

FILED
SAN BERNARDINO COUNTY
SUPERIOR COURT
OCT 08 2018
BY *[Signature]*
CARRA HUSTON, DEPUTY

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

THOMAS CHARLES FLACH, JR.,

Defendant.

ACUPUNCTURE BOARD OF
CALIFORNIA, DEPARTMENT OF
CONSUMER AFFAIRS, STATE OF
CALIFORNIA,

Petitioner.

Case No. MSB18010925

~~PROPOSED~~ ORDER RESTRICTING
DEFENDANT'S PRACTICE OF
ACUPUNCTURE

[Penal Code, §§ 23, 1204.5, 1275]

Date: October 3, 2018

Time: 1:45 p.m.

Dept.: S7

Judge: Hon. Raymond L. Haight III

The Court having noted the appearance of Deputy Attorney General Michael J. Yun on behalf of Benjamin Bodea, in his official capacity as the Executive Officer of the Acupuncture Board of California, Department of Consumer Affairs, State of California, for Recommendation by the Acupuncture Board of California re: Restriction on Practice of Thomas Charles Flach, Jr., L.Ac. as an acupuncturist filed with the Court, and having accepted the stipulation between Defendant Thomas Charles Flach, Jr., and Petitioner Benjamin Bodea,

1 **IT IS HEREBY ORDERED** that:

2 1. Defendant Thomas Charles Flach, Jr., holder of Acupuncture License No. AC 11773,
3 is prohibited from treating or seeing female patients and minor patients, as an acupuncturist. This
4 paragraph goes into effect immediately.

5 2. Defendant shall maintain a log of all patients seen or treated by him. The log shall
6 contain: (1) the patient's name, sex, address, and phone number; and ~~(2) patient's medical record~~
7 ~~number.~~ Defendant shall keep this log in a separate file or ledger, in chronological order, shall
8 make the log available for immediate inspection and copying at all times during business hours by
9 the Acupuncture Board of California or their designees, and shall retain the log for the entire term
10 of this Order. Defendant has 48 hours after 1:45 p.m. on Wednesday, October 3, 2018, to inform
11 and educate his clinical staff of his requirements under this paragraph, put in place necessary
12 arrangements and systems for keeping this particular log, at his clinic, up-and-running by 1:45
13 p.m. on Friday, October 5, 2018. This log shall be available for immediate inspection and
14 copying at all times during business hours by the Acupuncture Board of California or their
15 designees starting at 1:45 p.m. on Friday, October 5, 2018, and Defendant shall retain the log at
16 his clinic for the entire term of this Order.

17 3. Defendant's existing female patients may be seen or treated by a California-licensed
18 acupuncturist, other than the Defendant, that works at Defendant's clinic, barring any current or
19 prior license restrictions imposed or pending against the acupuncturist. However, at no time,
20 shall Defendant be allowed to be in the same room as female patients. This acupuncturist, other
21 than the Defendant, ("Assisting Acupuncturist") who may provide acupuncture services to the
22 existing female patients at Defendant's clinic must be vetted and approved by the Acupuncture
23 Board prior to commencing work at the Defendant's clinic. No later than two (2) weeks prior to
24 his/her commencement of work as an acupuncturist at the Defendant's clinic, Defendant shall
25 provide the name and the Acupuncturist License number of the Assisting Acupuncturist to the
26 Acupuncture Board, so it can verify the current standing of his/her license and to ensure that
27 he/she does not have any prior discipline or restriction imposed on or any pending action against
28 his/her license. Prior to his/her commencement of working at the Defendant's clinic, the

1 Assisting Acupuncturist shall be notified by the Defendant regarding the reason for his/her
2 employment at the clinic and be provided a full copy of the Superior Court Order and the current
3 signed stipulation agreement. This paragraph goes into effect immediately.

4 4. All female patients that enter Defendant's clinic will be orally notified by a staff
5 member other than Defendant that Defendant is "prohibited from treating female patients until
6 further notice." This paragraph goes into effect immediately. All female patients that enter
7 Defendant's clinic on October 3, 2018, October 4, 2018, and prior to 1:45 p.m. on October 5,
8 2018, will be orally notified by a staff member other than Defendant that Defendant is "prohibited
9 from treating female patients until further notice," and again at their next entry into the
10 Defendant's clinic after 1:45 p.m. on October 5, 2018, at which time the latter oral notification
11 will be recorded in the log referenced under Paragraph 5.

12 5. Defendant shall also maintain a separate log of all female patients seen or treated at
13 his clinic and to whom the required oral notification was made. The log shall contain: (1) the
14 patient's name, address, and phone number; (2) ~~patient's medical record number~~; (3) the full
15 name of the person making the oral notification; (4) the date the notification was made; and (5) a
16 description of the notification given. Defendant shall keep this log in a separate file or ledger, in
17 chronological order, shall make the log available for immediate inspection and copying at all
18 times during business hours by the Medical Board of California or their designees, and shall
19 retain the log for the entire term of this Order. Defendant has 48 hours after 1:45 p.m. on
20 Wednesday, October 3, 2018, to inform and educate his clinical staff of his requirements under
21 this paragraph, put in place necessary arrangements and systems for keeping this particular log, at
22 his clinic, up-and-running by 1:45 p.m. on Friday, October 5, 2018. This log shall be available
23 for immediate inspection and copying at all times during business hours by the Acupuncture
24 Board of California or their designees starting at 1:45 p.m. on Friday, October 5, 2018, and
25 Defendant shall retain the log at his clinic for the entire term of this Order.

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6. This Order shall remain in effect while Defendant is in custody, released on bail or on his O.R., and during any appeal of the criminal action, or until further order of this Court.

IT IS SO ORDERED.

Dated: OCT 03 2018

Raymond A. Wright III

JUDGE OF THE SUPERIOR COURT
STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

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XAVIER BECERRA
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Facsimile: (619) 645-2061

Attorneys for Petitioner

FILED
SAN BERNARDINO COUNTY
SUPERIOR COURT
OCT 03 2018
BY: *[Signature]*
CARA HUSTON, DEPUTY

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

THOMAS CHARLES FLACH, JR.,

Defendant.

Case No. MSB18010925

**STIPULATION FOR RESTRICTION OF
DEFENDANT'S PRACTICE OF
ACUPUNCTURE**

Date: October 3, 2018
Time: 1:45 p.m.
Dept.: S7
Judge: Hon. Raymond L. Haight III

ACUPUNCTURE BOARD OF CALIFORNIA, DEPARTMENT OF CONSUMER AFFAIRS, STATE OF CALIFORNIA,

Petitioner.

1 Thomas Charles Flach, Jr. (Defendant), and Benjamin Bodea, in his official capacity as the
2 Executive Officer of the Acupuncture Board of California, Department of Consumer Affairs
3 (Acupuncture Board), by and through their respective counsel, hereby stipulate to the following:

4 1. Defendant is an acupuncturist licensed to practice acupuncture in the State of
5 California. Defendant's Acupuncture License No. AC 11773 was issued to him on March 30,
6 2007, and will expire on April 30, 2019, unless renewed. He is represented in this proceeding by
7 Virginia Blumenthal, Esq. and Jehan Jayakumar, Esq.

8 2. The Acupuncture Board is the state agency charged with protecting the public
9 through the licensing and discipline of acupuncturists in the State of California. The Acupuncture
10 Board is represented in the above-entitled matter by Xavier Becerra, Attorney General of the
11 State of California, by Deputy Attorney General Michael J. Yun.

12 3. On or about June 29, 2018, in Case No. MSB18010925 of the Superior Court of
13 California, County of San Bernardino, the San Bernardino County District Attorney's Office filed
14 a criminal complaint, entitled *The People of the State of California v. Thomas Charles Flach, Jr.*,
15 charging Defendant with one count of a misdemeanor violation of Penal Code section 243.4,
16 subdivision (e), subsection (1) [Sexual Battery] against JANE DOE.

17 4. Pursuant to Penal Code sections 1204.5, 1275, and 23, the Acupuncture Board, a state
18 agency, voluntarily and lawfully appeared in this criminal proceeding to make a recommendation
19 to the Court to promote the interests of justice and to protect the interests of the public because
20 the crime charged is substantially related to the qualifications, functions or duties of the licensee.
21 Pursuant to these statutory provisions, the Acupuncture Board submitted a Notice of Appearance
22 and Recommendation by the Acupuncture Board of California seeking to prohibit Defendant's
23 practice of acupuncture as a condition of bail, a condition of own recognizance release, or a
24 condition of probation.

25 5. The parties, through their respective attorneys, have agreed to the issuance of the
26 appended Order by this Court regarding the restriction of Defendant's practice of acupuncture,
27 and Defendant hereby agrees that he shall be prohibited from treating or seeing female patients

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1 and minor patients, as an acupuncturist, by order of this Court, until the completion of this
2 criminal proceeding and during any appeal of the criminal action.

3 6. Defendant further agrees that he will maintain a log of all patients seen or treated by
4 him. Defendant agrees the log shall contain: (1) the patient's name, sex, address, and phone
5 number; and (2) patient's medical record number. ^{M.Y. 10/3/2018} ~~and (2) patient's medical record number.~~ ^{2/10/18} Defendant agrees he will keep this log in a
6 separate file or ledger, in chronological order, shall make the log available for immediate
7 inspection and copying at all times during business hours by the Acupuncture Board of California
8 or their designees, and shall retain the log for the entire term of this Order. Defendant has 48
9 hours after 1:45 p.m. on Wednesday, October 3, 2018, to inform and educate his clinical staff of
10 his requirements under this paragraph, put in place necessary arrangements and systems for
11 keeping this particular log, at his clinic, up-and-running by 1:45 p.m. on Friday, October 5, 2018.
12 This log shall be available for immediate inspection and copying at all times during business
13 hours by the Acupuncture Board of California or their designees starting at 1:45 p.m. on Friday,
14 October 5, 2018, and Defendant shall retain the log at his clinic for the entire term of this Order.

15 7. Defendant's existing female patients may be seen or treated by a California-licensed
16 acupuncturist, other than the Defendant, that works at Defendant's clinic, barring any current or
17 prior license restrictions imposed or pending against the acupuncturist. However, at no time,
18 shall Defendant be allowed to be in the same room as female patients. This acupuncturist, other
19 than the Defendant, ("Assisting Acupuncturist") who may provide acupuncture services to the
20 existing female patients at Defendant's clinic must be vetted and approved by the Acupuncture
21 Board prior to commencing work at the Defendant's clinic. No later than two (2) weeks prior to
22 his/her commencement of work as an acupuncturist at the Defendant's clinic, Defendant shall
23 provide the name and the Acupuncturist License number of the Assisting Acupuncturist to the
24 Acupuncture Board, so it can verify the current standing of his/her license and to ensure that
25 he/she does not have any prior discipline or restriction imposed on or any pending action against
26 his/her license. Prior to his/her commencement of working at the Defendant's clinic, the
27 Assisting Acupuncturist shall be notified by the Defendant regarding the reason for his/her

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1 employment at the clinic and be provided a full copy of the Superior Court Order and the current
2 signed stipulation agreement.

3 8. Defendant further agrees that all female patients that enter Defendant's clinic will be
4 orally notified by a staff member other than Defendant that Defendant is "prohibited from treating
5 female patients until further notice." This paragraph (Paragraph 8) goes into effect immediately
6 without any delay. All female patients that enter Defendant's clinic on October 3, 2018, October
7 4, 2018, and prior to 1:45 p.m. on October 5, 2018, will be orally notified by a staff member other
8 than Defendant that Defendant is "prohibited from treating female patients until further notice,"
9 and again at their next entry into the Defendant's clinic after 1:45 p.m. on October 5, 2018, at
10 which time the latter oral notification will be recorded in the log referenced under Paragraph 9.

11 9. Defendant further agrees that he will ensure he and his clinical staff will maintain a
12 separate log of all female patients seen or treated at his clinic and to whom the required oral
13 notification was made. The log shall contain: (1) the patient's name, address, and phone number;
14 ~~(2) patient's medical record number;~~ *M.G. 10/3/18*
15 *M.Y. 10/3/2018* (3) the full name of the person making the oral notification;
16 (4) the date the notification was made; and (5) a description of the notification given. Defendant
17 shall keep this log in a separate file or ledger, in chronological order, shall make the log available
18 for immediate inspection and copying at all times during business hours by the Acupuncture
19 Board of California or their designees, and shall retain the log for the entire term of this Order.
20 Defendant has 48 hours after 1:45 p.m. on Wednesday, October 3, 2018, to inform and educate
21 his clinical staff of his requirements under this paragraph, put in place necessary arrangements
22 and systems for keeping this particular log, at his clinic, up-and-running by 1:45 p.m. on Friday,
23 October 5, 2018. This log shall be available for immediate inspection and copying at all times
24 during business hours by the Acupuncture Board of California or their designees starting at 1:45
25 p.m. on Friday, October 5, 2018, and Defendant shall retain the log at his clinic for the entire term
26 of this Order.

27 10. At all times during the term of this Order, Defendant must post on a wall in the lobby
28 and in clear sight a sign with font size no less than Size 50, in either Arial font or Times New

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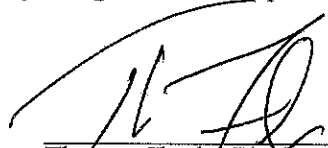
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Roman, which reads, "Effective 10/3/2018, Thomas Flach, L.Ac. may not see or treat any female patients or minors until further notice. Sorry for the inconvenience. - Management."

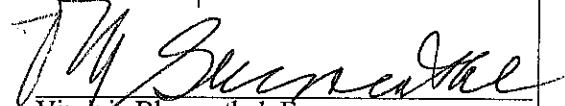
11. It is agreed that a facsimile or electronic copies of signatures to this Stipulation shall be binding as originals, and that this Stipulation may be signed in counterpart.

IT IS SO STIPULATED.


Dated: 10/3/18


Thomas Charles Flach, Jr., L.Ac.
Defendant


Dated: 10/3/18


Virginia Blumenthal, Esq.
Attorney for Defendant

Dated: 10/3/18


Jehan Jayakumar, Esq.
Co-counsel for Defendant

Dated: 10/3/2018


XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

MICHAEL J. YUN
Deputy Attorney General
*Attorneys for Petitioner Executive Director
of the Medical Board of California*



SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
San Bernardino District
247 West 3rd St
San Bernardino, CA 92415
www.sb-court.org

MINUTE ORDER

Case Number: MSB18010925

Date: 10/3/2018

Case Title: People of the State of California vs. Thomas Charles Flach, Jr.

Department S7 - SBJC

Date: 10/3/2018

Time: 1:30 PM

Motion Hearing

Charges: PC243.4(E)(1)-M

Judicial Officer: Raymond L Haight III
Judicial Assistant: Cara Huston
Court Reporter: D'Anne Goatcher
Bailliff: K. Sutton

Appearances

Attorney General Michael Yun
District Attorney Robert Knox
Retained Attorney Virginia Blumenthal and Jehan Jayakumar
Defendant present not in custody

Proceedings

Off the record, Court and counsel confer in chambers.

Parties have resolved issues with a stipulation.

Attorney General Michael Yun reads into the record Paragraph 10 of the Stipulation which is not included in the order - parties orally stipulate to Paragraph 10 on the record.

Order signed.

Stipulation and Order signed.

People's Motion to modify the existing Criminal Protective Order is granted.
Criminal Protective Order Issued/Filed
Defendant served with a copy of the order by the bailiff in the courtroom.

Hearings

Pretrial set for 12/6/2018 at 8:30 AM in Department S7 - SBJC
Defendant ordered to appear.

Waivers

General time waiver remains in effect

Custody Status

Case Custody - Bail Bond

== Minute Order Complete ==