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Attorneys for Complainant

8
9 **BEFORE THE**
ACUPUNCTURE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

13 **YUE LING EILEEN HAN, L.AC.**
236 Red Oak Drive, East #J
14 Sunnyvale, CA 94086

15 Acupuncture License No. AC 10825,

16 Respondent.

Case No. 1A-2010-112

OAH No. 2011100940

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
22 (Board.) She brought this action solely in her official capacity and is represented in this matter by
23 Kamala D. Harris, Attorney General of the State of California, by Heidi R. Weisbaum, Deputy
24 Attorney General.

25 2. Yue Ling Eileen Han, L.Ac. (Respondent) is represented in this proceeding by
26 attorney Jehan N. Jayakumar, Esq., whose address is: Carlson & Jayakumar, 2424 S.E. Bristol,
27 Ste. 300, Newport Beach, CA 92660.

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JURISDICTION

2 3. On or about December 13, 2005, the Board issued Acupuncture License No. AC
3 10825 to Yue Ling Eileen Han, L.Ac. (Respondent). The Acupuncture License was in full force
4 and effect at all times relevant to the charges and allegations in Accusation No. 1A-2010-112,
5 and will expire on July 31, 2013, unless renewed.

6 4. On July 28, 2011, Accusation No. 1A-2010-112 was filed before the Board, was
7 properly served on Respondent along with all other statutorily required documents, and is
8 currently pending against Respondent. Respondent timely filed a Notice of Defense contesting
9 Accusation No. 1A-2010-112. A true and correct copy of Accusation No. 1A-2010-112 is
10 attached hereto as Exhibit A and incorporated herein by reference.

11

ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 1A-2010-112. Respondent has also carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
18 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
19 to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24

CULPABILITY

25 8. Respondent does not contest that, at an administrative hearing, Complainant could
26 establish a *prima facie* case with respect to the charges and allegations in Accusation No. 1A-
27 2010-112, and that she has thereby subjected her Acupuncture License No. AC 10825 to
28 disciplinary action.

1 13. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
2 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
3 signatures and, further, that facsimile copies shall have the same force and effect as originals.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree the
5 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
6 the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Acupuncture License No. AC 10825, issued to
9 Respondent Yue Ling Eileen Han, L.Ac., shall be and hereby is Publicly Reprimanded pursuant
10 to California Business and Professions Code section 495. This Public Reprimand is issued in
11 connection with Respondent's conduct as set forth in Accusation No. 1A-2010-112, and as
12 summarized below:

13 A. **PUBLIC REPRIMAND**

14 In or about April and May 2010, you performed acupuncture and prescribed herbal
15 remedies for a 52 year old woman with a history of liver disease, neuropathy,
16 temporomandibular pain, head and neck pain, stabbing foot pain, hot flashes, night sweats,
17 fatigue, digestive disorders, and yellow eyes, but you failed to record an initial history and
18 physical, failed to record any problem-focused physical findings, and failed to record the
19 herbal remedies you prescribed. You therefore committed unprofessional conduct by
20 failing to maintain adequate and accurate records relating to the services you provided to
21 the patient as more fully described in Accusation No. 1A-2010-112.

22 B. **MEDICAL RECORD KEEPING COURSE**

23 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll
24 in a course in medical record keeping, at her expense, approved in advance by the Board or
25 its designee. Failure to successfully complete the course within 180 calendar days of the
26 effective date of this Decision shall constitute unprofessional conduct and grounds for
27 further disciplinary action.

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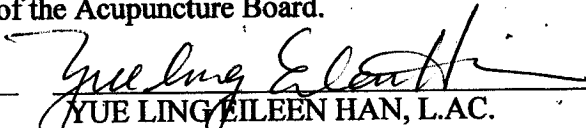
A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jehan N. Jayakumar, Esq. I understand the Stipulation and the effect it will have on my Acupuncture License No. AC 10825. 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: 12/5/2011


YUE LING EILEEN HAN, L.A.C.
Respondent

I have read and fully discussed with Respondent Yue Ling Eileen Han, L.A.C., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 12/21/2011


JEHAN N. JAYAKUMAR, ESQ.
CARLSON & JAYAKUMAR
Attorneys for Respondent

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ENDORSEMENT

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

DATED: January 3, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

HEIDI R. WEISBAUM
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 1A-2010-112

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
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FILED

JUL 28 2011

ACUPUNCTURE BOARD

8
9 **BEFORE THE**
10 **ACUPUNCTURE BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 1A-2010-112

13 **YUE LING EILEEN HAN, L.AC.**
236 Red Oak Drive, East #J
14 Sunnyvale, CA 94086

ACCUSATION

15 Acupuncture License No. AC 10825

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Acupuncture Board, Department of Consumer Affairs, State of
22 California.

23 2. On or about December 13, 2005, the Acupuncture Board issued Acupuncture License
24 Number AC 10825 to Yue Ling Eileen Han, L.AC. (Respondent). The Acupuncture License was
25 in full force and effect at all relevant times and will expire on July 31, 2013, unless renewed.

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JURISDICTION

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

5 4. Section 4955 of the Code states:

6 “The board may deny, suspend, or revoke, or impose probationary conditions upon,
7 the license of any acupuncturist if he or she is guilty of unprofessional conduct.”

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

9 “... ”

10 “(d) ... [V]iolating ... the terms of this chapter or any regulation adopted by the
11 board ... ”

12 5. Section 4955.1 of the Code states:

13 “The board may deny, suspend, revoke, or impose probationary conditions upon the
14 license of any acupuncturist if he or she is guilty of committing a fraudulent act including,
15 but not limited to, any of the following:

16 “... ”

17 “(e) Failing to maintain adequate and accurate records relating to the provision
18 of services to their patients.”

19 6. California Code of Regulations, title 19, section 1399.453, states:

20 “An acupuncturist shall keep complete and accurate records on each patient who is
21 given acupuncture treatment, including but not limited to, treatments given and progress
22 made as a result of the acupuncture treatments”

23 7. Section 4959 of the Code states, in pertinent part:

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

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1 8. Section 125.3, subdivision (i), of the Code provides that the board is not precluded
2 from “including the recovery of the costs of investigation and enforcement of a case in any
3 stipulated settlement.”

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Failure to Maintain Adequate and Accurate Records)

6 9. Respondent is subject to disciplinary action under section 4955, as defined by section
7 4955.1, subdivision (e), in that she failed to maintain adequate and accurate records relating to the
8 services she provided to patient SF. The circumstances are as follows:

9 10. On or about April 1, 2010, patient SF, a 52 year old woman, saw Respondent for the
10 first time. Patient SF began but did not complete a patient history form on which she indicated
11 she had a liver digestive disorder, neuropathy, hormones, headaches, temporomandibular (TMJ)
12 pain, and head and neck pain. Respondent recorded in the progress notes that patient SF
13 complained of a stabbing pain in the bottom of her feet, hot flashes, night sweats, and being tired.
14 Respondent treated the foot pain with acupuncture. Respondent did not record an initial history
15 and physical exam.

16 11. From about April 3, 2010 to or about April 29, 2010, Respondent saw patient SF
17 seven times and continued to treat patient SF with acupuncture for the same general problems.
18 During this time, Respondent did not record any problem-focused physical findings.

19 12. On or about May 19, 2010, Respondent saw patient SF for “Liver disorder, yellow
20 eyes, Digestion problem, feet tingling.” Other than yellow eyes, Respondent did not record any
21 problem-focused physical findings. Respondent treated the patient with acupuncture and herbs,
22 but did not record the herbal remedy she provided to the patient.

23 13. On or about May 24, 2010, Respondent saw patient SF again. Respondent recorded
24 “Herb” followed by what appear to be Chinese characters. Respondent did not record any
25 problem-focused physical findings or the herbal remedy she provided.

26 14. On or about May 26, 2010, Respondent saw patient SF again, and recorded that the
27 patient was “very much tired & pain Send her to Hospital w/ her mother.” Respondent treated
28 the patient with acupuncture. Respondent did not record any problem-focused physical findings.

1 15. Respondent committed unprofessional conduct by failing to maintain adequate and
2 accurate records relating to the services she provided to patient SF, as follows:

3 A. Respondent failed to record an initial history and physical exam when she first
4 saw patient SF.

5 B. Respondent failed to any record problem-focused physical findings for the
6 follow-up visits between April 3, 2010 and May 26, 2010.

7 C. Respondent failed to record the herbal remedies she provided for patient SF on
8 May 19 and 24, 2010.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct)

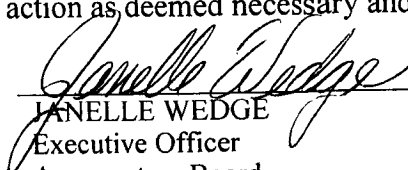
11 16. Respondent is further subject to disciplinary action under section 4955, as defined by
12 section 4955, subdivision (d), and California Code of Regulations, title 16, section 1399.453, in
13 that she committed unprofessional conduct by failing to keep complete and accurate records in
14 her care and treatment of patient S.F., as set forth in paragraphs 9 through 15 above.

15 **PRAYER**

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

- 18 1. Revoking, suspending, imposing probationary conditions or other discipline on
19 Acupuncture License Number AC 10825, issued to Respondent Yue Ling Eileen Han, L.Ac.;
- 20 2. Ordering Respondent Yue Ling Eileen Han, L.Ac., to pay the Acupuncture Board the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code sections 4959 and 125.3, subdivision (i); and,
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: **JUL 28 2011**

25 
26 JANELLE WEDGE
27 Executive Officer
28 Acupuncture Board
Department of Consumer Affairs
State of California
Complainant