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4		ACUPUNCTURE BOARD
5	San Diego, CA 92101	
6 7	P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 645-2074 Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
9	BEFORE THE ACUPUNCTURE BOARD	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Accusation Against:	Case No. 1A-2005-148 and 1A-2005-174
13	DAVID HONGJUNE JEON, L.Ac. 3405 Kenyon St., #201	ACCUSATION
14	San Diego, CA 92110	ACCUBATION
15	Acupuncturist License No. AC-6314	
16	Respondent.	
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18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Janelle Wedge (Complainant) brings this Accusation solely in her official	
21	capacity as the Executive Officer of the Acupuncture Board.	
22	2. On or about May 31, 1998, the Acupuncture Board (Board) issued	
23	Acupuncturist License Number AC-6314 to David Hongjune Jeon, L.Ac (Respondent). The	
24	Acupuncturist License was in full force and effect at all times relevant to the charges brought	
25	herein and will expire on May 31, 2009, unless renewed.	
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JURISDICTION

- 3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
 - 4. Section 4955 of the Code states:

"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.

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

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

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5. Section 4955.2 of the Code states:

"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 of the following:

- "(a) Gross negligence.
- "(b) Repeated negligent acts.
- "(c) Incompetence."
- 6. California Code of Regulations, title 16, section 1399.451, subdivision (e), states:

"Any complication, including but not limited to, hematoma, peritonitis or pneumothorax arising out of acupuncture treatment shall be referred immediately to a physician or dentist or podiatrist, if appropriate, if immediate medical treatment is required."

7. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

RECOVERY OF COSTS

- 8. 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

(Sexual Misconduct with Patients)

9. Respondent is subject to disciplinary action under sections 4955 and 726 of the Code, in that he has engaged in sexual misconduct, and/or has had a sexual relations with a patient. The circumstances are as follows:

Patient G.Z.

- (a) Beginning on or about January 9, 2002, Respondent provided acupuncture treatment to patient G.Z. Respondent continued to provide acupuncture treatment to patient G.Z. until 2004.
- (b) Between January 2002 and 2004, Respondent remained in the exam room while patient G.Z. disrobed. Between January 2002 and 2004, Respondent failed to "drape" patient G.Z. and provided treatment to patient G.Z. while she was only dressed in a bra and thong underwear.
- (c) Between January 2002 and 2003, Respondent pressed his clothed penis against patient G.Z. In 2003, Respondent kissed patient G.Z.'s shoulder and hand. In 2003, Respondent slapped patient G.Z.'s buttocks on multiple occasions.
- (d) In 2004, Respondent removed cotton balls from patient G.Z.'s vaginal area and made contact with her vagina.

Patient J.M.

- (e) In 2003, Respondent treated patient J.M. in her underwear.
- 1. Draping is the practice by which an Acupuncturist covers a patient for privacy.

Patient M.C.

(f) On or about May 12, 2005, Respondent provided treatment to patient M.C. On or about May 12, 2005, Respondent hugged patient M.C., laid on the exam table with patient M.C., and placed his hands on her abdomen.

Patient S.R.

- (g) In or about the Summer of 2004, Respondent treated patient S.R. for a cold. During treatment, Respondent kissed patient S.R. on the mouth and abdomen.
- (h) In or about the Summer of 2004, Respondent attempted to needle patient S.R. in the Ren1² area. This treatment is not indicated for a cold.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

- 10. Respondent is further subject to disciplinary action under section 4955.2, subdivision (a) of the Code, in that he has committed acts of gross negligence in the practice of acupuncture. The circumstances are as follows:
- 11. Paragraph 9 above, is hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

- 12. Respondent is further subject to disciplinary action under section 4955.2, subdivision (b) of the Code, in that he has committed repeated acts of negligence in the practice of acupuncture. The circumstances are as follows:
- 13. Paragraph 9, is hereby incorporated by reference and realleged as if fully set forth herein.

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^{2.} Ren 1 is the area between the vagina and the anus.

FOURTH CAUSE FOR DISCIPLINE

(Incompetence)

14. Respondent is further subject to disciplinary action under section 4955.2, subdivision (d) of the Code, and section 1399.451, subdivision (e) of Title 16 of the California Code of Regulations, in that he has demonstrated incompetence by failing to immediately refer patient M.C. to a physician when complications arose during the provision of acupuncture treatment. The circumstances are as follows:

Patient M.C.

(a) On or about May 12, 2005, Respondent provided treatment to patient M.C. Patient M.C. began to experience severe temperature swings, vomited and hallucinated during the treatment. Respondent did not call for help and allowed patient M.C. to remain at his clinic for over 6 hours. Respondent allowed patient M.C. to drive herself home.

FIFTH CAUSE FOR DISCIPLINE

(Violation of Acupuncture Licensure Act or Regulation)

- 15. Respondent is further subject to disciplinary action under section 4955, as defined by section 4955, subdivision (d), of the Code, in that he has violated the terms of the Acupuncture Licensure Act, or a regulation adopted by the Board pursuant to the Acupuncture Licensure Act. The circumstances are as follows:
- 16. Paragraphs 9, 10, 11, 12, 13 and 14, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

- 17. Respondent is further subject to disciplinary action under section 4955 of the Code, in that he has engaged in unprofessional conduct by breaching the rules or ethical code of conduct of the profession of acupuncture, or by engaging in conduct unbecoming to an acupuncturist in good standing in the profession and which demonstrates an unfitness to practice acupuncture.³/ The circumstances are as follows:
- 18. Paragraphs 9, 10, 11, 12, 13 and 14, above, are hereby incorporated by reference and realleged as if fully set forth herein.

PCOM Students J.C. and G.B.

(a) In Spring 2004, Respondent worked as an instructor at the Pacific College of Oriental medicine. Respondent provided "tuina" demonstrations on student J.C. and student G.B. wherein Respondent lifted student J.C. and student G.B. from behind, draped student J.C.'s and student G.B.'s buttocks and lower backs across his groin area, and swung student J.C. and student G.B. from side to side.

PCOM Students

(b) In 2003, Respondent threatened to fail his acupuncture students at Pacific College of Oriental Medicine if they did not participate in needling demonstrations around the genital area.

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^{3.} See Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.

^{4.} An adjustment technique used in acupuncture.

PRAYER

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

- 1. Revoking or suspending Acupuncturist License Number AC-6314, issued to David Hongjune Jeon, L.Ac.;
- 2. Ordering David Hongjune Jeon, L.Ac. to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: <u>NOV 1 4 2008</u>

IXNELLE WEDGE Executive Officer Acupuncture Board State of California

Complainant

SD2008801658