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ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.,
Attorney General of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MICHAEL S. COCHRANE, State Bar No. 185730
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2074
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 1A-2007-88

13 KYOUNG SEOK JEON, L.A.c.
78 Frances Circle
14 Buena Park, CA 90621

ACCUSATION

15 Acupuncture License No. AC-8838,

16 Respondent.

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18 Complainant alleges:

19 PARTIES

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 December 5, 2002, the Acupuncture Board (Board) issued
23 Acupuncturist License Number AC-8838 to Kyoung Seok Jeon, L.Ac. (Respondent). The
24 Acupuncturist License expired on September 30, 2008, and has not been renewed.

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JURISDICTION

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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 118, subdivision (b) of the Code provides, in pertinent part, that the Board maintains its authority to institute or continue a disciplinary proceeding or action against a licensee upon any ground provided by law, notwithstanding the suspension, expiration, or forfeiture of the license by operation of law, or by virtue of the license’s suspension, forfeiture, or cancellation by order of the Board or by order of a court of law, or by virtue of the surrender of the license without the written consent of the Board.

5. Section 4955 of the Code states, in pertinent part,
“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...”

6. 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.”

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1 COST RECOVERY

2 7. Section 4959 of the Code states:

3 “(a) The board may request the administrative law judge, under his or her
4 proposed decision in resolution of a disciplinary proceeding before the board, to direct
5 any licensee found guilty of unprofessional conduct to pay to the board a sum not to
6 exceed actual and reasonable costs of the investigation and prosecution of the case.

7 “(b) The costs to be assessed shall be fixed by the administrative law judge and
8 shall not in any event be increased by the board. When the board does not adopt a
9 proposed decision and remands the case to an administrative law judge, the
10 administrative law judge shall not increase the amount of any costs assessed in the
11 proposed decision.”

12 “(c) When the payment directed in the board's order for payment of costs is not
13 made by the licensee, the board may enforce the order for payment in the superior court in
14 the county where the administrative hearing was held. This right of enforcement shall be
15 in addition to any other rights the board may have as to any licensee directed to pay costs.

16 “(d) In any judicial action for the recovery of costs, proof of the board’s decision
17 shall be conclusive proof of the validity of the order of payment and the terms for
18 payment.

19 “(e) All costs recovered under this section shall be considered a reimbursement
20 for costs incurred and shall be deposited in the Acupuncture Fund.”

21 FIRST CAUSE FOR DISCIPLINE

22 (Sexual Abuse Against a Patient)

23 8 Respondent is subject to disciplinary action under section 4955, as defined
24 by section 726, of the Code, in that, he committed an act of sexual abuse, misconduct, or
25 relations with a patient, client, or customer, as more particularly described hereinafter:

26 (a) On or about January 22, 2007, Patient J.L. went to respondent’s
27 acupuncture office by appointment to receive an acupuncture treatment for back pain.
28 Respondent directed Patient J.L. to an examination room, and instructed her to put on a

1 gown. Patient J.L. complied by taking off her blouse and putting the gown on with the
2 opening to the front.

3 (b) Respondent recommended that he perform acupressure to Patient
4 J.L., and mentioned another female patient that he had treated with acupressure who was
5 healed of her pain as a result. Respondent added that he does not use the type of
6 treatment he had in mind on all of his patients because if he did then he would lose his
7 healing powers more rapidly.

8 (c) Respondent rubbed heated herbs on Patient J.L.'s lower abdomen, and
9 then let the herbs sit while he applied acupressure to the chest area. Respondent asked
10 the patient to remove her bra, and she complied. Using both hands, respondent used his
11 palms and fingers to touch the entire area of her breasts. He also touched both of her
12 nipples. Patient J.L. suspected that respondent was fondling her breasts in a sexual
13 manner, but she trusted respondent because he was a doctor and because he attended the
14 same church as one of her relatives, and so did not complain. Respondent, while feeling
15 Patient J.L.'s breasts, continued to talk about the other female patient to whom he
16 provided similar treatment, and he mentioned that she had small breasts like Patient J.L.

17 (d) On or about January 23, 2007, Patient J.L. again went to respondent's
18 office by appointment. Respondent directed her to an examination room, and instructed
19 her to put on a gown. Respondent unsuccessfully tried to remove Patient J.L.'s bra, and
20 then asked Patient J.L. to remove it. Patient J.L. took off her bra as instructed, but she
21 left her pants, underwear, and shoes on.

22 (e) Respondent began applying acupressure to Patient J.L.'s legs with his bare
23 hands, but stated he could not correctly apply the pressure because she was wearing thick
24 pants. Respondent asked the patient to take her pants off, and she complied. Respondent
25 then applied acupressure all over Patient J.L.'s body, including her chest, breasts, and
26 arms. While rubbing and touching Patient J.L.'s breasts, respondent again talked about
27 the other female patient he discussed the day before and how he treated her pain in a
28 similar fashion.

1 (f) Respondent continued to talk to Patient J.L. while massaging her lower
2 abdominal area. Respondent then placed his right hand underneath Patient J.L.'s
3 underwear and started touching her vaginal area. He then placed one of his fingers inside
4 Patient J.L.'s vagina. Patient J.L. then asked whether this was part of the treatment, and
5 asked respondent to stop. Respondent replied, "Relax and feel it. A lot of women are sick
6 because they do not get a lot of love from her husband," while he continued to place his
7 finger in her vagina. Patient J.L. again stated she did not want to do this. Respondent
8 removed his hand, and Patient J.L. changed the subject by stating she was experiencing
9 pain in her neck and shoulders.

10 (g) On or about January 25, 2007, Patient J.L. reported the above
11 incidents to Garden Grove Police Department. While at the police station, Patient
12 J.L. made a recorded pretext phone call to respondent, with police officers present
13 including one who was a certified Korean translator. Patient J.L. confronted
14 respondent in Korean about touching her clitoris and putting his finger in her
15 vagina, and respondent replied that he did so because sexual stimulation is a
16 method to release tension and pain. Respondent instructed Patient J.L. to forget
17 the incident and to keep taking her herbal tea.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent is further subject to disciplinary action under section 4955 for unprofessional conduct in that he engaged in conduct which breaches the rules or ethical code of the profession of acupuncture, or conduct which is unbecoming to a member in good standing of the acupuncture profession, and which demonstrates an unfitness to practice acupuncture¹ as more particularly described hereinafter:

(a) Paragraph 8, above, is hereby incorporated by reference as if fully set forth herein.

(b) On or about March 23, 2007, the Orange County District Attorney filed a felony complaint warrant alleging two felony counts of sexual battery by fraud, in violation of Penal Code section 243.4, subdivision (c), and one felony count of sexual penetration by means of fraudulent representation of a professional purpose, in violation of Penal Code section 289, subdivision (d)(4).

(c) On or about May 24, 2007, respondent was released on \$100,000 bail.

(d) On or about December 18, 2007, in the case *People of the State of California v. Kyoung Seok Jeon*, Superior Court Case No. 07WF1149, a preliminary hearing was held. After Patient J.L. testified, the Superior Court found cause to bind respondent over for trial on all three felony counts. In addition, the Superior Court adopted the Board’s recommendation to suspend respondent’s Acupuncture License No. AC-8838 as a condition of bail until further order by the Court.

(e) On or about January 22, 2009, respondent, in violation of the Superior Court’s order, failed to appear for his trial. The Superior Court has deemed respondent a fugitive and has issued a warrant for his arrest.

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1. See *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575


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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-8838, issued to respondent Kyoung Seok Jeon, L.A.c.
2. Ordering respondent Kyoung Seok 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: APR 7 2009


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

SD2007802877

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