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

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In the Matter of the Accusation Against:

MARIA ANGELES GONZALEZ, L.AC. 2615 Camino Del Rio South, 201 San Diego, CA 92108

Acupuncture License No. AC 9001

Respondent.

Case No. 1A-2007-89 OAH No.

## **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.

APR 2 8 2009

This Decision shall become effective on

MAY 2 8 2009

It is so ORDERED

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/ Robert Brewer, Chair Acupuncture Board Department of Consumer Affairs State of California

1	EDMUND G. BROWN JR., Attorney General of the State of California	
2	STEVEN V. ADLER Supervising Deputy Attorney General	
3	DOUGLAS LEE, State Bar No. 222806 Deputy Attorney General	
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6	P.O. Box 85266	
7	San Diego, CA 92186-5266 Telephone: (619) 645-2580 Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
9	BEFORE THE	
10	ACUPUNCTUR DEPARTMENT OF CON	SUMER AFFAIRS
11	STATE OF CAL	IFORNIA
12	In the Matter of the Accusation Against:	Case No. 1A-2007-89
13	MARIA ANGELES GONZALEZ, L.AC.	OAH No.
14	2615 Camino Del Rio South, 201 San Diego, CA 92108	STIPULATED SETTLEMENT AND
15	Acupuncture License No. AC9001	DISCIPLINARY ORDER
16	Respondent.	
17	· · · · · · · · · · · · · · · · · · ·	
18	IT IS HEREBY STIPULATED AND	AGREED by and between the parties to the
19	above-entitled proceedings that the following matter	s are true:
20	PARTIE	<u>S</u>
21	1. Janelle Wedge (Complainant)	is the Executive Officer of the Acupuncture
22	Board. She brought this action solely in her official capacity and is represented in this matter by	
23	Edmund G. Brown Jr., Attorney General of the State of California, by Douglas Lee, Deputy	
24	Attorney General.	
25	2. MARIA ANGELES GONZA	LEZ, L.Ac. (Respondent) is representing
26	herself in this proceeding and has chosen not to exercise her right to be represented by counsel.	
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1	3. On or about March 18, 2003, the Acupuncture Board issued Acupuncture
2	License No. AC9001 to Respondent. The Acupuncture License was in full force and effect at all
3	times relevant to the charges brought in Accusation No. 1A-2007-89 and expired on January 31,
4	2009.
5	JURISDICTION
6	4. Accusation No. 1A-2007-89 was filed before the Acupuncture Board
7	(Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8	Accusation and all other statutorily required documents were properly served on Respondent on
9	or about October 22, 2008. Respondent timely filed her Notice of Defense contesting the
10	Accusation. A copy of Accusation No. 1A-2007-89 is attached as Exhibit A and incorporated
11	herein by reference.
12	ADVISEMENT AND WAIVERS
13	5. Respondent has carefully read, and understands the charges and allegations
14	in Accusation No. 1A-2007-89. Respondent has also carefully read, and understands the effects
15	of this Stipulated Settlement and Disciplinary Order.
16	6. Respondent is fully aware of her legal rights in this matter, including the
17	right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18	counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19	the right to present evidence and to testify on her own behalf; the right to the issuance of
20	subpoenas to compel the attendance of witnesses and the production of documents; the right to
21	reconsideration and court review of an adverse decision; and all other rights accorded by the
22	California Administrative Procedure Act and other applicable laws.
23	7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24	each and every right set forth above.
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1	CULPABILITY	
2	8. Respondent understands and agrees that the charges and allegations in	
3	Accusation No. 1A-2007-89, if proven at a hearing, constitute cause for imposing discipline	
4	upon her Acupuncture License.	
5	9. For the purpose of resolving the Accusation without the expense and	
6	uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could	
7	establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up	
8	her right to contest those charges.	
9	10. Respondent agrees that her Acupuncture License is subject to discipline	
10	and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary	
11	Order below.	
12	CONTINGENCY	
13	11. This stipulation shall be subject to approval by the Acupuncture Board.	
14	Respondent understands and agrees that counsel for Complainant and the staff of the	
15.	Acupuncture Board may communicate directly with the Board regarding this stipulation and	
16	settlement, without notice to or participation by Respondent. By signing the stipulation,	
17	Respondent understands and agrees that she may not withdraw her agreement or seek to rescind	
18	the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt	
19	this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall	
20	be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action	
21	between the parties, and the Board shall not be disqualified from further action by having	
22	considered this matter.	
23	12. The parties understand and agree that facsimile copies of this Stipulated	
24	Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same	
25	force and effect as the originals.	
26	13. In consideration of the foregoing admissions and stipulations, the parties	
27	agree that the Board may, without further notice or formal proceeding, issue and enter the	
28	following Disciplinary Order:	
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# DISCIPLINARY ORDER IT IS HEREBY ORDERED that Acupuncture License No. AC9001 issued to MARIA ANGELES GONZALEZ, L.Ac. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions. 1. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Probation monitoring costs are approximately \$100 per year. 2. COURSEWORK Respondent shall take and successfully complete not less than twenty (20) semester units or thirty (30) quarter units of coursework in the following

area(s): Acupuncture Points; Needle Techniques; Advanced Needle Techniques. All
coursework shall be taken at the graduate level at a school approved by the Board. Classroom
attendance must be specifically required. Course content shall be pertinent to the violation and
all coursework must be completed within the first 3 years of probation. The required coursework
must be in addition to any continuing education courses that may be required for license renewal.

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

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

24 4. <u>QUARTERLY REPORTS</u> Respondent shall submit quarterly
25 declarations under penalty of perjury on forms provided by the Board, stating whether there has
26 been compliance with all the conditions of probation.

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5. SURVEILLANCE PROGRAM Respondent shall comply with the 1 2 Board's probation surveillance program and shall, upon reasonable notice, report to the assigned 3 investigative district office. Respondent shall contact the assigned probation surveillance 4 monitor regarding any questions specific to the probation order. Respondent shall not have any 5 unsolicited or unapproved contact with 1) victims or complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners. 6 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent 7 8 shall appear in person for interviews with the Board or its designee upon request at various 9 intervals and with reasonable notice. CHANGES OF EMPLOYMENT Respondent shall notify the Board in 10 7. 11 writing, through the assigned probation surveillance compliance officer of any and all changes of 12 employment, location and address within 30 days of such change. 8. 13 TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event respondent should leave the State of California to reside or to practice, respondent shall 14 15 notify the Board or its designee in writing 30 calendar days prior to the dates of departure and 16 return. 17 Periods of temporary or permanent residence or practice outside California will 18 not apply to the reduction of the probationary term. Periods of temporary or permanent residence 19 or practice outside California will relieve respondent of the responsibility to comply with the 20 probationary terms and conditions with the exception of this condition and the following terms 21 and conditions of probation: Obey All Laws, Probation Unit Compliance and Cost Recovery. 22 Respondent's license shall be automatically canceled if respondent's periods of 23 temporary or permanent residence or practice outside California total two years. However, 24 respondent's license shall not be canceled as long as respondent is residing and practicing with the acupuncture licensing authority in another state of the United States and is on active 25 probation with the acupuncture licensing authority of that state, in which case the two year period 26 27 shall begin on the date probation is completed or terminated in that state. 28 ///

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9. <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.

10. <u>COST RECOVERY</u> Respondent shall pay to the Board a sum not to
exceed the costs of the investigation and prosecution of this case. That sum shall be \$3068.50
and shall be paid in full directly to the Board, in equal quarterly payments, within 18 months
from the effective date of this decision. Cost recovery will not be tolled.

9 If Respondent is unable to submit costs timely, she shall be required instead to
10 submit an explanation of why she is unable to submit these costs in part or in entirety, and the
11 date(s) she will be able to submit the costs including payment amount(s). Supporting
12 documentation and evidence of why the Respondent is unable to make such payment(s) must
13 accompany this submission.

Respondent understands that failure to submit costs timely is a violation of
probation, and submission of evidence demonstrating financial hardship does not preclude the
Board from pursuing further disciplinary action. However, Respondent understands that
providing evidence and supporting documentation of financial hardship may delay further
disciplinary action.

Consideration to financial hardship will not be given should Respondent violate
this term and condition, unless an unexpected AND unavoidable hardship is established from the
date of this order to the date payment(s) is due.

The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
responsibility to reimburse the Board for these costs.

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1	11. <u>VIOLATION OF PROBATION</u> If respondent violates probation in any	
2	respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke	
3	probation and carry out the disciplinary order that was stated. If an accusation or petition to	
4	revoke probation is filed against respondent during probation, the Board shall have continuing	
5	jurisdiction until the matter is final, and the period of probation shall be extended until the matter	
6	is final. No petition for modification or termination of probation shall be considered while there	
7	is an accusation or petition to revoke probation pending against respondent.	
8	12. <u>COMPLETION OF PROBATION</u> Upon successful completion of	
9	probation, respondent's license will be fully restored.	
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1	ACCEPTANCE
2	I have carefully read the Stipulated Settlement and Disciplinary Order. I
3	understand the stipulation and the effect it will have on my Acupuncture License. I enter into
4	this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
5	agree to be bound by the Decision and Order of the Acupuncture Beard
6	DATED: 24th MARCH 2009
7	- Wallet
8	MARIA ANGELES CONZALEZ, L.AC.
9 10	Respondent //
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12	ENDÖRSEMENT
13	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14	submitted for consideration by the Acuputcture Board of the Department of Consumer Affairs,
15	
16	DATED:
17	EDMUND G. BROWN JR., Attomey General of the State of California
18	STEVEN V. ADLER
19	Supervising Deputy Attorney General
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22	DOUGLAS LEE Deputy Attorney General
23 24	Attomeys for Complainant
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1	ACCEPTANCE	
2	I have carefully read the Stipulated Settlement and Disciplinary Order. I	
3	understand the stipulation and the effect it will have on my Acupuncture License. I enter into	
4	this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and	
5	agree to be bound by the Decision and Order of the Acupuncture Board.	
6	DATED:	
7		
8	MARIA ANGELES GONZALEZ, L.AC.	
9	Respondent	
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11		
12	ENDORSEMENT	
13	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully	
14	submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.	
15	7 Land and the	
16	DATED: 3/30/09	
17	EDMUND G. BROWN JR., Attorney General of the State of California	
18	STEVEN V. ADLER	
19	Supervising Deputy Attorney General	
20	Res	
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22	DOUGLAS LEE Deputy Attorney General	
23	Attorneys for Complainant	
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# Exhibit A

Accusation No. 1A-2007-89

1	EDMUND G. BROWN JR., Attorney General of the State of California	FILED
2	STEVEN V. ADLER Supervising Deputy Attorney General	OCT 2 2 2008
3	DOUGLAS LEE, State Bar No. 222806 Deputy Attorney General	
4	110 West "A" Street, Suite 1100 San Diego, CA 92101	ACUPUNCTURE BOARD
5	P.O. Box 85266	
6 7	San Diego, CA 92186-5266 Telephone: (619) 645-2580 Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
9	BEFORE T ACUPUNCTUR	E BOARD
10	THE ADDRESS OF CONCLEMENT ADDRESS	
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12	In the Matter of the Accusation Against:	Case No. 1A-2007-89
13	MARIA ANGELES GONZALEZ, L.Ac. 2615 Camino Del Rio South, 201	ACCUSATION
14	San Diego, CA 92108	
15	Acupuncture License No. AC9001	
16	Respondent.	
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18	Complainant alleges:	\$
19	PARTIE	brings this Accusation solely in her official
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21	capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs. 2. On or about March 18, 2003, the Acupuncture Board issued Acupuncture	
22 23	2. On or about March 18, 2003, License No. AC9001 to MARIA ANGELES GONZ	
23 24		
24	Acupuncture License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2009, unless renewed.	
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1	JURISDICTION	
2	3. This Accusation is brought before the Acupuncture Board (Board),	
3	Department of Consumer Affairs, under the authority of the following laws. All section	
4	references are to the Business and Professions Code unless otherwise indicated.	
5	4. Section 4955.2 of the Code states:	
6	"The board may deny, suspend, revoke, or impose probationary conditions upon	
7	the license of any acupuncturist if he or she is guilty of committing any one of the	
8	following:	
9	"(a) Gross negligence.	
10	"(b) Repeated negligent acts.	
11	"(c) Incompetence."	
12	5. Section 4959 of the Code states:	
13	"(a) The board may request the administrative law judge, under his or her	
14	proposed decision in resolution of a disciplinary proceeding before the board, to direct	
15	any licensee found guilty of unprofessional conduct to pay to the board a sum not to	
16	exceed actual and reasonable costs of the investigation and prosecution of the case.	
17	"(b) The costs to be assessed shall be fixed by the administrative law judge and	
18	shall not in any event be increased by the board. When the board does not adopt a	
19	proposed decision and remands the case to an administrative law judge, the	
20	administrative law judge shall not increase the amount of any costs assessed in the	
21	proposed decision."	
22	"(c) When the payment directed in the board's order for payment of costs is not	
23	made by the licensee, the board may enforce the order for payment in the superior court	
24	in the county where the administrative hearing was held. This right of enforcement shall	
25	be in addition to any other rights the board may have as to any licensee directed to pay	
26	costs.	
27	"(d) In any judicial action for the recovery of costs, proof of the board's decision	
28	shall be conclusive proof of the validity of the order of payment and the terms for	
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payment.

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"(e) All costs recovered under this section shall be considered a reimbursement 2 3 for costs incurred and shall be deposited in the Acupuncture Fund." 6. Section 125.3 of the Code provides, in pertinent part, that the Board may 4 5 request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation 6 7 and enforcement of the case. 8 CAUSE FOR DISCIPLINE 9 (Repeated Negligent Acts) 7. 10 Respondent is subject to disciplinary action under section 4955.2 of the 11 Code in that she committed repeated negligent acts in her care and treatment of patient D.E., as 12 more particularly alleged hereinafter: 13 (a) Between on or about March 5, 2005, and June 27, 2007, patient D.E. received several acupuncture treatments at Pacific Center of Health. A majority of those 14 15 treatments were for neck pain and other minor complaints. On or about June 27, 2007, patient D.E. presented to respondent at Pacific 16 (b) 17 Center of Health for acupuncture treatment of a viral rash on her left arm. 18 At the time of patient D.E.'s June 27, 2007, presentation to respondent, (c) 19 Talia Hoke was a student at Pacific College of Oriental Medicine. As part of her education, 20 Hoke worked under respondent's supervision and performed a number of modalities including 21 manipulation, removal of needles and electro acupuncture. 22 (c) Patient D.E. was treated with acupuncture and electro acupuncture to both 23 the right and left sides of her body in order to address the rash, a viral outbreak of Herpes zoster 24 (a painful, blistering, skin rash due to acute infection with varicella-zoster virus, the same virus 25 that causes chickenpox). 26 (d) The treatment patient D.E. received consisted of two parts. First, 27 respondent treated the right side of patient D.E.'s body with electro acupuncture. Second, 28 respondent treated the left side of patient D.E.'s body with electro acupuncture.

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roll onto the needles. 4 5 (f) During the second part of patient D.E.'s treatment (left side), after 6 respondent needled patient D.E.'s left side, respondent instructed Hoke to perform electro 7 acupuncture. Respondent then left the room. Patient D.E. told Hoke she was experiencing an 8 increase in pain, shortness of breath and overall discomfort. In response, Hoke manipulated two 9 or three of the needles. Two of the needles fell out. Hoke reinserted them. 10 (g) When respondent returned to the room, patient D.E. informed respondent 11 she could not continue with treatment due to the pain. Respondent directed Hoke to remove the 12 needles. 13 (h) After treatment was terminated, patient D.E. continued to express to 14 respondent that she was in pain and could only take shallow breaths. 15 (i) . Respondent told patient D.E. to remain in the lobby for a few minutes. 16 Respondent did not check patient D.E.'s vital signs and sent her home. 17 (i) On or about June 28, 2007, at 4:30 a.m., patient D.E. was taken to the 18 hospital and diagnosed with hemothroax (collection of blood in the space between the chest wall 19 and the lung) and pneumothorax (collection of air or gas in space around the lungs). X-rays 20 taken at the hospital revealed needle fragments remained in patient D.E.'s lung. 21 (k) Respondent committed repeated negligent acts in her care and treatment of 22 patient D.E., on account of, but not limited to the following: 23 (1)Failing to properly and adequately supervise Hoke, a student intern; 24 Improperly inserting an acupuncture needle into patient D.E.'s left side (2)25 resulting in injury to patient D.E.'s left lung; and, 26 Failing to recognize the symptoms of patient D.E. (increasing pain, (3)27 difficulty breathing) and take appropriate measures. 28 |||

At one point during the first part of patient D.E.'s treatment (right side),

patient D.E. began to roll onto the needles. Respondent stopped patient D.E. before she could

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2	PRAYER
3	WHEREFORE, Complainant requests that a hearing be held on the matters herein
4	alleged, and that following the hearing, the Acupuncture Board issue a decision:
5	1. Revoking or suspending Acupuncture License No. AC9001, issued to
6	Maria Angeles Gonzalez, L.Ac. (Respondent);
7	2. Ordering Respondent to pay the Acupuncture Board the reasonable costs
8	of the investigation and enforcement of this case, pursuant to Business and Professions Code
9	section 4959; and,
10	3. Taking such other and further action as deemed necessary and proper.
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12	DATED:0CT_2_2_2008
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14	Jamello Ledae
15	JANELLE WEDGE
16	Acupuncture Board Department of Consumer Affairs
17	State of California Complainant
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