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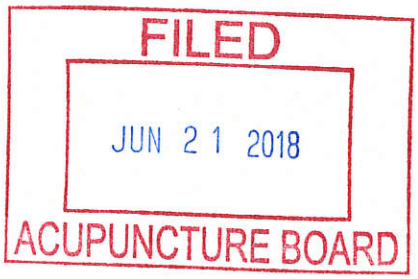

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **SUN WOO KIM, L.Ac.** **8126 Garden Park Street** **Chino, CA 91708-9347** **Acupuncturist License No. AC 9766,** Respondent.	Case No. 1A-2017-10 **ACCUSATION**

Complainant alleges:

PARTIES

1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Acupuncture Board (Board), Department of Consumer Affairs.

2. On or about March 30, 2004, the Acupuncture Board issued Acupuncturist License Number AC 9766 to SUN WOO KIM, L.Ac. (Respondent). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2019, 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 4928.1 of the Code states:

"Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. Section 4927 of the Code states, in pertinent part:

". . .

"(d) 'Acupuncture' means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion."

6. 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.

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

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

"...

"(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.

". . ."

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 726 of the Code states:

"(a) 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 or under any initiative act referred to in this division.

"(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, to his or her spouse or person in an equivalent domestic relationship."

COSTS

9. 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."

FIRST CAUSE FOR DISCIPLINE

(Sexual Relations with a Patient)

10. Respondent is subject to disciplinary action under section 726 of the Code, in that he engaged in a sexual relationship with patient 1 while she was under his professional care and treatment. The circumstances are as follows:

11. On or about January 17, 2017, the Board received a complaint regarding Respondent

having a sexual relationship with a patient. The Board initiated an investigation of the events underlying this complaint.

12. The investigation into the complaint was conducted by the Department of Consumer Affairs, Department of Investigations, Investigation and Enforcement Unit investigator (Investigator) who confirmed that Respondent was a licensed acupuncturist at all times during the time of the events referred to in the complaint.

13. During the investigation the Investigator spoke with patient 1[1] who stated she began receiving acupuncture treatments from Respondent in 2006 or 2007, and continued being treated by Respondent through July 2016.

14. Patient 1 told the Investigator that she began having consensual sexual relations with Respondent in September or October 2015, which continued through July 2016. During the time she was having consensual sexual relations with Respondent she was married to her husband and was not engaged in an equivalent domestic relationship with Respondent.

15. Patient 1 told the Investigator that from September or October 2015, through July 2016, she was receiving acupuncture treatments from Respondent approximately once a week.

16. Patient 1 told the Investigator that during the time she was having consensual sexual relations with Respondent while she was his patient he did not terminate treatment and refer her to another healthcare provider.

17. Patient 1 told the Investigator Respondent impregnated her, accompanied her to an appointment with a physician and paid for her subsequent abortion.

18. During the investigation the Investigator spoke with Respondent. Respondent stated that he had provided acupuncture treatments to patient 1 from 2006 or 2007, and continued treating patient 1 through July 2016.

19. Respondent told the Investigator that he had consensual sexual relations with patient 1 to whom he was not married nor engaged in an equivalent domestic relationship while he was treating her as an acupuncture patient from September or October 2015, through July 2016.

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[1] The names of the patient and/or witnesses are anonymized to protect privacy rights. The names will be provided to Respondent upon written request for discovery.

20. Respondent told the Investigator that he did not terminate treatment and refer patient 1 to another healthcare provider during the time he was having consensual sexual relations with patient 1.

21. Respondent told the Investigator that when he impregnated patient 1 he accompanied her to an appointment with a physician and paid for her subsequent abortion.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

22. Respondent is subject to disciplinary action under 4955.2, subsection (a), in that he was grossly negligent in his care and treatment of Patient 1. The circumstances are as follows:

23. Complainant refers to, and by reference incorporates herein, paragraphs 10 through 21, inclusive, above.

24. The standard of practice in the community requires that an acupuncturist not have a sexual relationship with a patient the acupuncturist is currently treating unless the patient is the acupuncturist's spouse or the acupuncturist and patient are in an equivalent domestic relationship.

25. The standard of practice in the community requires that an acupuncturist who is having a sexual relationship with a patient the acupuncturist is currently treating who is not the acupuncturist's spouse or with whom the acupuncturist is not in an equivalent domestic relationship terminate the patient's treatment and refer the patient to another healthcare provider.

26. Respondent's sexual relationship with patient 1 under the above circumstances is an extreme departure from the standard of practice in the community

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to disciplinary action under section 4955, generally, and subdivision (i), of the Code, in that he committed unprofessional conduct in his care and treatment of Patient 1. The circumstances are as follows:

28. Complainant refers to, and by reference incorporates herein paragraphs 9 through 20, inclusive, above.

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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 9766, issued to Sun Woo Kim, L.Ac.;

2. Ordering Sun Woo Kim, 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. If placed on probation, ordering him to pay to the Acupuncture Board the costs of probation monitoring; and

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

DATED: JUN 21 2018

BENJAMIN BODEA
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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