BEFORE THE ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusa ERIKA NOVAK, L.AC. 5222 Balboa Avenue Fl-6	×	Case No. 1A202118 OAH No. 2022020485
San Diego, CA 92117 Acupuncturist License No		SUTMERN OF CONDUMENCE OF
	Respondent.	
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	DECISION A	ND ORDER
The attached Stipulated	d Settlement and Dis	ciplinary Order is hereby adopted by the
Acupuncture Board, Departn	nent of Consumer A	fairs, as its Decision in this matter.
This Decision shall bed	come effective on	February 19, 2023
It is so ORDERED	January 19, 2023	·
		Original Signature on File

FOR THE ACUPUNCTURE BOARD

DEPARTMENT OF CONSUMER AFFAIRS

1 2 3	ROB BONTA Attorney General of California MATTHEW M. DAVIS Supervising Deputy Attorney General State Bar No. 202766 600 West Broadway, Suite 1800		
5	San Diego, CA 92101 P.O. Box 85266		
6	San Diego, CA 92186-5266 Telephone: (619) 738-9405 Facsimile: (619) 645-2061		
7	Attorneys for Complainant		
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10	BEFORE THE		
11	ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS		
12	STATE OF CALIFORNIA		
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14	In the Matter of the Accusation Against: Case No. 1A202118		
15	ERIKA NOVAK, L.AC. OAH No. 2022020485		
16	5222 Balboa Avenue Fl-6 San Diego, CA 92117 STIPULATED SETTLEMENT AND DISCIPLINARY ORDER		
17	Acupuncturist License No. 4544		
18	Respondent.		
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20	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
21	entitled proceedings that the following matters are true:		
22	<u>PARTIES</u>		
23	1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board		
24	(Board). He brought this action solely in his official capacity and is represented in this matter by		
25	Rob Bonta, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney		
26	General.		
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	ERIKA NOVAK, L.Ac STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (1A202118)		

- 2. Respondent Erika Novak, L.Ac. (Respondent) is represented in this proceeding by attorney Michael A. Taibi, whose address is: Law Offices of Michael A. Taibi, 401 West A Street, Suite 1810, San Diego, CA 92101.
- 3. On or about August 26, 1993, the Board issued Acupuncturist License No. 4544 to Respondent. The Acupuncturist License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A202118, and will expire on January 31, 2024, unless renewed.

JURISDICTION

Accusation No. 1A202118 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 9, 2021. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 1A202118 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

- 4. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A202118. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 5. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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.

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CULPABILITY

- Respondent admits the truth of each and every charge and allegation in Accusation
- Respondent agrees that her Acupuncturist License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order

CONTINGENCY

- 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 settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Settlement 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.
- The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 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

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DISCIPLINARY ORDER

A. PUBLIC REPROVAL

IT IS HEREBY ORDERED that Acupuncturist License No. 4544 issued to Respondent ERIKA NOVAK, L.AC. shall be and is hereby Publicly Reproved pursuant to California Business and Professions Code section 495. This public reproval, which is issued in connection with Respondent's care and treatment of patient A and Respondent's chart documentation, as set forth in Accusation No. 1A202118, is as follows:

You are hereby publicly reproved in regard to the care and treatment you provided to patient A and your inadequate chart documentation, as more fully set forth in Accusation No. 1A202118, a true and correct copy of which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

- B. COURSEWORK. Respondent shall take and successfully complete Clean Needle Technique (7th Edition) through the Council of Colleges of Acupuncture and Herbal Medicine (CCAHM); and four hours of Record Keeping. All coursework shall be taken at the graduate level at a school approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all coursework must be completed within one year from the effective date of this decision. The required coursework must be in addition to any continuing education courses that may be required for license renewal. Within 90 days of the effective date of this decision, respondent shall submit a plan for the Board's prior approval for meeting the educational requirements. All costs of the coursework shall be borne by the respondent. Failure to participate in and successfully complete the coursework requirements as outlined above shall constitute unprofessional conduct and be grounds for further disciplinary action.
- C. <u>COST RECOVERY</u>. Respondent shall pay to the Board its costs of investigation and enforcement in the amount of five thousand dollars (\$5,000) which can be paid in installments pursuant to a payment plan as follows: Monthly cost payments to be made in equal payments of \$333.33 for the first 14 consecutive months following the effective date of the Board's disciplinary order. A single final payment in the amount of \$333.38 is due in month 15

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1	following the effective date of the Board's disciplinary order. Failure to make full payment shall
2	constitute unprofessional conduct and be grounds for further disciplinary action.
3	ACCEPTANCE
4	I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5	discussed it with my attorney, Michael A. Taibi, Esq. I understand the stipulation and the effect i
6	will have on my Acupuncturist License. I enter into this Stipulated Settlement and Disciplinary
7	Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
8	of the Acupuncture Board.
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10	DATED: _08/17/2022 Prika Worrok L. 4
11	ERIKA NOVAK, L.AC. Respondent
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13	I have read and fully discussed with Respondent Erika Novak, L.Ac. the terms and
14	conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
15	I approve its form and content.
16	DATED: 8/17/2022 Cully (1. 2)
17	MICHAEL A. TAIB! Attorney for Respondent
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1	<u>E</u>	ENDORSEMENT	
2	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
3	submitted for consideration by the Acupuncture Board.		
4	DATED:August 18, 2022	Respectfully submitted,	
5		ROB BONTA	
6		Attorney General of California MATTHEW M. DAVIS	
7	Į.	Supervising Deputy Attorney General	
8	*	Matthew M. Davis	
9 10		MATTHEW M. DAVIS Supervising Deputy Attorney General Attorneys for Complainant	
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		6 ETTLEMENT AND DISCIPLINARY ORDER (1A202118)	

Exhibit A

Accusation No. 1A202118