from Respondent in
14 connection with his renewal of his acupuncture license in which he affirmed under penalty of
15 perjury under the laws of the State of California that subsequent to his last renewal of his license
16 he had not been convicted of, pled guilty to, or pled nolo contendere to, a misdemeanor or felony.
17 In truth and fact, since he last renewed his acupuncture license, Respondent had been convicted
18 on December 17, 2004, of Penal Code section 242, battery, a misdemeanor, as more fully set forth
19 in paragraphs 16 through 19 above.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Conduct That Would Have Warranted the Denial of an Acupuncture License)

22 35. Respondent is subject to disciplinary action under section 4955, subdivision (i), of the
23 Code in that he engaged in action or conduct that would have warranted the denial of an
24 acupuncture license. The circumstances are as follows:

25 36. The facts and circumstances set forth in paragraphs 11 through 34 above are
26 incorporated here as if fully set forth.

27 **DISCIPLINE CONSIDERATIONS**

28 37. To determine the degree of discipline, if any, to be imposed on Respondent,

1 Complainant alleges that on or about October 16, 2012, in the case of *The People of the State of*
2 *California v. Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146,
3 Respondent pled nolo contendere to, and was found guilty and convicted of a violation of Penal
4 Code section 459, second degree commercial burglary, a felony, and was placed on formal
5 probation for three years and ordered to spend 44 days in County Jail, pay fines and fees and
6 perform 400 hours of community service. The record of the criminal proceeding is incorporated
7 as if fully set forth.

8 38. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges that on or about December 17, 2004, in the case of *The People of the State of*
10 *California v. Hong Ki Yoon*, County of Los Angeles Superior Court case number 4CR13124,
11 Respondent pled nolo contendere and was found guilty and convicted of a violation of Penal
12 Code section 242, battery, a misdemeanor, and was placed on 36 months of summary probation
13 and ordered to complete a one-year parenting class and not to use physical discipline. The record
14 of the criminal proceeding is incorporated as if fully set forth.

15 39. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about August 19, 1991, in the case of *The People of the State of*
17 *California v. Hong Ki Yoon*, County of Los Angeles Superior Court case number BA033721,
18 Respondent was found guilty and convicted of two counts of a violation of Penal Code section
19 245, subdivision (a)(1), assault with a deadly weapon, a felony, and was sentenced to eight years
20 in prison. The record of the criminal proceeding is incorporated as if fully set forth.

21 PRAYER

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

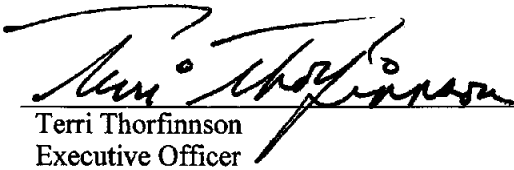
24 1. Revoking or suspending Acupuncture License No. AC 2215, issued to Hong Ki
25 Yoon, L.Ac.;

26 2. Ordering Hong Ki Yoon, L.Ac. to pay the Acupuncture Board the reasonable costs of
27 the investigation and enforcement of this case, pursuant to Business and Professions Code section
28 4959;

1 3. Ordering Hong Ki Yoon, L.Ac., if placed on probation, to pay the Acupuncture Board
2 the costs of probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.
4

5 DATED: 6/18/13
6



7 Terri Thorfinnson
8 Executive Officer
9 Acupuncture Board
10 Department of Consumer Affairs
11 State of California
12 *Complainant*

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