## BEFORE THE CALIFORNIA ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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In the Matter of the Accusation Against:

WEI-CHIEH YOUNG, L.AC. 18674 Fieldbrook St. Rowland Heights, CA 91748 Acupuncture License No. AC 781

Respondent.

Case No. 1A-2010-154

#### **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the

California Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on		JUL 0 9 2015	
It is so ORDERED	JUN 0 9 2015		

Czyntr.

Michael Shi, L.Ac, Chair Acupuncture Board Department of Consumer Affairs State of California

1	KAMALA D. HARRIS Attorney General of California		
2	JUDITH T. ALVARADO Supervising Deputy Attorney General		
3	WENDY WIDLUS Deputy Attorney General		
4	State Bar No. 82958 California Department of Justice		
5	300 South Spring Street, Suite 1702 Los Angeles, California 90013		
6	Telephone: (213) 576-7149 Facsimile: (213) 897-9395		
7	Attorneys for Complainant		
8	BEFORE THE ACUPUNCTURE BOARD		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 1A-2010-154	
12	WEI-CHIEH YOUNG, L.Ac. 18674 Fieldbrook Street	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER	
13	Rowland Heights, CA 91748 Acupuncture License No. AC 781,		
14 15	Respondent.		
16	IT IS HEDEDY STIDLIL ATED AND A CI		
17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
18	entitled proceedings that the following matters are true:		
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		<u>TIES</u>	
19 20	1. Terri Thorfinnson ("Complainant") i	s the Executive Officer of the Acupuncture	
20	1. Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by	
20 21	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by	
20 21 22	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy	
20 21 22 23	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> <li>Respondent Wei-Chieh Young, L.Ac</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy c. ("Respondent") is represented in this	
<ul> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ul>	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> <li>Respondent Wei-Chieh Young, L.Ac proceeding by attorney Jehan N. Jayakumar, who</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy c. ("Respondent") is represented in this ose address is: Carlson & Jayakumar	
<ul> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ul>	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> <li>Respondent Wei-Chieh Young, L.Ad proceeding by attorney Jehan N. Jayakumar, who 2424 S.E. Bristol Street, Suite 300, Newport Bea</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy c. ("Respondent") is represented in this ose address is: Carlson & Jayakumar ach, CA 92660.	
<ol> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> <li>Respondent Wei-Chieh Young, L.Ac proceeding by attorney Jehan N. Jayakumar, who 2424 S.E. Bristol Street, Suite 300, Newport Bea 3. On or about May 10, 1978, the Acup</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy c. ("Respondent") is represented in this ose address is: Carlson & Jayakumar ach, CA 92660.	
<ul> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ul>	<ol> <li>Terri Thorfinnson ("Complainant") i Board. She brought this action solely in her offic Kamala D. Harris, Attorney General of the State Attorney General.</li> <li>Respondent Wei-Chieh Young, L.Ad proceeding by attorney Jehan N. Jayakumar, who 2424 S.E. Bristol Street, Suite 300, Newport Bea</li> </ol>	s the Executive Officer of the Acupuncture cial capacity and is represented in this matter by of California, by Wendy Widlus, Deputy c. ("Respondent") is represented in this ose address is: Carlson & Jayakumar ach, CA 92660.	

relevant to the charges brought in Accusation No. 1A-2010-154 and will expire on September 30, 1 2016, unless renewed. 2 JURISDICTION 3 4. Accusation No. 1A-2010-154 was filed before the Acupuncture Board (Board). 4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation 5 and all other statutorily required documents were properly served on Respondent on June 20, 6 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of 7 Accusation No. 1A-2010-154 is attached as exhibit A and incorporated herein by reference. 8 9 ADVISEMENT AND WAIVERS 5. 10 Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2010-154. Respondent has also carefully read, 11 fully discussed with counsel, and understands the effects of this Stipulated Settlement and 12 Disciplinary Order. 13 6. Respondent is fully aware of his legal rights in this matter, including the right to a 14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at 15 his own expense; the right to confront and cross-examine the witnesses against him; the right to 16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel 17 the attendance of witnesses and the production of documents; the right to reconsideration and 18 court review of an adverse decision; and all other rights accorded by the California 19 Administrative Procedure Act and other applicable laws. 20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and 21 every right set forth above. 22 23 CULPABILITY Respondent admits the truth of each and every charge and allegation in Accusation 8. 24 No. 1A-2010-154. 25 9. Respondent agrees that his Acupuncture License is subject to discipline and he agrees 26 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below. 27 111 28

#### CONTINGENCY

2	10. This stipulation shall be subject to approval by the Acupuncture Board. Respondent
3	understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may
4	communicate directly with the Board regarding this stipulation and settlement, without notice to
5	or participation by Respondent or his counsel. By signing the stipulation, Respondent
6	understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
7	prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
8	as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
9	effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
10	and the Board shall not be disqualified from further action by having considered this matter.
11	11. The parties understand and agree that Portable Document Format (PDF) and facsimile

copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

In consideration of the foregoing admissions and stipulations, the parties agree that 12. 14 the Board may, without further notice or formal proceeding, issue and enter the following 15 Disciplinary Order: 16

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### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Acupuncture License No. AC 781 issued to Respondent 18 Wei-Chieh Young, L.Ac. is revoked. However, the revocation is stayed and Respondent is placed 19 on probation for three (3) years on the following terms and conditions. 20

1. **REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING** 21 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to 22 23 ensure compliance for the duration of the probation period.

2. COURSEWORK Respondent shall take and successfully complete not less than 24 twenty (20) hours of coursework which the Board's probation monitor approves. All coursework 25 shall be taken at the graduate level at a school approved by the Board's probation monitor. 26 27 Classroom attendance must be specifically required and must be taken at a school where Respondent has no professional affiliation. Respondent shall complete coursework and 28

certification in clean needle technique. Additional course content shall include public health, community health and disease prevention; communicable disease, public health alerts, and 2 epidemiology. The required coursework must be in addition to any continuing education courses 3 that may be required for license renewal. 4

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3. Within 90 days of the effective date of this decision, Respondent shall submit a plan 5 for the Board's prior approval for meeting the educational requirements. All costs of the 6 7 coursework shall be borne by the Respondent.

4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all 8 regulations governing the practice of acupuncture in California. A full and detailed account of 9 any and all violations of law shall be reported by the Respondent to the Board in writing within 10 seventy-two (72) hours of occurrence. 11

5. QUARTERLY REPORTS Respondent shall submit quarterly declarations under 12 penalty of perjury on forms provided by the Board, stating whether there has been compliance 13 with all the conditions of probation. 14

6. SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation 15 surveillance program and shall, upon reasonable notice, report to the assigned investigative 16 17 district office. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Respondent shall not have any unsolicited or 18 unapproved contact with 1) victims or complainants associated with the case; 2) Board members 19 or members of its staff; or 3) persons serving the Board as expert examiners. 20

7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in 21 person for interviews with the Board or its designee upon request at various intervals and with 22 reasonable notice. 23

8. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, 24 through the assigned probation surveillance compliance officer of any and all changes of 25 employment, location and address within 30 days of such change. 26

9. 27 TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event Respondent should leave California to reside or to practice outside the State, Respondent must 28

notify the Board in writing of the dates of departure and return. Periods of residency or practice
 outside California will not apply to the reduction of this probationary period.

10. <u>EMPLOYMENT AND SUPERVISION OF TRAINEES</u> Respondent shall not
 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
 this probation. Respondent shall terminate any such supervisorial relationship in existence on the
 effective date of this probation.

7 11. <u>COST RECOVERY</u> Respondent shall pay to the Board its costs of investigation and
 8 enforcement in the amount of \$11,165.75.

- 9 12. <u>VIOLATION OF PROBATION</u> If Respondent violates probation in any respect, the 10 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and 11 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is 12 filed against Respondent during probation, the Board shall have continuing jurisdiction until the 13 matter is final, and the period of probation shall be extended until the matter is final. No petition 14 for modification or termination of probation shall be considered while there is an accusation or 15 petition to revoke probation pending against Respondent.
- 16 13. <u>COMPLETION OF PROBATION</u> Upon successful completion of probation,
   17 Respondent's license will be fully restored.

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#### ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
discussed it with my attorney, Jehan N. Jayakumar. I understand the stipulation and the effect it
will have on my Acupuncture License. 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: 1-29-2015

Respondent

1	I have read and fully discussed with Respondent, Wei-Chieh Young, L.Ac. the terms and	
2	conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.	
3	I approve its form and content.	
4	DATED: January 30,2015 (Joha Dalla	
5	Jehan N. Jayakumar Attorney for Respondent	
6		
7	ENDORSEMENT	
8	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully	
9	submitted for consideration by the Acupuncture Board. Dated: Respectfully submitted.	
10	Dated: Respectfully submitted, KAMALA D. HARRIS	
11	Attorney General of California	
12	ATTIN	
13	JUDITH T. ALVARADO	
14	Supervising Deputy Attorney General Attorneys for Complainant	
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# Exhibit A

Accusation No. 1A-2010-154

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1	KAMALA D. HARRIS Attorney General of California JUDITH T. ALVARADO	FILED
3	Supervising Deputy Attorney General	
	WENDY WIDLUS Deputy Attorney General	JUN 2 0 2014
4	State Bar No. 82958 California Department of Justice 300 South Spring Street, Suite 1702	ACUPUNCTURE BOARD
6	Los Angeles, California 90013 Telephone: (213) 897-2867	
7	Facsimile: (213) 897-9395 E-mail: <u>Wendy.Widlus@doj.ca.gov</u>	
8	Attorneys for Complainant	
9		RE THE URE BOARD
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11		
12		
13	In the Matter of the Accusation Against:	Case No. 1A-2010-154
14	Wei-Chieh Young, L.AC. 18674 Fieldbrook Street	
15	Rowland Heights, CA 91748	ACCUSATION
16	Acupuncturist License number AC 781,	
17	Respondent.	
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21	Complainant alleges:	
22	PARTIES	
23	1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity	
24	as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.	
25	2. On or about May 10, 1978, the Acupuncture Board issued Acupuncturist License	
26	Number AC 781 to Wei-Chieh Young (Respondent). That Acupuncturist License was in full	
27	force and effect at all times relevant to the charges brought herein and will expire on September	
28	30, 2014, unless renewed.	
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		Accusation

1	JURISDICTION	
2	3. This Accusation is brought before the Acupuncture Board (Board), under the	
3	authority of the following laws. All section references are to the Business and Professions Code	
4	unless otherwise indicated.	
5	4. Section 4955.2 of the Code states, in pertinent part:	
6	"The board may deny, suspend, revoke, or impose probationary conditions upon the license	
7	of any acupuncturist if he or she is guilty of committing any one of the following:	
8	"(a) Gross negligence.	
9	"(b) Repeated negligent acts.	
10	····	
11	5. California Code of Regulations, title 16, section 1399.451, states, in pertinent part:	
12	"In treating a patient, an acupuncturist shall adhere to the following procedures:	
13	"(b) All acupuncture needles and other instruments shall be sterilized before and between	
14	uses in a manner which will destroy all microorganisms. All needle trays which contain sterile	
15	needles shall also be sterile. Each time needles or other instruments are sterilized, the	
16	acupuncturist shall use a tape or strip indicator which shows that sterilization is complete.	
17	··	
18	6. California Code of Regulations, title 16, section 1399.454, states:	
19	"An acupuncturist shall use needles labeled for single use only that meet the requirements	
20	of federal regulations 21 CFR Part 880.5580 (61 FR 64617, December 6, 1996). It shall	
21	constitute unprofessional conduct for an acupuncturist to use a needle more than once."	
22	COST RECOVERY	
23	7. Section 4959 of the Code states:	
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 found	
26	guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable	
27	costs of the investigation and prosecution of the case.	
28	"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in	
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1	Accusation	

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.

8 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
9 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

#### (Gross Negligence)

14 8 Respondent is subject to disciplinary action under 4955.2, subsection (a), and
15 California Code of Regulations, title 16, sections 1399.451, subdivision (b), and 1399.454, in that
16 he was grossly negligent in his care and treatment of Ms. C. U. S. The circumstances are as
17 follows:

9. The Board received a complaint that Respondent used a dirty needle during a 18 bloodletting demonstration at a course conducted at Emperors' College of Traditional Oriental 19 Medicine on August 8, 2010. During the Board investigation eight witnesses and Respondent 20 were interviewed about the demonstration. Three witnesses observed Respondent use a single 21 use disposable, unsterilized needle on Ms. C. U. S.<sup>1</sup>, the student whose blood was let for the 22 demonstration. Respondent removed the single use needle from its package, sanded or filed it 23 with sandpaper, passed it to each person in the room, swiped alcohol on it, and then used it on 24 25 Ms. C. U. S. to demonstrate proper bloodletting technique.

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<sup>1</sup> The name of the student is abbreviated to protect her privacy rights. The name will be provided to Respondent upon written request for discovery.

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The standard of care requires an acupuncturist to use a sterile needle on a person. The 1 8. standard of care requires that before sterilization or high-level disinfection, needles must be 2 thoroughly cleaned by scrubbing them with soap and water or detergent solution, or by using a 3 mechanical device such as an ultrasonic cleaner. Single use disposable needles are not designed 4 5 or intended to be cleaned, disinfected, or sterilized. The use of an unsterilized needle on a person is an extreme departure from the standard of care. 6

7 11. Respondent failed to conform to the applicable standard of care for an acupuncturist who utilized a single use, disposable needle because during his demonstration he unwrapped the 8 needle, sanded or filed it down, passed it to each person in the room, swiped alcohol on it, and 9 10 then used it on Ms. C. U. S.

Respondent's use of an unsterilized needle on a person as set forth above includes the 11 12. following acts and/or omissions which constitute extreme departures from the standard of 12 13 practice:

His improper use of a single use, disposable needle, which is not designed or A. 14 intended to be cleaned, disinfected, or sterilized. 15

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Β. His failure to use a sterile needle on Ms. C. U. S.

C. By sanding or filing down a single use needle, allowing others to handle that single 17 use needle, then attempting to sterilize a single use needle, and using a non-sterile single use 18 19 needle for a bloodletting demonstration on Ms. C. U. S.

9. Respondent's acts and/or omissions as set forth in paragraphs 9 through 12, 20 inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute 21 gross negligence pursuant to section 4955.2, subsection (a), of the Code. Therefore cause for 22 23 discipline exists.

#### SECOND CAUSE FOR DISCIPLINE

#### (Repeated Negligent Acts)

26 17. Respondent is subject to disciplinary action under 4955.2, subsection (a), and California Code of Regulations, title 16, sections 1399.451, subdivision (b), and 1399.454, in 27 28

that he was negligent in his care and treatment of Ms. C. U. S. The circumstances are as follows:

1	18.	The allegations of the First Cause for Discipline are incorporated herein by reference	
2	as if fully	as if fully set forth.	
3		PRAYER	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
5	and that following the hearing, the Acupuncture Board issue a decision:		
6	1.	Revoking or suspending Acupuncturist License Number AC 781, issued to Wei-	
7	Chieh Young;		
8	2.	2. Ordering him to pay the Acupuncture Board the reasonable costs of the investigation	
9	and enforcement of this case, pursuant to Business and Professions Code section 4959;		
10	3.	If placed on probation, ordering him to pay to the Acupuncture Board the costs of	
11	probation monitoring;		
12	4.	Taking such other and further action as deemed necessary and proper.	
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14	DATED:	JUN 2 0 2014 1 165/ 1000	
15	DATED: _	TERRI THORFIN SON	
16		Executive Officer Acupuncture Board	
17		Department of Consumer Affairs State of California	
18		Complainant	
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