

IN THE MATTER OF

SANG H. KIM, L.Ac.

Respondent

License No.: U02098

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BEFORE THE

MARYLAND STATE

ACUPUNCTURE BOARD

Case Nos.: 20-02/20-03

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ORDER FOR SUMMARY SUSPENSION

The Maryland State Acupuncture Board (the “Board”) hereby **SUMMARILY SUSPENDS** the license of **SANG H. KIM, L.Ac.** (the “Respondent”), License Number U02098, to practice as a Licensed Acupuncturist (“L.Ac.”) in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., State Gov’t § 10-226(c)(2) (2014 Repl. Vol. & 2019 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action. In addition, the Board takes such action pursuant to its authority under Md. Code Regs. (“COMAR”) 10.26.04.07, concluding that there is substantial likelihood that the Respondent poses a risk of harm to the public health, safety, or welfare.

INVESTIGATIVE FINDINGS

The Board bases its action on the following findings: ¹

I. BACKGROUND

1. At all times relevant, the Respondent was authorized to practice as a licensed acupuncturist in the State of Maryland. The Respondent was originally certified to practice

¹ The statements regarding the Board’s investigative findings are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

acupuncture medicine in the State of Maryland on September 10, 2013, under License Number U02098. The Respondent's license has a status of "active" and is scheduled to expire on November 30, 2021.

II. COMPLAINT

2. On or about January 23, 2020, the Board received a complaint filed by Patient 1². The complaint alleged on August 29, 2019, Patient 1 attended an appointment with the Respondent, and during the treatment, the Respondent placed his hands on the Patient 1's breasts.

3. After receiving the Patient 1's complaint, the Board initiated an investigation of the Respondent under Case Number 20-02.

4. On or about February 26, 2020, the Board received a complaint filed by Patient 2. The complaint alleged that on or about March 4, 2019, Patient 2 attended an appointment with the Respondent, and during the examination, the Respondent touched Patient 2's nipple prior to treating the patient's back.

5. After receiving Patient 2's complaint, the Board initiated an investigation of the Respondent under Case Number 20-03.

III. BOARD INVESTIGATION

6. As part of its investigation under Case Number 20-02, on January 30, 2020 the Board's Investigator interviewed Patient 1 under oath. During the interview, Patient 1 stated the following:

- (a) She made an appointment at Facility for August 29, 2019 to see the Respondent due to experiencing some chest and shoulder pain. After

² To maintain confidentiality, witness and facility names will not be disclosed in this document but will be provided to the Respondent upon request.

arriving at the Respondent's office, she checked in with a woman at the front desk and was taken into another room and was handed a gown. She was told to take off her bra but leave her underwear on and put the gown open in the front.

- (b) The Respondent came in, asked why she was there, and she "explained that [she] had some pain in [her] sternum that radiates down [her] left arm, that [she] had it for a really long time, that in the past there had been some relief from acupuncture." After discussing her diet, the Respondent asked her to lay down. The Respondent used the tips of his fingers and pushed down on parts of her body asking how bad the pain was. The Respondent pressed her abdomen, sternum bone, and "then started to move [Respondent's] hand like away from [Patient 1's] sternum towards [Patient 1's] left breast, pressing more into the breast tissue, at which point in time he proceeded to – essentially like massage [Patient 1's] entire breast while looking at me." The Respondent then did the same thing to her right breast.
- (c) The Respondent never told her why he touched her breast, what he was trying to find, or what the treatment process was.
- (d) The Respondent then performed acupuncture treatment that lasted about ten to fifteen minutes, performed a treatment on her ear using a machine, and then removed the needles used in the acupuncture treatment. She quickly got dressed, walked to the front desk and paid, and left the Respondent's office.

7. On February 5, 2020, the Board issued a *subpoena duces tecum* to the Respondent, summoning the Respondent to produce ten patient records selected by the Board's Investigator. On February 7, 2020, at approximately 11:00 AM, the Board's Investigator and another investigator appeared at the Respondent's offices to serve the subpoena. The Respondent did not give the items required under the subpoena and the Respondent went into his office, shut his door, and refused the investigators to access patient records.

8. As part of its investigation under Case Number 20-02, on February 21, 2020 the Board's Investigator interviewed the Respondent under oath. During the interview, the Respondent stated the following:

- (a) He practices as a licensed acupuncturist in Maryland. On August 29, 2019 he treated Patient 1. He diagnosed Patient 1 and treated Patient 1 for pain, arthritis, and chest pain. The treatment provided included electric stimulation of the ear and needles on the legs and on the hand.
- (b) When treating Patient 1, he observed that Patient 1 was wearing a gown but did not have a bra on. He initially denied touching Patient 1's breast but later admitted he checked Patient 1's breasts, after Patient 1 gave permission.
- (c) When asked about the subpoena the Board's Investigator served, he admitted that he impeded the investigation for the subpoena for the ten records requested and denied the investigators access to those records.

9. As part of its investigation under Case Number 20-03, on February 26, 2020 the Board's Investigator interviewed Patient 2 under oath. During the interview, Patient 2 stated the following:

- (a) On March 2, 2019, she injured her lower back lifting some feed bags.
- (b) On March 4, 2019, she made an appointment at Facility to see the Respondent. Upon arriving, she sat down and filled out the requested information. She then was taken to another room and the Respondent told her to get undressed and asked her to take her bra off. The Respondent began to ask permission to touch her back and hip, and then without permission, touched her left nipple. The Respondent then touched her in another area and then went back to touching her nipple. She then sat up, told the Respondent her lower back was hurting, and asked him if he could fix that.

CONCLUSIONS OF LAW

Based on the foregoing facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. Code Ann., State Gov't § 10-226 (c)(2) (2014 Repl. Vol. & 2019 Supp.).

In addition, the Board concludes as a matter of law that there is a substantial likelihood that the Respondent poses a risk of harm to the public health, safety, or welfare, pursuant to COMAR 10.26.04.07.

ORDER

Based on the foregoing, it is by a majority of the Board considering this case:

ORDERED that pursuant to the authority vested by Md. Code Ann., State Gov't § 10-226(c)(2), the Respondent's license to practice as a Licensed Acupuncturist in the State of Maryland, License Number U02098, is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that in accordance with Md. Code Regs. 10.26.04.07, a post-deprivation initial hearing on the summary suspension will be held on **Monday, March 30, 2020, at 11:00 a.m.** at the Board's offices, located at 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

ORDERED that the Respondent may request an evidentiary hearing before the Board within ten (10) days of the date of this Order of **Summary Suspension**, and such hearing will be set within forty-five (45) days of the request, before the Board; and it is further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board, the following items:

- (1) the Respondent's original Maryland Licensed Acupuncturist License U02098; and
- (2) the Respondent's wallet card and wall license; and it is further

ORDERED that this is an Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

March 16, 2000
Date

Thomas Ingegno L.Ac.
Thomas Ingegno, L.Ac., Chair
Maryland State Acupuncture Board

