

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


In the Matter of the First Amended)	
Accusation Against:)	Case No.: 1A-2015-157
)	
RANDALL JAMES NEUSTAEDTER)	
1779 WOODSIDE ROAD, SUITE 201C)	
REDWOOD CITY, CA 94061)	
)	
Acupuncture License No. AC 1541)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on MAR 24 2016.

IT IS SO ORDERED FEB 23 2016.


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

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 CAROLYNE EVANS
Deputy Attorney General
4 State Bar No. 289206
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1211
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 1A-2015-157

12 **RANDALL JAMES NEUSTAEDTER**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

13 1779 Woodside Road, Suite 201C

14 Redwood City, CA 94061

15 Acupuncture License No. AC 1541

16 Respondent.
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. Terri Thorfinnson ("Complainant") is the Executive Officer of the Acupuncture
22 Board ("Board"). She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Carolyne Evans,
24 Deputy Attorney General.

25 2. Randall James Neustaedter ("Respondent") is represented in this proceeding by
26 attorney George Eschoo, whose address is 702 Marshall Street, Suite 500, Redwood City, CA
27 94063.
28

1 3. On or about August 30, 1983, the Board issued Acupuncture License No. Ac 1541 to
2 Respondent. The Acupuncture License was in full force and effect at all times relevant to the
3 charges brought in the First Amended Accusation No. 1A-2015-157 and will expire on November
4 30, 2016, unless renewed. However, Respondent's license is currently suspended by virtue of an
5 Interim Suspension Order that was issued on October 15, 2015, pursuant to Government Code
6 Section 11529.

7
JURISDICTION

8 4. First Amended Accusation No. 1A-2015-157 was filed before the Board, and is
9 currently pending against Respondent. The First Amended Accusation and all other statutorily
10 required documents were properly served on Respondent on January 19, 2016. A copy of the
11 First Amended Accusation No. 1A-2015-157 is attached as Exhibit A and incorporated by
12 reference.

13
ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in the First Amended Accusation No. 1A-2015-157. Respondent also has
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Surrender of License and Order.

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

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

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CULPABILITY

8. Respondent understands that the charges and allegations in the First Amended Accusation No. 1A-2015-157, if proven at a hearing, constitute cause for imposing discipline upon his Acupuncture License No. 1541.

9. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest those charges and surrenders Acupuncture License No. 1541 for the Board's formal acceptance.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Acupuncture License without further process.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Acupuncture Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Acupuncture Board. Respondent understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

1 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Surrender of License and Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

6
7 **ORDER**

8 IT IS HEREBY ORDERED that Acupuncture License No. Ac 1541, issued to Respondent
9 Randall James Neustaedter, is surrendered and accepted by the Acupuncture Board.

10 1. The surrender of Respondent's Acupuncture License and the acceptance of the
11 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
12 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
13 license history with the Acupuncture Board.

14 As noted above in paragraph eleven, the admissions made by Respondent herein are only
15 for the purposes of this proceeding, or any other proceedings in which the Acupuncture Board or
16 other professional licensing agency is involved, and shall not be admissible in any other criminal
17 or civil proceeding.

18 2. Respondent shall lose all rights and privileges as a acupuncturist in California as of
19 the effective date of the Board's Decision and Order.

20 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
21 issued, his wall certificate on or before the effective date of the Decision and Order.

22 4. If Respondent ever files an application for licensure or a petition for reinstatement in
23 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
24 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
25 effect at the time the petition is filed. Information gathered in connection with First Amended
26 Accusation number 1A-2015-157 may be considered by the Board in determining whether or not
27 to grant the petition for reinstatement, and all of the charges and allegations contained in the First
28

1 Amended Accusation No. 1A-2015-157 shall be deemed to be true, correct and admitted by
2 Respondent when the Board determines whether to grant or deny the petition.

3 5. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in the First Amended Accusation, No. 1A-
6 2015-157 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any
7 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

8 6. Respondent's Acupuncture License may not be renewed or reinstated, and no
9 application by Respondent to the Board for any license shall be considered, unless Respondent
10 has reimbursed the Board for its costs of investigation and enforcement of this matter in the
11 amount of twenty-eight thousand six hundred ninety-two dollars (\$28,692.00).

12 ACCEPTANCE

13 I have carefully read the above Stipulated Surrender of License and Order and have fully
14 discussed it with my attorney, George Eschoo. I understand the stipulation and the effect it will
15 have on my Acupuncture License. I enter into this Stipulated Surrender of License and Order
16 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
17 Acupuncture Board. By signing this stipulation to surrender my license, I recognize that upon its
18 formal acceptance by the Board, I will lose all rights and privileges to practice as an acupuncturist
19 in the State of California.

20
21 DATED: 02/16/16


22 RANDALL JAMES NEUSTAEDTER
23 Respondent

24 I have read and fully discussed with Respondent Randall James Neustaedter the terms and
25 conditions and other matters contained in this Stipulated Surrender of License and Order. I
26 approve its form and content.

27
28 DATED: 2/16/16



GEORGE ESHOO
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

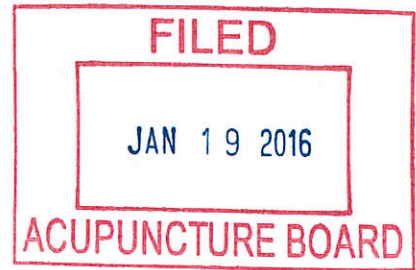


CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 1A-2015-157

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 CAROLYNE EVANS
Deputy Attorney General
4 State Bar No. 289206
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1211
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7



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

12 In the Matter of the First Amended Accusation
13 Against:

Case No. 1A-2015-157

14 **RANDALL JAMES NEUSTAEDTER**

FIRST AMENDED ACCUSATION

15 1779 WOODSIDE ROAD, SUITE 201C
16 REDWOOD CITY, CA 94061

17 ACUPUNCTURE LICENSE No. AC 1541

18 Respondent.
19

20
21 Complainant alleges:

22 **PARTIES**

23 1. Terri Thorfinnson ("Complainant") brings this First Amended Accusation solely in
24 her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
25 Affairs ("Board").

26 2. On or about August 30, 1983, the Board issued Acupuncture License Number AC
27 1541 to Randall James Neustaedter ("Respondent"). The Acupuncturist License was in full force
28 and effect at all times relevant to the charges brought herein and will expire on November 30,

1 2016, unless renewed. However, Respondent's license is currently suspended by virtue of an
2 Interim Suspension Order that was issued on October 15, 2015, pursuant to Government Code
3 Section 11529.

4 JURISDICTION

5 3. This First Amended Accusation is brought before the Board, under the authority of
6 the following laws. All section references are to the Business and Professions Code unless
7 otherwise indicated.

8 4. Section 4955 of the Code states in pertinent part:

9 "The board may deny, suspend, or revoke, or impose probationary conditions upon, the
10 license of any acupuncturist if he or she is guilty of unprofessional conduct.

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

12 "(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the
13 violation of the terms of this chapter or any regulation adopted by the board pursuant to this
14 chapter.

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

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

20 5. Section 726 of the Code states:

21 "The commission of any act of sexual abuse, misconduct, or relations with a
22 patient, client, or customer constitutes unprofessional conduct and grounds for
23 disciplinary action for any person licensed under this division, under any initiative act
24 referred to in this division and under Chapter 17 (commencing with Section 9000) of
25 Division 3.

26 "This section shall not apply to sexual contact between a physician and surgeon
27 and his or her spouse or person in an equivalent domestic relationship when that
28

1 physician and surgeon provides medical treatment, other than psychotherapeutic
2 treatment, to his or her spouse or person in an equivalent domestic relationship."

3 COST RECOVERY

4 6. Section 4959 of the Code states:

5 "(a) The board may request the administrative law judge, under his or her
6 proposed decision in resolution of a disciplinary proceeding before the board, to
7 direct any licensee found guilty of unprofessional conduct to pay to the board a sum
8 not to exceed actual and reasonable costs of the investigation and prosecution of the
9 case.

10 "(b) The costs to be assessed shall be fixed by the administrative law judge and
11 shall not in any event be increased by the board. When the board does not adopt a
12 proposed decision and remands the case to an administrative law judge, the
13 administrative law judge shall not increase the amount of any costs assessed in the
14 proposed decision.

15 "(c) When the payment directed in the board's order for payment of costs is not
16 made by the licensee, the board may enforce the order for payment in the superior
17 court in the county where the administrative hearing was held. This right of
18 enforcement shall be in addition to any other rights the board may have as to any
19 licensee directed to pay costs.

20 "(d) In any judicial action for the recovery of costs, proof of the board's
21 decision shall be conclusive proof of the validity of the order of payment and the
22 terms for payment.

23 "(e) All costs recovered under this section shall be considered a reimbursement
24 for costs incurred and shall be deposited in the Acupuncture Fund."

25 FIRST CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct/Sexual Misconduct)

27 7. Respondent is subject to disciplinary action under Section 726 in that he engaged in
28 unprofessional conduct and committed sexual misconduct while treating four patients.

1 8. The circumstances are as follows:

2 Patient V.V.

3 9. On or about June 25, 2015, Patient V.V.¹ arrived at Cure Guide in Redwood City for
4 treatment with Respondent.

5 10. During the treatment, Respondent slid his hand underneath her underwear, and
6 touched her anus, vagina and clitoris.

7 11. Patient V.V. could feel Respondent's erection, through his pants, touching her arm
8 during this "treatment."

9 12. After the visit, Patient V.V. contacted the San Mateo Police Department and reported
10 the sexual abuse.

11 13. On or about July 8, 2015, in cooperation with Detective S. Berberian and Detective J.
12 Sebring, Patient V.V. contacted Respondent by telephone as part of a "pretext call." Patient V.V.
13 confronted Respondent about him rubbing her vagina and anus area. Respondent told her that he
14 was sorry if the massage got too personal. He told her that acupuncture channels go along the
15 inside of the thighs and that if he inadvertently touched her closer than she felt comfortable with
16 then he was sorry.

17 14. On or about July 13, 2015, Respondent was arrested by the San Mateo County Police
18 for sexually molesting Patient V.V.

19 15. Following Respondent's arrest on or about July 13, 2015, he sent Patient V.V. an
20 email on July 20, 2015. The subject line stated "Appeal" and the email read as follows:

21 "I respectfully and humbly request that you drop the charges against me. This case has
22 caused tremendous distress in my family. My children are terribly frightened and afraid for their
23 future. I'm planning to retire this year and the expense of legal expenses will be devastating to
24 me financially. I beg you to find in your heart to *drop these charges and avoid the horrific ordeal*
25 *of prosecution and court proceedings for both of us.* This case could effectively ruin my life and
26 has already created tremendous hardship." (emphasis added).

27 _____
28 ¹ Patient initials are used to protect the patient's privacy. Respondent may learn the name
of the patients during the discovery process.

1 Patient E.B.

2 16. On or about July 16, 2015, Detective S. Berberian, received a telephone call from
3 Patient E.B., who stated she read a news article regarding Respondent sexually assaulting one of
4 his patients.

5 17. Patient E.B. stated that she too was sexually assaulted by Respondent in December
6 2013. In December 2013, Patient E.B. set up an appointment to see Respondent. During the
7 consultation, Patient E.B. told Respondent that she had a sore throat and lower back pain.
8 Respondent began to rub her back and then started to “move down.” Respondent moved his
9 hands underneath the pants she was wearing and proceeded to rub her anus. Respondent started
10 to put his hand between her labia and was moving toward her clitoris. As Respondent touched
11 her vagina, she was able to sit up, and tell him she was done. After this visit, Patient E.B. never
12 went back to see Respondent.

13 18. On or about, August 14, 2015, Respondent sent Patient E.B. an email. The subject
14 line stated “Where we find ourselves” and reads as follows:

15 “ I just got word that you were upset by our visit nearly two years ago. I am deeply sorry
16 that you felt uncomfortable. I would like to have a dialog if you are willing to resolve the issues
17 ourselves *rather that [sic] involving the police state*. This has created an extremely stressful
18 situation for me and my family and threatens to be financially ruinous and end my career of more
19 than 30 years. I have plans to retire soon in any case, but now there is this nightmarish scenario
20 . . . I am hopeful that we can come to some resolution within our community of healers and
21 friends *rather than pursue a devastating course of prosecution.*” (emphasis added).

22 Patient L.R.

23 19. On or about August 8, 2015, Detective S. Berberian, received a telephone call from
24 Patient L.R., who stated that she had learned of Respondent’s arrest for sexually assaulting
25 patients.

26 20. Patient L.R. is an adult female, who stated that Respondent sexually assaulted her
27 during acupuncture treatment sessions from the age of eight (8) or nine (9) years until she was 13
28

1 years of age. Patient L.R. stated that every time that she visited Respondent in his office, she was
2 alone with him.

3 21. During one office visit, Respondent had Patient L.R. spread her legs and rubbed her
4 vaginal area and then stuck his finger in her vagina. Respondent proceeded to then stick two
5 fingers inside her vagina.

6 22. During another visit, Respondent asked Patient L.R. if she ever thought about sex and
7 if she had ever touched herself. Patient L.R. responded that she was naive and did not know a lot
8 about sex. While Respondent was asking these questions, Patient L.R. noticed that Respondent
9 was rubbing himself through his pants.

10 23. On another visit, while Patient L.R. was laying down in Respondent's office,
11 Respondent rubbed his clothed erect genitals up and down her arm.

12 Patient C.A.

13 24. On or about, August 19, 2015, Detective S. Berberian, received a telephone call from
14 Patient C.A., who stated that she had learned of Respondent's arrest for sexually assaulting
15 patients.

16 25. Patient C.A. stated that Respondent sexually assaulted her during an office visit on or
17 about April 10, 2015. Patient C.A. stated that during one office visit, Respondent pulled her
18 vagina lip outside of her underwear. Patient C.A. was able to push herself from the table, and tell
19 him she was done. After this visit, Patient C.A. never went back to see Respondent.

20 26. Respondent's conduct, as described above, constitutes sexual misconduct and
21 represents extreme departures from the standard of care, including but not limited to
22 Respondent's inappropriate touching of Patient V.V., Patient E.B's, Patient L.R., and Patient
23 C.A.'s genitals and anus areas.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct/ Threats or Harassment)**

26 27. Respondent is subject to disciplinary action under Section 4955 subdivision (d), in
27 that he violated terms of this chapter or any regulation adopted by the Board; subdivision (f), in
28 that he engaged in unprofessional conduct by the use of threats or harassment against any patient

1 or licensee for providing evidence in a disciplinary action, other legal action, or in an
2 investigation contemplating a disciplinary action or other legal action; and subdivision (i), in that
3 he committed any action that would have warranted the denial of the acupuncture license. The
4 circumstances are as follows:

5 28. The facts alleged in paragraphs 10 through 26, above, are incorporated herein by
6 reference as if fully set forth.

7 **THIRD CAUSE FOR DISCIPLINE**
8 **(Unprofessional Conduct/Failure to Comply with Court Orders and/or Failure to**
9 **Cooperate with Board)**

10 29. Respondent is subject to disciplinary action under Section 4955, in that he engaged in
11 unprofessional conduct by failing to comply with a criminal court order and by not cooperating
12 with the Board. The circumstances are as follows:

13 30. On or about August 21, 2015, San Mateo Superior Court Judge Elizabeth Lee ordered
14 that "As a condition of remaining on bail, [Respondent] must have a Board appointed chaperone
15 present for all office visits with any patient of the female sex (children or adults). If [Respondent]
16 violates, he will be remanded."

17 31. Pursuant to Judge Lee's order, on or about August 27, 2015, the Board mailed a letter
18 via overnight mail to [Respondent's] attorney of record, informing him of the Board's chaperone
19 terms and conditions related to all visits with any female patients. The letter notified Respondent
20 that he would need to submit to the Board, the name of a person, who would act as a chaperone
21 for the Board's approval, within ten (10) calendar days of Judge Lee's order. Respondent failed
22 to timely submit the name of a chaperone.

23 32. The Board made numerous attempts to obtain the name of a proposed chaperone from
24 Respondent. As of the October 14, 2015, Interim Suspension Order hearing date, Respondent had
25 not submitted the name of a proposed chaperone to the Board.

26 33. Respondent's conduct, as described above, constitutes unprofessional conduct due to
27 his violation of a criminal court order and administrative court order, and failure to cooperate
28 with the Board in implementing its chaperone terms and conditions.

1 **PRAYER**

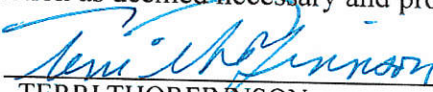
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Acupuncture Board issue a decision:

4 1. Revoking or suspending Acupuncture License Number AC 1541, issued to Randall
5 James Neustaedter;

6 2. Ordering Randall James Neustaedter to pay the Acupuncture Board the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 4959;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: JAN 19 2016



11 TERRI THORFINNSON
12 Executive Officer
13 Acupuncture Board
14 Department of Consumer Affairs
15 State of California *Complainant*