In the Matter of the Accusation Against: Case No. 1A-2013-2
Hong Ki Yoon, L.Ac.
1010 Arlington Avenue
Los Angeles, California 90019
Acupuncture License No. AC 2219
Respondent.

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 (Board).

2. On or about December 29, 1983, the Board issued Acupuncture License No. AC 2219 to Hong Ki Yoon (Respondent). The license has been in effect at all times relevant to the charges herein and will expire on March 31, 20014, unless renewed.

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 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:

"(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

"(b) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

"(c) False or misleading advertising.

"(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.

"(e) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

"The board shall seek to ensure that licensees are informed of the responsibility
of licensees and others to follow infection control guidelines, and of the most recent
scientifically recognized safeguards for minimizing the risk of transmission of
blood-borne infectious diseases.

"(f) The use of threats or harassment against any patient or licensee for
providing evidence in a disciplinary action, other legal action, or in an investigation
contemplating a disciplinary action or other legal action.

"(g) Discharging an employee primarily for attempting to comply with the
terms of this chapter.

"(h) Disciplinary action taken by any public agency for any act substantially
related to the qualifications, functions, or duties of an acupuncturist or any
professional health care licensee.

"(i) Any action or conduct that would have warranted the denial of the
acupuncture license.

"(j) The violation of any law or local ordinance on an acupuncturist's business
premises by an acupuncturist's employee or a person who is working under the
acupuncturist's professional license or business permit, that is substantially related to
the qualifications, functions, or duties of an acupuncturist. These violations shall
subject the acupuncturist who employed the individuals, or under whose
acupuncturist license the employee is working, to disciplinary action.

"(k) The abandonment of a patient by the licentiate without written notice to the
patient that treatment is to be discontinued and before the patient has had a reasonable
opportunity to secure the services of another practitioner.

"(l) the failure to notify the board of the use of any false, assumed, or fictitious
name other than the name under which he or she is licensed as an individual to
practice acupuncture."

5. 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."

6. Section 4955.1 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 a fraudulent act including, but not be limited to, any of the following:

"(a) Securing a license by fraud or deceit.

"(b) Committing a fraudulent or dishonest act as an acupuncturist.

"(c) Committing any act involving dishonesty of corruption with respect to the qualifications, functions, or duties of an acupuncturist.

"(d) Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record."
“(e) Failing to maintain adequate and accurate records relating to the provision of
services to their patients.”

7. 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 one of the following:

"(a) Gross negligence.
"(b) Repeated negligent acts.
"(c) Incompetence."

8. Section 4956 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
is deemed to be a conviction within the meaning of this chapter.

The board may order a license suspended or revoked, or may deny a license, or may
impose probationary conditions upon a license, when the time for appeal has elapsed, or the
judgment of conviction has been affirmed on appeal, or when an order granting probation is made
suspending the imposition of sentence irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
complaint, information, or indictment.

9. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a
board may suspend or revoke a license on the ground that the licensee has been convicted of a
crime, if the crime is substantially related to the qualifications, functions, or duties of the business
or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to
discipline a licensee for conviction of a crime that is independent of the authority granted under
subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
of the business or profession for which the licensee's license was issued.
(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

10. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"
FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)

11. Respondent is subject to disciplinary action under section 4955, subdivision (b), and section 490 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

12. On or about February 6, 2012, in the case of The People of the State of California v. Hong Ki Yoon, Los Angeles County Superior Court case number BA39146, an information was filed alleging in count 1 that Respondent had violated Penal Code section 12316, subdivision (b)(1), convicted felon in possession of ammunition, a felony.¹

13. On or about March 1, 2012, in the case of The People of the State of California v. Hong Ki Yoon, Los Angeles County Superior Court case number BA39146, Respondent plead not guilty to count 1 as more set forth above in paragraph 12.

14. On or about October 16, 2012, in the case of The People of the State of California v. Hong Ki Yoon, Los Angeles County Superior Court case number BA39146, the court ordered the information to be amended to add count 2, a violation of Penal Code section 459, second degree commercial burglary, a felony. Respondent pled nolo contendere to, and was found guilty, and convicted of, count 2. Imposition of sentence was suspended and Respondent was placed on formal probation for three years and ordered to spend 44 days in County Jail, pay fines and fees and perform 400 hours of community service. Count 1 was dismissed pursuant to the plea agreement.

SECOND CAUSE FOR DISCIPLINE
(Conviction of a Crime)

15. Respondent is subject to disciplinary action under section 4955, subdivision (b), and section 490 of the Code in that he was convicted of a crime substantially related to the

qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

16. On or about August 13, 2004, Los Angeles Police officers responded to a radio call regarding a child abuse investigation at Wilton Place Elementary School. The officers were met by the assistant principal who indicated that the child’s teacher having observed a red mark on the child’s thigh and was told by the child that the father punished him the night before for not completing his home work. The child subsequently confirmed this to the officers.

17. On or about September 20, 2004, a criminal complaint was filed in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number 4CR13124, alleging in count 1 a violation of Penal Code section 273d, subdivision (a), corporal punishment or injury of a child, a misdemeanor, and, in count 2, a violation of Penal Code section 273a, subdivision (b), child endangerment, a misdemeanor.

18. On or about October 6, 2004, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number 4CR13124, Respondent pled not guilty to counts 1 and 2.

19. On or about December 17, 2004, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number 4CR13124, the complaint was amended to add count 3, a violation of Penal Code section 242, battery, a misdemeanor. Respondent pled nolo contendere to count 3 and was found guilty and convicted of that count. Imposition of sentencing was suspended and Respondent was placed on 36 months of summary probation and ordered to complete a one year parenting class and not to use physical discipline. Counts 1 and 2 were dismissed as part of the plea negotiation.

THIRD CAUSE FOR DISCIPLINE
(Conviction of a Crime)

20. Respondent is subject to disciplinary action under section 4955, subdivision (b), and section 490 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

21. On or about November 12, 1990, Respondent was consuming alcohol on a public street in the MacArthur Park area of Los Angeles. He engaged in an argument with another
individual during which he hit that person, the victim, over the head with a bottle of alcohol, breaking the bottle. He then stabbed the victim in the back with the broken bottle. Respondent was arrested based on Penal Code section 245, assault with a deadly weapon.

22. On or about February 13, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA033721, a felony complaint was filed against Respondent alleging in count 1 a violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon based on the circumstances set forth in paragraph 20 above.

23. On or about March 25, 1991, Los Angeles Police officers were called to a hotel on Silverlake Boulevard in Los Angeles where it was reported that an assault with a deadly weapon was in progress. Officers were directed to room 408, where they found the door open. Upon entering the room, Respondent was observed standing over a bed in which a bloody female victim was lying under bloodied sheets. Among other things, the police officers found a bloodied bottle of Thunderbird wine in the room and three teeth of the victim under the bed. When Respondent was arrested he spontaneously stated, “Why are you arresting me? We are not hurting anyone. She asked me to tie her up and beat her so I did.”

24. On or about March 27, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA033721, Respondent pled not guilty to count 1 as more fully set forth in paragraph 22 above.

25. On or about March 27, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA036240, a further felony complaint was filed against Respondent alleging in count 1 a violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon; in counts 2, 3 and 4, violations of Penal Code section 288a, subdivision (c), oral copulation; and in counts 5, 6 and 7, violations of Penal Code section 289, subdivision (a), forcible acts of sexual penetration, based on the circumstances set forth in paragraph 23 above. Respondent pled not guilty to all counts.

26. On or about May 6, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA033721, a preliminary hearing
was conducted and Respondent was held to answer.

27. On or about May 6, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA036240, a preliminary hearing was conducted and Respondent was held to answer on counts 1, 5, 6 and 7, as more fully set forth in paragraph 25 above.

28. On or about May 20, 1991, on the court's own motion, the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA036240, was consolidated into the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA033721 as counts 1, 2, 3, 4 and 5.

29. On or about August 19, 1991, in the case of The People of the State of California v. Hong Ki Yoon, County of Los Angeles Superior Court case number BA033721, Respondent withdrew his plea of not guilty to counts 1 and 2 and plead guilty to counts 1 and 2. Respondent was found guilty and convicted of two counts of a violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon, a felony. Respondent was sentenced to 8 years in prison. All remaining counts were dismissed in the interests of justice. Respondent was remanded to the custody of the Sheriff to be delivered forthwith into the custody of the Department of Corrections and Rehabilitation at its Reception Center in Chino, California.

FOURTH CAUSE FOR DISCIPLINE

(Add of Alcohol)

30. Respondent is subject to disciplinary action under section 4955, subdivision (a), of the Code in that Respondent used alcoholic beverages to an extent or in a manner dangerous to himself, or to any other person, or to the public, and to an extent that the use impairs his ability to engage in the practice of acupuncture with safety to the public. The circumstances are as follows:

31. The facts and circumstances alleged in paragraphs 21 and 23 above are incorporated here as if fully set forth.

32. On or about January 1, 2013, Respondent was at the residence of an acquaintance in Los Angeles. Respondent and the acquaintance were drinking. Respondent engaged in a
argument regarding fishing with the acquaintance. Respondent became angry and hit the
acquaintance over the head with a tequila bottle. The acquaintance subsequently went to the
hospital which reported the matter to the police. Respondent was subsequently taken into custody
based on Penal Code section 245, subdivision (a)(1), assault with a deadly weapon. Thereafter,
Respondent’s probation, which was based on his conviction in The People of the State of
California v. Hong Ki Yoon, Los Angeles County Superior Court case number BA39146, was
revoked and Respondent was remanded into custody.

FIFTH CAUSE FOR DISCIPLINE
(Dishonesty)

33. Respondent is subject to disciplinary action under section 4955.1, subdivision (c), of
the Code in that he engaged in an act involving dishonesty or corruption with respect to the
qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

34. On or about March 2, 2006, the Board received a certification from Respondent in
connection with his renewal of his acupuncture license in which he affirmed under penalty of
perjury under the laws of the State of California that subsequent to his last renewal of his license
he had not been convicted of, pled guilty to, or pled nolo contendere to, a misdemeanor or felony.
In truth and fact, since he last renewed his acupuncture license, Respondent had been convicted
on December 17, 2004, of Penal Code section 242, battery, a misdemeanor, as more fully set forth
in paragraphs 16 through 19 above.

SIXTH CAUSE FOR DISCIPLINE
(Conduct That Would Have Warranted the Denial of an Acupuncture License)

35. Respondent is subject to disciplinary action under section 4955, subdivision (i), of the
Code in that he engaged in action or conduct that would have warranted the denial of an
acupuncture license. The circumstances are as follows:

36. The facts and circumstances set forth in paragraphs 11 through 34 above are
incorporated here as if fully set forth.

DISCIPLINE CONSIDERATIONS

37. To determine the degree of discipline, if any, to be imposed on Respondent,
Complainant alleges that on or about October 16, 2012, in the case of *The People of the State of California v. Hong Ki Yoon*, Los Angeles County Superior Court case number BA39146, Respondent pled nolo contendere to, and was found guilty and convicted of a violation of Penal Code section 459, second degree commercial burglary, a felony, and was placed on formal probation for three years and ordered to spend 44 days in County Jail, pay fines and fees and perform 400 hours of community service. The record of the criminal proceeding is incorporated as if fully set forth.

38. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about December 17, 2004, in the case of *The People of the State of California v. Hong Ki Yoon*, County of Los Angeles Superior Court case number 4CR13124, Respondent pled nolo contendere and was found guilty and convicted of a violation of Penal Code section 242, battery, a misdemeanor, and was placed on 36 months of summary probation and ordered to complete a one-year parenting class and not to use physical discipline. The record of the criminal proceeding is incorporated as if fully set forth.

39. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 19, 1991, in the case of *The People of the State of California v. Hong Ki Yoon*, County of Los Angeles Superior Court case number BA033721, Respondent was found guilty and convicted of two counts of a violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon, a felony, and was sentenced to eight years in prison. The record of the criminal proceeding is incorporated 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 Acupuncture License No. AC 2215, issued to Hong Ki Yoon, L.Ac.;

2. Ordering Hong Ki Yoon, L.Ac. 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. Ordering Hong Ki Yoon, L.Ac., if placed on probation, to pay the Acupuncture Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: 6/10/13

Terri Thorfinnson
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant