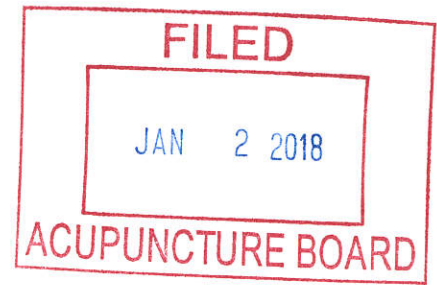


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10 **BEFORE THE**
11 **ACUPUNCTURE BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 1A-2016-22

14 **SOON PARK**
15 **548 Carnes Circle**
Redlands, CA 92374

A C C U S A T I O N

16 **Acupuncturist License No. AC12047,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about October 18, 2007, the Board issued Acupuncturist License No. AC12047
24 to Soon Park (Respondent). On or about February 22, 2016, in *The People of the State of*
25 *California v. Soon Park*, San Bernardino Superior Court of California Case No. FWV1600414,
26 Respondent was prohibited from practicing any aspect of acupuncture pending the resolution of
27 that criminal matter pursuant to Penal Code section 23. Acupuncturist License No. AC12047

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1 expired on April 30, 2017, and has not been renewed. Acupuncturist License No. AC12047 was
2 in full force and effect at all times relevant to the charges brought herein.

3 JURISDICTION

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

7 4. Section 118 of the Code states, in pertinent part:

8 “... ”

9 “(b) The suspension, expiration, or forfeiture by operation of law of a license
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by
11 order of the board or by order of a court of law, or its surrender without the written
12 consent of the board, shall not, during any period in which it may be renewed, restored,
13 reissued, or reinstated, deprive the board of its authority to institute or continue a
14 disciplinary proceeding against the licensee upon any ground provided by law or to
15 enter an order suspending or revoking the license or otherwise taking disciplinary
16 action against the licensee on any such ground.

17 “(c) As used in this section, ‘board’ includes an individual who is authorized by
18 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
19 ‘certificate,’ ‘registration,’ and ‘permit.’”

20 5. Section 726 of the Code states, in pertinent part:

21 “(a) 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 or under any initiative act referred
24 to in this division.

25 “... ”

26 6. Section 4955 of the Code states, in pertinent part:

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

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

“... ”

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

“... ”

7. Section 4955.1 of the Code states, in pertinent part:

“The board may deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be limited to, any of the following:

“... ”

“(c) Committing any act involving dishonesty or corruption with respect to the qualifications, functions, or duties of an acupuncturist.

“... ”

8. Section 1399.469.1 of title 16 of the California Code of Regulations states, in pertinent part:

“(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

“Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

“... ”

9. Section 289 of the Penal Code states, in pertinent part:

“(a)(1)(A) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by any means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another

1 person shall be punished by imprisonment in the state prison for three, six, or eight
2 years.

3 “...”

4 10. Section 290 of the Penal Code states, in pertinent part:

5 “(a) Sections 290 to 290.024, inclusive, shall be known and may be cited as the
6 Sex Offender Registration Act...

7 “(c) The following persons shall be required to register:

8 “Any person who, since July 1, 1944, has been or is hereafter convicted in any
9 court in this state or in any federal or military court of a violation of Section 187
10 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable
11 under Section 286, 288, 288a, or 289, Section 220, except assault to commit mayhem,
12 subdivision (b) and (c) of Section 236.1, Section 243.4, paragraph (1), (2), (3), (4), or
13 (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262
14 involving the use of force or violence for which the person is sentenced to the state
15 prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of
16 Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7,
17 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
18 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f,
19 subdivision 1 or under Section 272, or any felony violation of Section 288.2; any
20 statutory predecessor that includes all elements of one of the above-mentioned
21 offenses; or any person who since that date has been or is hereafter convicted of the
22 attempt or conspiracy to commit any of the above-mentioned offenses.”

23 **COST RECOVERY**

24 11. Section 4959 of the Code states:

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

1 “(b) The costs to be assessed shall be fixed by the administrative law judge and
2 shall not in any event be increased by the board. When the board does not adopt a
3 proposed decision and remands the case to an administrative law judge, the
4 administrative law judge shall not increase the amount of any costs assessed in the
5 proposed decision.

6 “(c) When the payment directed in the board’s order for payment of costs is not
7 made by the licensee, the board may enforce the order for payment in the superior court
8 in the county where the administrative hearing was held. This right of enforcement
9 shall be in addition to any other rights the board may have as to any licensee directed to
10 pay costs.

11 “(d) In any judicial action for the recovery of costs, proof of the board’s decision
12 shall be conclusive proof of the validity of the order of payment and the terms for
13 payment.

14 “(e) All costs recovered under this section shall be considered a reimbursement
15 for costs incurred and shall be deposited in the Acupuncture Fund.”

16 **FIRST CAUSE FOR DISCIPLINE**
17 **(Sexual Misconduct)**

18 12. Respondent’s Acupuncture License No. AC12047 is subject to disciplinary action
19 under section 726 of the Code, in that Respondent committed sexual misconduct with a patient,
20 client, or customer, as more fully described below:

21 13. On or about January 14, 2016, Patient A¹ went to the Fontana Indoor Swap Meet
22 located in Fontana, CA, to receive acupuncture treatment from Respondent. Patient A had been
23 receiving acupuncture treatment from Respondent for approximately four years.

24 14. On or about January 14, 2016, at the treatment session, Patient A removed her
25 clothes, keeping her bra and underwear on, and lay on the table face down. Respondent then
26 inserted the acupuncture needles into Patient A, and Patient A fell asleep.

27 _____
28 ¹ Letters are used to protect the patient’s privacy.

1 15. On or about January 14, 2016, Patient A woke up when Respondent was removing the
2 needles from her body. Respondent then proceeded to work on Patient A's pressure points and
3 massage her upper back and shoulders. At some point, Patient A had flipped over so that she was
4 lying down on her back. Respondent then proceeded to massage Patient A's arm, shoulders, neck,
5 chest, and stomach.

6 16. On or about January 14, 2016, after massaging Patient A's stomach per their usual
7 routine, Respondent used his hand to reach underneath Patient A's underwear and digitally
8 penetrated her vagina.

9 17. On or about January 14, 2016, Patient A reported the incident to the Fontana Police
10 Department.

11 18. On or about February 4, 2016, in *The People of the State of California v. Soon Park*,
12 San Bernardino Superior Court of California Case No. FWV1600414, a Complaint was filed,
13 charging Respondent with one felony count of a violation of Penal Code section 289, subdivision
14 (a)(1)(A), sexual penetration by a foreign object.

15 19. On or about February 19, 2016, in *The People of the State of California v. Soon Park*,
16 San Bernardino Superior Court of California Case No. FWV1600414, an Information was filed,
17 charging Respondent with one felony count of a violation of Penal Code section 289, subdivision
18 (a)(1)(A), sexual penetration by a foreign object.

19 20. On or about July 8, 2016, in *The People of the State of California v. Soon Park*, San
20 Bernardino Superior Court of California Case No. FWV1600414, Respondent was convicted
21 following a jury trial, of one felony count of a violation of Penal Code section 289, subdivision
22 (a)(1)(A), sexual penetration by a foreign object.

23 21. On or about September 23, 2016, in *The People of the State of California v. Soon*
24 *Park*, San Bernardino Superior Court of California Case No. FWV1600414, Respondent was
25 sentenced to three years in prison.

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1 **SECOND CAUSE FOR DISCIPLINE**
2 **(Committing Any Act Involving Corruption with Respect to the Qualifications, Functions,**
3 **or Duties of an Acupuncturist)**

4 22. Respondent's Acupuncture License No. AC12047 is further subject to disciplinary
5 action under section 4955.1, subdivision (c), of the Code, in that he committed a corrupt act with
6 respect to the qualifications, functions or duties of an acupuncturist, as more particularly alleged
7 in paragraphs 13 through 21, above, which are hereby incorporated by reference and re-alleged as
8 if fully set forth herein.

9 **THIRD CAUSE FOR DISCIPLINE**
10 **(Unprofessional Conduct)**

11 23. Respondent's Acupuncture License No. AC12047 is further subject to disciplinary
12 action under section 4995 of the Code, in that he committed unprofessional conduct, as more
13 particularly alleged in paragraphs 13 through 21, above, which are hereby incorporated by
14 reference and re-alleged as if fully set forth herein.

15 **PRAYER**

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

- 18 1. Revoking Acupuncturist License No. AC12047, issued to Respondent Soon Park;
19 2. Ordering Respondent Soon Park to pay the Board the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 4959; and,
22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: JAN 02 2018

24 
25 BENJAMIN BODEA
26 Executive Officer
27 Acupuncture Board
28 State of California
Complainant

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