BEFORE THE
CALIFORNIA ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	Case No. 1A-2010-154
	)	
WEI-CHIEH YOUNG, L.AC.	)	
18674 Fieldbrook St.	)	
Rowland Heights, CA 91748	)	
	)	
Acupuncture License No. AC 781	)	
	)	
Respondent.	)	
	)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on JUL 09 2015.

It is so ORDERED JUN 09 2015.

Michael Shi, L.Ac, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
WENDY WIDLUS
Deputy Attorney General
State Bar No. 82958
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 576-7149
Facsimile: (213) 897-9395
Attorneys for Complainant

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** **Acupuncture License No. AC 781,** Respondent.	Case No. 1A-2010-154 **STIPULATED SETTLEMENT AND DISCIPLINARY 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. 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 Wendy Widlus, Deputy Attorney General.

2. Respondent Wei-Chieh Young, L.Ac. ("Respondent") is represented in this proceeding by attorney Jehan N. Jayakumar, whose address is: Carlson & Jayakumar 2424 S.E. Bristol Street, Suite 300, Newport Beach, CA 92660.

3. On or about May 10, 1978, the Acupuncture Board issued Acupuncture License No. AC 781 to Respondent. The Acupuncture License was in full force and effect at all times

relevant to the charges brought in Accusation No. 1A-2010-154 and will expire on September 30, 2016, unless renewed.

JURISDICTION

4. Accusation No. 1A-2010-154 was filed before the Acupuncture Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 20, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2010-154 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2010-154. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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 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 admits the truth of each and every charge and allegation in Accusation No. 1A-2010-154.

9. Respondent agrees that his Acupuncture License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

///

CONTINGENCY

10. 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 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 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.

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

12. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Acupuncture License No. AC 781 issued to Respondent Wei-Chieh Young, L.Ac. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.

2. COURSEWORK Respondent shall take and successfully complete not less than twenty (20) hours of coursework which the Board's probation monitor approves. All coursework shall be taken at the graduate level at a school approved by the Board's probation monitor. Classroom attendance must be specifically required and must be taken at a school where Respondent has no professional affiliation. Respondent shall complete coursework and

certification in clean needle technique. Additional course content shall include public health, community health and disease prevention; communicable disease, public health alerts, and epidemiology. The required coursework must be in addition to any continuing education courses that may be required for license renewal.

3. 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.

4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all regulations governing the practice of acupuncture in California. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence.

5. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

6. SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation surveillance program and shall, upon reasonable notice, report to the assigned investigative district office. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) victims or complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

8. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, through the assigned probation surveillance compliance officer of any and all changes of employment, location and address within 30 days of such change.

9. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event Respondent should leave California to reside or to practice outside the State, Respondent must

notify the Board in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

10. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this probation.

11. COST RECOVERY Respondent shall pay to the Board its costs of investigation and enforcement in the amount of $11,165.75.

12. VIOLATION OF PROBATION If Respondent violates probation in any respect, the Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

13. COMPLETION OF PROBATION Upon successful completion of probation, Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jehan N. Jayakumar. I understand the stipulation and the effect it will have on my Acupuncture License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Acupuncture Board.

DATED: 1-29-2015

WEI-CHIEH YOUNG, L.AC.
Respondent

I have read and fully discussed with Respondent, Wei-Chieh Young, L.Ac. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: January 30, 2015

Jehan N. Jayakumar
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California

for JUDITH T. ALVARADO
Supervising Deputy Attorney General
Attorneys for Complainant

LA2013611044
61447197.doc

Exhibit A

Accusation No. 1A-2010-154

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
WENDY WIDLUS
Deputy Attorney General
State Bar No. 82958
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-2867
Facsimile: (213) 897-9395
E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

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 **ACCUSATION**

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.

[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

LA 2013611044
61291570.docx