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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

1
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 4955 of the Code states, in pertinent part:

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

8 "Unprofessional conduct shall include, but not be limited to, the following:
9

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

14 5. Section 4956 of the Code states:

15 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
16 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
17 is deemed to be a conviction within the meaning of this chapter.

18 "The board may order a license suspended or revoked, or may deny a license, or may
19 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
20 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
21 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
22 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
23 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
24 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)

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

6 8. On or about October 25, 2007, after pleading nolo contendere, Respondent was
7 convicted of two misdemeanor counts of violating Penal Code section 242 [battery] in the
8 criminal proceeding entitled *The People of the State of California v. Casey Kwangchoon Yoo*
9 (Super. Ct. Los Angeles County, 2007, No. 7CA07736). The Court issued a restraining order
10 against Respondent and limitations on his chiropractic practice with females. The Court
11 sentenced Respondent to 60 days in jail or 45 days of Cal Trans, placed him on 36 months
12 probation, and ordered him to be psychologically evaluated, attend counseling sessions, and pay
13 fines and penalties.
14

15 9. The events underlying the conviction are set forth in the finding of the California
16 Board of Chiropractic Examiners' Decision No 2009-646, which is attached hereto as Exhibit A,
17 and is incorporated herein by reference.
18

19 SECOND CAUSE FOR DISCIPLINE

20 (Discipline by Other Agency)

21 10. Respondent is subject to disciplinary action under section 4955 in that Respondent
22 was disciplined by the California Board of Chiropractic Examiners for acts substantially related to
23 the qualifications, functions, or duties of an acupuncturist or any professional health care licensee.
24 The circumstances are as follows:
25

26 11. On or about September 14, 2010, in the matter entitled *In the Matter of the*
27 *Accusation Against Casey K.C. Yoo, D.C. a.k.a. Casey Kwangchoon Yoo, Chiropractic License*
28

1 No. DC 19339, Case number 2009-646, Office of Administrative Hearings Case Number
2 2009090159, the Board of Chiropractic Examiners issued a Decision which revoked
3 Respondent's Chiropractor's License, but stayed a revocation, and placing Respondent on
4 probation on various terms and conditions, including requiring him to have a chaperone whenever
5 treating female patients.

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

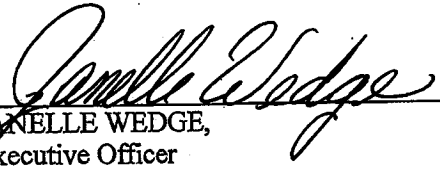
- 8 a. The Board of Chiropractic Examiners' Decision is attached hereto as Exhibit A, and is
9 incorporated herein by reference.
10

11 PRAYER

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

- 14 1. Revoking or suspending Acupuncturist License Number AC 4228, issued to Kwang
15 Choon Yoo, a.k.a. Casey K. Yoo.
16
17 2. Ordering Kwang Choon Yoo, a.k.a. Casey K. Yoo, to pay the Acupuncture Board the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 4959, and, if placed on probation, the costs of probation monitoring.
20
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: NOV 04 2010


23 JANELLE WEDGE,
24 Executive Officer
25 Acupuncture Board
26 Department of Consumer Affairs
27 State of California
28 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:

CASEY K. C. YOO, D.C.
aka CASEY KWANGCHOON YOO

Chiropractic License No. DC 19339

Respondent.

Case No. 2009-646

OAH No. 2009090159

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:

I. 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 back¹ 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).