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FILED

JUN 20 2014

ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Wei-Chieh Young, L.AC.** **18674 Fieldbrook Street** **Rowland Heights, CA 91748** **Acupuncturist License number AC 781,** Respondent.	Case No. 1A-2010-154 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Terri Thorfinnson (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 May 10, 1978, the Acupuncture Board issued Acupuncturist License Number AC 781 to Wei-Chieh Young (Respondent). That Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

JURISDICTION

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

4. Section 4955.2 of the Code states, in pertinent part:

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

"(a) Gross negligence.

"(b) Repeated negligent acts.

". . ."

5. California Code of Regulations, title 16, section 1399.451, states, in pertinent part:

"In treating a patient, an acupuncturist shall adhere to the following procedures:

"(b) All acupuncture needles and other instruments shall be sterilized before and between uses in a manner which will destroy all microorganisms. All needle trays which contain sterile needles shall also be sterile. Each time needles or other instruments are sterilized, the acupuncturist shall use a tape or strip indicator which shows that sterilization is complete.

". . ."

6. California Code of Regulations, title 16, section 1399.454, states:

"An acupuncturist shall use needles labeled for single use only that meet the requirements of federal regulations 21 CFR Part 880.5580 (61 FR 64617, December 6, 1996). It shall constitute unprofessional conduct for an acupuncturist to use a needle more than once."

COST RECOVERY

7. 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

(Gross Negligence)

8 Respondent is subject to disciplinary action under 4955.2, subsection (a), and California Code of Regulations, title 16, sections 1399.451, subdivision (b), and 1399.454, in that he was grossly negligent in his care and treatment of Ms. C. U. S. The circumstances are as follows:

9. The Board received a complaint that Respondent used a dirty needle during a bloodletting demonstration at a course conducted at Emperors' College of Traditional Oriental Medicine on August 8, 2010. During the Board investigation eight witnesses and Respondent were interviewed about the demonstration. Three witnesses observed Respondent use a single use disposable, unsterilized needle on Ms. C. U. S.[1], the student whose blood was let for the demonstration. Respondent removed the single use needle from its package, sanded or filed it with sandpaper, passed it to each person in the room, swiped alcohol on it, and then used it on Ms. C. U. S. to demonstrate proper bloodletting technique.

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[1] The name of the student is abbreviated to protect her privacy rights. The name will be provided to Respondent upon written request for discovery.

8. The standard of care requires an acupuncturist to use a sterile needle on a person. The standard of care requires that before sterilization or high-level disinfection, needles must be thoroughly cleaned by scrubbing them with soap and water or detergent solution, or by using a mechanical device such as an ultrasonic cleaner. Single use disposable needles are not designed or intended to be cleaned, disinfected, or sterilized. The use of an unsterilized needle on a person is an extreme departure from the standard of care.

11. Respondent failed to conform to the applicable standard of care for an acupuncturist who utilized a single use, disposable needle because during his demonstration he unwrapped the needle, sanded or filed it down, passed it to each person in the room, swiped alcohol on it, and then used it on Ms. C. .U. S.

12. Respondent's use of an unsterilized needle on a person as set forth above includes the following acts and/or omissions which constitute extreme departures from the standard of practice:

A. His improper use of a single use, disposable needle, which is not designed or intended to be cleaned, disinfected, or sterilized.

B. His failure to use a sterile needle on Ms. C. U. S.

C. By sanding or filing down a single use needle, allowing others to handle that single use needle, then attempting to sterilize a single use needle, and using a non-sterile single use needle for a bloodletting demonstration on Ms. C. U. S.

9. Respondent's acts and/or omissions as set forth in paragraphs 9 through 12, inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 4955.2, subsection (a), of the Code. Therefore cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

17. Respondent is subject to disciplinary action under 4955.2, subsection (a), and California Code of Regulations, title 16, sections 1399.451, subdivision (b), and 1399.454, in that he was negligent in his care and treatment of Ms. C. U. S. The circumstances are as follows:

18. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

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 Acupuncturist License Number AC 781, issued to Wei-Chieh Young;

2. Ordering him 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. If placed on probation, ordering him to pay to the Acupuncture Board the costs of probation monitoring;

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

DATED: JUN 20 2014

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

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