

1 XAVIER BECERRA
2 Attorney General of California
3 GREGORY J. SALUTE
4 Supervising Deputy Attorney General
5 RITA M. LANE
6 Deputy Attorney General
7 State Bar No. 171352
8 600 West Broadway, Suite 1800
9 San Diego, CA 92101
10 P.O. Box 85266
11 San Diego, CA 92186-5266
12 Telephone: (619) 738-9421
13 Facsimile: (619) 645-2061
14 *Attorneys for Complainant*

15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2017-1107

PHILLIP BRIAN YOO
12665 Garden Grove Blvd., Suite 609
Garden Grove, CA 92843

ACCUSATION

Chiropractor License No. DC 31461

1901 Newport Boulevard, Suite 251
Costa Mesa, CA 92627
Satellite Certificate No. SAT 15040

72780 Country Club Drive, #D-403
Rancho Mirage, CA 92270
Satellite Certificate No. SAT 18865

41990 Cook Street, Bldg. B #201, Suite C
Palm Desert, CA 92211
Satellite Certificate No. SAT 19453

71-780 San Jacinto Drive, Suite A-3
Rancho Mirage, CA 92270
Satellite Certificate No. SAT 19479

Respondent.

Complainant alleges:

PARTIES

1. Robert Puleo (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Chiropractic Examiners, Department of Consumer Affairs.

1 2. On or about November 16, 2009, the Board of Chiropractic Examiners issued
2 Chiropractor License Number DC 31461 to Phillip Brian Yoo (Respondent). The Chiropractor
3 License was in full force and effect at all times relevant to the charges brought herein and will
4 expire on October 31, 2017, unless renewed.

5 3. On or about May 23, 2012, the Board issued Satellite Certificate Number SAT 15040
6 to Respondent. The Satellite Certificate will expire on October 31, 2017, unless renewed.

7 4. On or about August 14, 2015, the Board issued Satellite Certificate Number SAT
8 18865 to Respondent. The Satellite Certificate expired on October 31, 2016, and has not been
9 renewed.

10 5. On or about February 9, 2016, the Board issued Satellite Certificate Number SAT
11 19453 to Respondent. The Satellite Certificate will expire on October 31, 2017, unless renewed.

12 6. On or about February 18, 2016, the Board issued Satellite Certificate Number SAT
13 19479 to Respondent. The Satellite Certificate was cancelled and expired on October 31, 2016,
14 and has not been renewed.

JURISDICTION

16 7. This Accusation is brought before the Board of Chiropractic Examiners (Board),
17 Department of Consumer Affairs, under the authority of the following sections of the
18 Chiropractic Act (Act).¹,

19 8. California Code of Regulations, title 16, section 355.1 states:

STATUTES

¹ The Chiropractic Act, an initiative measure approved by the electors on November 7, 1922, while not included in the Business and Professions Code by the legislature, is set out in West's Annotated California Codes as sections 1000-1 to 1000-19, and is included in Deering's California Codes as Appendix I, for convenient reference.

1 9. Section 10 of the Act states, in pertinent part, that the Board may suspend or revoke a
2 license to practice chiropractic or may place the license on probation for violations of the rules
3 and regulations adopted by the Bard or for any cause specified in the Chiropractic Initiative Act.

4 10. Section 15 of the Act states:

5 Any person who shall practice or attempt to practice chiropractic, ... or any
6 licensee under this act who uses the word "doctor" or the prefix "Dr." without the
7 word "chiropractor," or "D.C." immediately following his or her name ... or any
8 other letters, prefixes or suffixes, the use of which would indicate that he or she
was practicing a profession for which he or she held no license from the State of
California, or any person who shall violate any of the provisions of this act, shall
be guilty of a misdemeanor. . . .

9 11. Business and Professions Code section 651 states:

10 (a) It is unlawful for any person licensed under this division or under any initiative
11 act referred to in this division to disseminate or cause to be disseminated any form
12 of public communication containing a false, fraudulent, misleading, or deceptive
13 statement, claim, or image for the purpose of or likely to induce, directly or
14 indirectly, the rendering of professional services or furnishing of products in
connection with the professional practice or business for which he or she is
licensed. A "public communication" as used in this section includes, but is not
limited to, communication by means of mail, television, radio, motion picture,
newspaper, book, list or directory of healing arts practitioners, Internet, or other
electronic communication.

15 (b) A false, fraudulent, misleading, or deceptive statement, claim, or image
16 includes a statement or claim that does any of the following:

17 (1) Contains a misrepresentation of fact.

18 (2) Is likely to mislead or deceive because of a failure to disclose material facts.

19 (3) (A) Is intended or is likely to create false or unjustified expectations of
20 favorable results, including the use of any photograph or other image that does not
21 accurately depict the results of the procedure being advertised or that has been
22 altered in any manner from the image of the actual subject depicted in the
23 photograph or image.

24 (B) Use of any photograph or other image of a model without clearly stating
25 in a prominent location in easily readable type the fact that the photograph or
26 image is of a model is a violation of subdivision (a). For purposes of this
27 paragraph, a model is anyone other than an actual patient, who has undergone the
28 procedure being advertised, of the licensee who is advertising for his or her
services.

29 (C) Use of any photograph or other image of an actual patient that depicts or
30 purports to depict the results of any procedure, or presents "before" and "after"
31 views of a patient, without specifying in a prominent location in easily readable
32 type size what procedures were performed on that patient is a violation of
33 subdivision (a). Any "before" and "after" views (i) shall be comparable in
34 presentation so that the results are not distorted by favorable poses, lighting, or

1 other features of presentation, and (ii) shall contain a statement that the same
2 "before" and "after" results may not occur for all patients.

3 (4) Relates to fees, other than a standard consultation fee or a range of fees for
4 specific types of services, without fully and specifically disclosing all variables
5 and other material factors.

6 (5) Contains other representations or implications that in reasonable probability
7 will cause an ordinarily prudent person to misunderstand or be deceived.

8 (6) Makes a claim either of professional superiority or of performing services in
9 a superior manner, unless that claim is relevant to the service being performed and
10 can be substantiated with objective scientific evidence.

11 (7) Makes a scientific claim that cannot be substantiated by reliable, peer
12 reviewed, published scientific studies.

13 (8) Includes any statement, endorsement, or testimonial that is likely to mislead
14 or deceive because of a failure to disclose material facts.

15 (c) Any price advertisement shall be exact, without the use of phrases, including,
16 but not limited to, "as low as," "and up," "lowest prices," or words or phrases of
similar import. Any advertisement that refers to services, or costs for services, and
that uses words of comparison shall be based on verifiable data substantiating the
comparison. Any person so advertising shall be prepared to provide information
sufficient to establish the accuracy of that comparison. Price advertising shall not
be fraudulent, deceitful, or misleading, including statements or advertisements of
bait, discount, premiums, gifts, or any statements of a similar nature. In connection
with price advertising, the price for each product or service shall be clearly
identifiable. The price advertised for products shall include charges for any related
professional services, including dispensing and fitting services, unless the
advertisement specifically and clearly indicates otherwise.

17 12. Business and Professions Code section 17500 states, in pertinent part:

18 It is unlawful for any person, firm, corporation or association, ... with intent
19 directly or indirectly to ... perform services, professional or otherwise, ... to
20 induce the public to enter into any obligation relating thereto, to make or
21 disseminate or cause to be made or disseminated before the public in this state, ...
22 in any newspaper or other publication, or any advertising device, or by public
23 outcry or proclamation, or in any other manner or means whatever, including over
the Internet, any statement, concerning ... those services, professional or
otherwise, or concerning any circumstance or matter of fact connected with the
proposed performance or disposition thereof, which is untrue or misleading, and
which is known, or which by the exercise of reasonable care should be known, to
be untrue or misleading. . . .

24 REGULATIONS

25 13. California Code of Regulations, title 16, section 302 states:

26 (a) Scope of Practice.

27 (1) A duly licensed chiropractor may manipulate and adjust the spinal column
28 and other joints of the human body and in the process thereof a chiropractor may
manipulate the muscle and connective tissue related thereto.

(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.

14. California Code of Regulations, title 16, section 302.5 states:

(a) A duly licensed chiropractor and any person under their direct or indirect supervision, as defined in section 312, shall:

(1) Not use any laser in the practice of chiropractic which has not been properly approved or cleared by the United States Food and Drug Administration (FDA).

(2) Not market or advertise the use of a laser or use a laser for purposes other than treatment consistent with section 302 and the product's FDA approval or clearance.

(3) Follow the manufacturer's specified guidelines for the safe use of laser.

(4) Comply with all state and federal laws governing the use of lasers in clinical settings.

(b) Nothing in this section shall be construed to authorize the use of a laser by a chiropractor outside of the chiropractic scope of practice. This includes, but is not limited to, laser ablation or surgical procedures, and laser treatment of allergies.

(c) Any violation of this section may constitute unprofessional conduct and the licensee shall be subject to discipline by the Board.

15. California Code of Regulations, title 16, section 311 states:

Constructive educational publicity is encouraged, but the use by any licensee of advertising which contains misstatements, falsehoods, misrepresentations, distorted, sensational or fabulous statements, or which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, constitutes grounds for the imposition of any of the following disciplinary penalties:

(a) Suspension of said licensee's right to practice in this State for a period not exceeding one (1) year.

(b) Placing said licensee upon probation.

(c) Taking such other action, excepting the revocation of said licensee's license, in relation to disciplining said licensee as the board in its discretion may deem proper.

16. California Code of Regulations, title 16, section 317, states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct which has been brought to its attention, or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

(m) Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate any provision or term of the Act or the regulations adopted by the board thereunder;

- (p) The use of advertising relating to chiropractic which violates section 17500 of the Business and Professions Code;
- (q) The participation in any act of fraud or misrepresentation;

COSTS

17. California Code of Regulations, title 16, section 317.5, subdivision (a), states, in pertinent part:

In any order in resolution of a disciplinary proceeding before the Board of Chiropractic Examiners, the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the Chiropractic Initiative Act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTS

12 18. Respondent owns and operates the LaserMed Pain Institute where he performs
13 chiropractic and Class 4 laser therapy, typically applied to the feet and legs. Respondent uses a
14 Nexus 30-watt laser and infrared light therapy called Health Lights. Respondent uses Pulsed
15 Electromagnetic Field (PEMF) therapy on patients to help stimulate nerve function. Respondent
16 asserts that the device is a "510 clearance device" class 4 laser and was cleared by the FDA.

17 19. Respondent advertises that he uses the Lifelite 250-watt Super Pulsed Laser in his
18 practice. Respondent asserts that the Lifelite 250-watt Super Pulsed Laser has been cleared for
19 use by the FDA.

20. The Lifelite 250-watt Super Pulsed Laser is not FDA cleared nor FDA approved.

21 21. Respondent runs neuropathy advertisements and mails out written communications
22 advertising his services and prices for LaserMed Pain Institute.

I

NOVEMBER 1, 2015 DESERT SUN NEWSPAPER ADVERTISEMENT

25 22. On or about November 1, 2015, Respondent advertised his chiropractic services in an
26 article in the Desert Sun newspaper (Desert Sun ad) with the caption "Doctor, I can't go on living
27 with this peripheral neuropathy and all this excruciating foot and leg pain." Several places in the

28 //

1 Desert Sun ad, Respondent was referred to as "Dr. Yoo" without the designation of "D.C." or
2 chiropractor immediately following his name.

3 23. Respondent's Desert Sun ad advertised that he uses a "New FDA cleared non-surgical
4 painless Laser Med and for Laser & Pulsed Electromagnetic Field Therapies." The article also
5 included patient testimonials.

6 24. Respondent made the following statements in the Desert Sun ad:

7 a. "We have gone to create the propriety neuropathy pain treatment protocol that can
8 ONLY be found at the 'Laser Med Neuropathy Institute of Orange County' and is designed to
9 reduce or even eliminate neuropathy pain of the worst kind."

10 b. "You see, I got the worst cases of neuropathy pain like yours coming to my office
11 on a regular basis looking for help. Because I'm the only one who does this procedure in the
12 whole world, foot pain sufferers are flying in from other countries, other states, and from all over
13 California...to our Laser Med Neuropathy Pain Neuropathy Institute because I am their 'last
14 resort doctor of hope.' If I can't help them, they will have nowhere left to turn."

15 c. "Our group has successfully helped thousands of neuropathy sufferers just like
16 you, all over the country. It seems that no two neuropathy sufferers have the exact same
17 experience, but many share similar symptoms and we have seen them all."

18 d. "We're the only clinic on the entire West Coast that uses these very specific
19 protocols that regenerate damaged nerves, helping nerves to function better and decrease pain,
20 and can even completely remove all symptoms associated with diagnosis of peripheral
21 neuropathy. We are using very specific state-of-the-art, breakthrough, noninvasive, and nondrug
22 treatment procedures for the treatment of severe and constant foot and leg pain caused by
23 neuropathy."

24 e. "I learned it had the ability to quickly increase circulation to an area (much needed
25 in neuropathy patients), it could reduce and/or eliminate pain in as little as 10 minutes and was
26 changing the lives of patients with severe debilitating pain in offices across the nation."

27 f. "These proprietary protocols of comprehensive nerve evaluation, regrowth, and
28 retreating are what sets us apart from every other doctor, vitamin company, spinal decompression

1 center, medical device company, everyone else out there who are claiming to have the answer for
2 you.”

3 g. “All procedures are FDA cleared, safe, are scientifically effective, and noninvasive.
4 When he’s not out saving the world from pain, he enjoys cross fit work outs and spending time
5 with his family, and volunteering at his church in Irvine.”

6 h. “A recent survey taken from over 607 patients who have utilized this program
7 revealed that there is 90.1% satisfaction rate from this laser and magnets.”

8 i. “Walter C.’s legs were saved from amputation...now after just two weeks of care,
9 he can walk for the first time in 10 years.”

10 25. Respondent advertised discount services in the Desert Sun ad stating that “For THE
11 FIRST 14 callers we are offering our unique Comprehensive Neuropathy Evaluation FOR only
12 \$97.00. The regular pricing is \$275.00.”

13 II

14 SPRING 2015 PAIN RELIEF NEWSLETTER

15 26. In the Spring of 2015, Respondent created a “Pain Relief Newsletter” entitled “What
16 Pain Doctors Don’t Tell You” (Spring 2015 newsletter) with a heading “Meet the Doctor of the
17 Future” and “As Seen on TV.” There is a picture of Respondent on the front page with a
18 stethoscope around his neck. The newsletter is 11 pages in length and was mailed to
19 Respondent’s patients. In multiple places throughout the newsletter, Respondent identifies
20 himself as “Dr. Yoo,” without using the designation of “chiropractor” or “D.C.” following his
21 name. Additionally, there are several pictures in the newsletter of Respondent dressed in a
22 physician’s white coat with a stethoscope around his neck. There is no notation in the newsletter
23 that Respondent is a chiropractor.

24 27. Respondent includes in his Spring 2015 newsletter “before” and “after” x-ray
25 pictures depicting knee arthritis and peripheral neuropathy which are misleading. The “before”
26 picture is somewhat grainy and lacks sharp focus. The after picture purportedly demonstrates
27 “increased joint space” in response to PEMF Magnet Therapy. The after picture does not

28 ///

1 show any significant differences between the two images. There is no statement that the same
2 before and after results may not occur for all patients.

3 28. Respondent includes in his Spring 2015 newsletter "before" and "after" pictures of
4 legs apparently intended to show that "Superpulsed Lifelite Laser & Magnet Therapy" produces
5 the changes illustrated in the "after" picture. It is clear that the before and after pictures are not
6 the same person, based on the pose and size of the calf muscles and are misleading. There is no
7 statement that the same before and after results may not occur for all patients.

8 29. Respondent made the following statements in his Spring 2015 newsletter:

9 a. "Walter says that if you are suffering like he was, you need to get in here now
10 before you lose your feet." "Walter C's legs were saved from amputation...now after just two
11 weeks of care, he can walk for the first time in 10 years."

12 b. "The Lifelite 250-watt Super Pulse Laser is the world's most powerful FDA
13 cleared safe laser. To offer a clearer perspective, most Class 4 lasers produce 6-12 watts of
14 power. The lasers we use provided more than 20x the power of any other laser."

15 c. "Nevertheless, there have been some cases that have not responded to laser.
16 Fortunately, I have another incredible treatment called Pulsed Electromagnetic Field Therapy.
17 This ground breaking therapy reduces inflammation and the effects of stress on the body,
18 accelerates the repair of bone nerve, and soft tissue, and relaxes muscles. Many patients who
19 don't respond to laser respond well to PEMF or a combination of both."

20 d. "My comprehensive exam, which includes state-of-the-art infrared thermographic
21 imagining is the most thorough and understandable they have ever had."

22 e. "Our FDA cleared safe laser med procedure uses the world's most powerful laser
23 technology, which has helped countless chronic pain suffers like you get back to an active and
24 pain free lifestyle."

25 f. "After years of searching, I had finally discovered the Holy Grail of noninvasive
26 pain management."

27 30. In his Spring 2015 newsletter, Respondent advertises a free book offer for the first 25
28 callers to his office or to his 24-hour pre-recorded pain relief information hotline.

31. On the last page of his Spring 2015 newsletter, Respondent advertises discount services stating that "Our first consultation and exam fee is normally \$250, but by simply mentioning the special PAIN RELIEF NEWSLETTER READER CODE PRN0511, you will receive my comprehensive pain elimination consultation and exam for only \$97."

III

FALL 2015 PAIN RELIEF NEWSLETTER

7 32. In the Fall of 2015, Respondent created a "Pain Relief Newsletter" entitled "What
8 Pain Doctors Don't Tell You" (Fall 2015 newsletter) with a picture of Respondent and William
9 Shatner on the front page. The Fall 2015 newsletter is 11 pages in length and was mailed to
10 Respondent's patients. The newsletter has headings such as "The non-drug pain relieving
11 medical breakthrough doctors aren't talking about!" and "Discover the world's only 'Star Trek-
12 like' doctor." In multiple places throughout the newsletter, Respondent identifies himself as "Dr.
13 Yoo," without using the designation of "chiropractor" or "D.C." following his name.
14 Additionally, there are several pictures in the newsletter of Respondent dressed in a physician's
15 white coat with a stethoscope around his neck. There is no notation in the newsletter that
16 Respondent is a chiropractor.

17 33. Respondent includes in his Fall 2015 newsletter “before” and “after” x-ray pictures
18 depicting knee arthritis and peripheral neuropathy which are misleading. The “before” picture is
19 somewhat grainy and lacks sharp focus. The after picture purportedly demonstrates “increased
20 joint space” in response to PEMF Magnet Therapy. The after picture does not appear to show any
21 significant differences between the two images. There is no statement that the same before and
22 after results may not occur for all patients.

23 34. Respondent includes in his Fall 2015 newsletter “before” and “after” pictures of
24 calves and feet in which the “before” picture is blurry and has wavy lines drawn around the calf,
25 and the “after” picture is clearer and without lines drawn around the calf. Respondent purports to
26 show that “Superpulsed Cold Laser & PEMF Magnet Therapy” produces the changes illustrated
27 in the “after” picture, which is misleading. It is clear that the before and after pictures are not the

111

1 same person, based on the pose and size of the calf muscles. There is no statement that the same
2 before and after results may not occur for all patients.

3 35. Respondent made the following statements in his Fall 2015 newsletter:

4 a. "Walter says that if you are suffering like he was, you need to get in here now
5 before you lose your feet." "Walter C's legs were saved from amputation...now after just two
6 weeks of care, he can walk for the first time in 10 years."

7 b. "The Lifelite 250-watt Super Pulse Laser is the world's most powerful FDA
8 cleared safe laser. To offer a clearer perspective, most Class 4 lasers produce 6-12 watts of
9 power. The lasers we use provided more than 20x the power of any other laser."

10 c. "Nevertheless, there have been some cases that have not responded to laser.
11 Fortunately, I have another incredible treatment called Pulsed Electromagnetic Field Therapy.
12 This ground breaking therapy reduces inflammation and the effects of stress on the body,
13 accelerates the repair of bone nerve, and soft tissue, and relaxes muscles. Many patients who
14 don't respond to laser respond well to PEMF or a combination of both."

15 d. "My comprehensive exam, which includes state-of-the-art infrared thermographic
16 imagining is the most thorough and understandable they have ever had."

17 e. "Our FDA cleared safe laser med procedure uses the world's most powerful laser
18 technology, which has helped countless chronic pain suffers like you get back to an active and
19 pain free lifestyle."

20 f. "After years of searching, I had finally discovered the Holy Grail of noninvasive
21 pain management."

22 36. On the last page of the Fall 2015 newsletter, Respondent advertises discount services
23 stating that "Our first consultation and exam fee is normally \$275, but by simply mentioning the
24 special PAIN RELIEF NEWSLETTER READER CODE WPOC-1007, you will receive my
25 comprehensive pain elimination consultation and exam for only \$97."

26 ///

27 ///

28 ///

IV

WINTER 2016 PAIN RELIEF NEWSLETTER

3 37. In the Winter of 2016, Respondent created a “Pain Relief Newsletter” entitled “Pain
4 Relief Secrets Without Drugs or Surgery” (Winter 2016 newsletter) and with a heading “Meet the
5 Doctor of the Future” and “Inside: The World’s Most Powerful FDA Cleared Safe Pain Relieving
6 Laser.” The newsletter is 11 pages in length and was mailed to Respondent’s patients. The
7 second page of the newsletter is entitled “Discover the World’s only ‘Star Trek-like’ Doctor” and
8 shows a picture of Respondent with the name “Dr. Phillip Yoo” underneath it. Under
9 Respondent’s name text states “Dr. Yoo stays on top of the most state-of-the-art pain
10 management technologies. Dr. Yoo attended the ‘Principles & Practice of Pain Medicine’ course
11 at Harvard Medical School’s Continuing Education Department. In multiple places throughout
12 the newsletter, Respondent identifies himself as “Dr. Yoo,” without using the designation of
13 “chiropractor” or “D.C.” following his name. Additionally, there are several pictures in the
14 newsletter of Respondent dressed in a physician’s white coat with a stethoscope around his neck.
15 There is no notation in the newsletter that Respondent is a chiropractor.

16 38. Respondent advertised in his Winter 2016 newsletter that he uses Deep Tissue Laser
17 Therapy to treat bulging discs, circulatory and inflammatory conditions and that a non-surgical
18 laser can eliminate foot pain for plantar fasciitis and Morton's neuroma.

19 39. Respondent advertised in his Winter 2016 newsletter that he uses the Lifelite 250-
20 watt Super Pulsed Laser on his patients and that the laser is FDA cleared, even though that
21 statement is false.

22 40. Respondent includes in his Winter 2016 newsletter “before” and “after” x-ray
23 pictures depicting knee arthritis and peripheral neuropathy which are misleading. The “before”
24 picture is somewhat grainy and lacks sharp focus. The after picture purportedly demonstrates
25 “increased joint space” in response to PEMF Magnet Therapy. The after picture does not appear
26 to show any significant differences between the two images. There is no statement that the same
27 before and after results may not occur for all patients.

28 | //

1 41. Respondent includes in his Winter 2016 newsletter “before” and “after” pictures of
2 calves and feet in which the “before” picture is blurry and has wavy lines drawn around the calf,
3 and the “after” picture is clearer and without lines drawn around the calf. Respondent purports to
4 show that “Superpulsed Cold Laser & PEMF Magnet Therapy” produces the changes illustrated
5 in the “after” picture, which is misleading. It is clear that the before and after pictures are not the
6 same person, based on the pose and size of the calf muscles. There is no statement that the same
7 before and after results may not occur for all patients.

8 42. Respondent made the following statements in his Winter 2016 newsletter:

9 a. “Dr. Yoo has performed more than 677 successful clinical trials on patients from
10 all walks of life, which include medical doctors, registered nurses, professional athletes, military
11 generals and veterans, celebrities, baby boomers, and seniors just like you.”

12 b. “ my comprehensive exam, which includes state-of-the-art infrared
13 thermographic imagining is the most thorough and understandable they have ever had.”

14 c. “Our FDA cleared safe laser med procedure uses the world’s most powerful laser
15 technology, which has helped countless chronic pain sufferers like you get back to an active and
16 pain free lifestyle.”

17 d. “We’re the only clinic on the entire West Coast that uses these very specific
18 protocols that regenerate damaged nerves, helping nerves to function better and decrease pain,
19 and can even completely remove all symptoms associated with diagnosis of peripheral
20 neuropathy. We are using very specific state-of-the-art, breakthrough, noninvasive, and nondrug
21 treatment procedures for the treatment of severe and constant foot and leg pain caused by
22 neuropathy.”

23 e. Regarding his laser therapy, “I learned it had the ability to quickly increase
24 circulation to an area (much needed in neuropathy patients), it could reduce and/or eliminate pain
25 in as little as 10 minutes and was changing the lives of patients with severe debilitating pain in
26 offices across the nation.”

27 f. The caption of a picture of Respondent with elderly patients states “Dr. Phillip Yoo
28 monitors the gentle, non-invasive Neuro Feedback, Light Therapy on Irvine’s Carmela W. (90)

1 who suffered from tinnitus, headaches, and hand tremors. The patient noticed relief of all her
2 symptoms after the very first session."

3 g. "These proprietary protocols of comprehensive nerve evaluation, regrowth, and
4 retreating are what sets us apart from every other doctor, vitamin company, spinal decompression
5 center, medical device company, everyone else out there who are claiming to have the answer for
6 you."

7 43. On page 6 of his Winter 2016 newsletter, Respondent advertises discounted services
8 stating that "For 14 days only, \$97 will get you all the services I normally charge new patients
9 \$250 for! ... And if needed, a full set of specialized x-rays (NOTE: These would normally cost
10 you at least \$100)."

11 44. On the last page of the Winter 2016 newsletter, Respondent advertises discount
12 services stating that "Our first consultation and exam fee is normally \$275, but by simply
13 mentioning the special PAIN RELIEF NEWSLETTER READER CODE PROC-0125 you will
14 receive my comprehensive pain elimination consultation and exam for only \$97."

FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct – Advertising Violations)

17 45. Respondent's license is subject to discipline for unprofessional conduct pursuant to
18 Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 311, in
19 that Respondent's advertising contained misstatements, falsehoods, misrepresentations, distorted,
20 sensational and/or fabulous statements; or made statements that were intended, or have a
21 tendency to deceive the public. The circumstances are set forth in detail in paragraphs 18 through
22 44 above, and are incorporated herein as though fully set forth.

SECOND CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct – Disseminating False or Misleading Public Communications)

25 46. Respondent's license is subject to discipline for unprofessional conduct pursuant to
26 Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 317(q),
27 in that Respondent participated in an act of fraud or misrepresentation when he disseminated or
28 caused to be disseminated, communications in the form of newsletters and advertising containing

1 false, fraudulent, misleading, and/or deceptive statements, claims, and/or images for the purpose
2 of or likely to induce, directly or indirectly, the rendering of professional services in connection
3 with his chiropractic practice in violation of Business and Professions Code section 651(a). The
4 circumstances are set forth in detail in paragraphs 18 through 44 above, and are incorporated
5 herein as though fully set forth.

THIRD CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct – Statements/ Images Re Unjustified Expectations of Favorable Results)

8 47. Respondent's license is subject to discipline for unprofessional conduct pursuant to
9 Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 317(q),
10 in that Respondent participated in an act of fraud or misrepresentation when he made false,
11 fraudulent, misleading and/or deceptive statements, or images that were intended or were likely to
12 create false or unjustified expectations of favorable results in violation of Business and
13 Professions Code section 651(b)(3)(A). The circumstances are set forth in detail in paragraphs 18
14 through 44 above, and are incorporated herein as though fully set forth.

FOURTH CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct – Communications Re Images that Distort Results)

17 48. Respondent's license is subject to discipline for unprofessional conduct pursuant
18 to Section 10 of the Act in conjunction with California Code of Regulations, title 16, section
19 317(q), in that Respondent participated in an act of fraud or misrepresentation when he distributed
20 communications that used "before" and "after" views of patients, that were not comparable in
21 presentation so that the results were distorted by favorable poses, lighting, or other features of
22 presentation, and failed to contain a statement that the same "before" and "after" results may not
23 occur for all patients in violation of Business and Professions Code section 651(b)(3)(C). The
24 circumstances are set forth in detail in paragraphs 18 through 44 above, and are incorporated
25 herein as though fully set forth.

26 //

27 | //

28 | //

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Communications Re Claims of Professional Superiority)

3 49. Respondent's license is subject to discipline for unprofessional conduct pursuant
4 to Section 10 of the Act in conjunction with California Code of Regulations, title 16, section
5 317(q), in that Respondent participated in an act of fraud or misrepresentation in that Respondent
6 distributed communications that made claims of professional superiority and performance of
7 services in a superior manner without substantiating the claims with objective scientific evidence
8 in violation of Business and Professions Code section 651(b)(6). The circumstances are set forth
9 in detail in paragraphs 18 through 44 above, and are incorporated herein as though fully set forth.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct –Price Advertising and Discounts)

12 50. Respondent is subject to discipline for unprofessional conduct pursuant to Section
13 10 of the Act in conjunction with California Code of Regulations, title 16, section 317(q), in that
14 Respondent participated in an act of fraud or misrepresentation in that his price advertising for his
15 chiropractic practice was misleading and included statements or advertisements of bait, discount,
16 premiums, gifts and/or statements of a similar nature in violation of Business and Professions
17 Code section 651(c). The circumstances are set forth in detail in paragraphs 18 through 44 above,
18 and are incorporated herein as though fully set forth.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Advertising that Violates Business and Professions Code Section 17500)

22 51. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
23 Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 317(p)
24 in that Respondent's advertising was untrue or misleading, or which by the exercise of reasonable
25 care, Respondent should have known to be untrue or misleading, in violation of Business and
26 Professions Code section 17500. The circumstances are set forth in detail in paragraphs 18
27 through 44 above and are incorporated herein as though fully set forth.

28 //

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Violation of the Chiropractic Act by Advertising as a Doctor Without Using the Designation of Chiropractor or D.C. After his Name)

52. Respondent's license is subject to discipline for unprofessional conduct pursuant to Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 317(m) in that Respondent advertised his services and prepared written communications using the word "doctor" and/or the prefix "Dr." without using the word "chiropractor" or "D.C." immediately following his name in violation of Section 15 of the Act. The circumstances are set forth in detail in paragraphs 18 through 44 above, and are incorporated herein as though fully set forth.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of Unapproved Lasers)

53. Respondent is subject to discipline for unprofessional conduct pursuant to Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 302.5(a)(1) in that Respondent used lasers in his chiropractic practice which had not been properly approved or cleared by the FDA. The circumstances are more specifically set forth in paragraphs 18 through 44 above, and incorporated herein as though fully set.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Advertising the Use of Unapproved Lasers)

54. Respondent is subject to discipline for unprofessional conduct pursuant to Section 10 of the Act in conjunction with California Code of Regulations, title 16, section 302.5(a)(2) in that Respondent advertised the use of lasers in his chiropractic practice that had not been cleared or approved by the FDA. The circumstances are more specifically set forth in paragraphs 18 through 44 above, and incorporated herein.

DISCIPLINARY CONSIDERATIONS

55. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about April 10, 2012, the Board issued Citation Number CH 2011-10340 to Respondent for violating California Code of Regulations, title 16, section 311, false

1 advertising and in violation of Business and Professions Code section 651, false, misleading
2 advertising. Respondent advertised in the LA Times misstatements, falsehoods and
3 misrepresentations regarding a medical study's success in lower back and neck pain relief, and
4 advertised that pursuant to a 1997 article that pills and injections were not long term solutions for
5 pain relief. Such advertising could have discouraged consumers from taking medication. The
6 citation included an order of abatement and a \$200 fine. Respondent has complied with the
7 citation. That Citation is now final and is incorporated by reference as if fully set forth.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Chiropractic Examiners issue a decision:

11 1. Revoking or suspending Chiropractor License Number DC 31461, issued to Phillip
12 Brian Yoo;

13 2. Revoking or suspending Satellite Certificate Number SAT 15040, issued to Phillip
14 Brian Yoo;

15 3. Revoking or suspending Satellite Certificate Number SAT 18865, issued to Phillip
16 Brian Yoo;

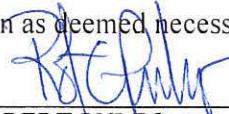
17 4. Revoking or suspending Satellite Certificate Number SAT 19453, issued to Phillip
18 Brian Yoo;

19 5. Revoking or suspending Satellite Certificate Number SAT 19479, issued to Phillip
20 Brian Yoo;

21 6. Ordering Phillip Brian Yoo to pay the Board of Chiropractic Examiners the
22 reasonable costs of the investigation and enforcement of this case, pursuant to California Code of
23 Regulations, title 16, section 317.5; and,

24 7. Taking such other and further action as deemed necessary and proper.

25 DATED: 04/19/2017



26 ROBERT PULEO
27 Executive Officer
28 Board of Chiropractic Examiners
Department of Consumer Affairs
State of California
Complainant