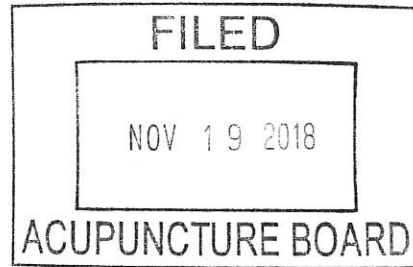


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8 **BEFORE THE**  
9 **ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2015-286

13 **SANG SUK LEE, L.Ac.**  
14 **6693 Downey Avenue**  
**Long Beach, CA 90805**  
15 **Acupuncturist License No. AC 16636,**

**A C C U S A T I O N**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 29, 2015, the Acupuncture Board issued Acupuncturist License  
23 Number AC 16636 to Sang Suk Lee, L.Ac. (Respondent). The Acupuncturist License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on August 31,  
25 2020, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Acupuncture Board (Board), Department of  
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

2 4. Section 4928.1 of the Code states:

3 “Protection of the public shall be the highest priority for the Acupuncture Board in  
4 exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the  
5 public is inconsistent with other interests sought to be promoted, the protection of the public shall  
6 be paramount.”

7 5. Section 4927, of the Code states, in pertinent part:

8 “As used in this chapter, unless the context otherwise requires:

9 “... ”

10 “(d) ‘Acupuncture’ means the stimulation of a certain point or points on or near the surface  
11 of the body by the insertion of needles to prevent or modify the perception of pain or to normalize  
12 physiological functions, including pain control, treatment of certain diseases or dysfunctions of  
13 the body and includes the techniques of electroacupuncture, cupping, and moxibustion.”

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

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

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

18 “. . . ”

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

21 “. . . ”

22 “(i) Any action or conduct that would have warranted the denial of the acupuncture license.

23 “. . . ”

24 7. Section 4937 of the Code states, in pertinent part:

25 “An acupuncturist’s license authorizes the holder thereof:

26 “(a) To engage in the practice of acupuncture.

27 “. . . ”

28 //

1           8.    Section 4955.1 of the Code states, in pertinent part:  
2            “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
3 of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be  
4 limited to, any of the following:  
5            “ . . .  
6            “(e) Failing to maintain adequate and accurate records relating to the provision of services  
7 to their patients.”

8           9.    Section 4955.2 of the Code states:  
9            “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
10 of any acupuncturist if he or she is guilty of committing any one of the following:  
11           “(a) Gross negligence.  
12           “(b) Repeated negligent acts.  
13           “(c) Incompetence.”

14          10.  California Code of Regulations, Title 16, section 1399.453 provides as follows:  
15            “An acupuncturist shall keep complete and accurate records on each patient who is given  
16 acupuncture treatment, including but not limited to, treatments given and progress made as a  
17 result of the acupuncture treatments.”

**COSTS**

18          11.  Section 4959 of the Code states:  
19            “(a) The board may request the administrative law judge, under his or her proposed  
20 decision in resolution of a disciplinary proceeding before the board, to direct any licensee found  
21 guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable  
22 costs of the investigation and prosecution of the case.  
23            “(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in  
24 any event be increased by the board. When the board does not adopt a proposed decision and  
25 remands the case to an administrative law judge, the administrative law judge shall not increase  
26 the amount of any costs assessed in the proposed decision.  
27            “(c) When the payment directed in the board's order for payment of costs is not made by the  
28

1 licensee, the board may enforce the order for payment in the superior court in the county where  
2 the administrative hearing was held. This right of enforcement shall be in addition to any other  
3 rights the board may have as to any licensee directed to pay costs.

4 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be  
5 conclusive proof of the validity of the order of payment and the terms for payment.

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

### 8 **FACTUAL ALLEGATIONS**

9 12. Patient B<sup>1</sup> was a 41 year-old man who injured his back at work in January 2015. He  
10 was referred by his worker's compensation physician for acupuncture treatment of a “lumbar disc  
11 bulge.”

12 13. On or about August 13, 2015, Respondent evaluated Patient B for low back pain at  
13 the physical therapy clinic at which Respondent worked. After her evaluation Respondent  
14 performed soft tissue manipulation/myofascial release and infrared treatment on Patient B.

15 14. On Thursday, August 20, 2015, Patient B went to the physical therapy clinic at which  
16 Respondent worked for Respondent to give him his first acupuncture and infrared treatment.  
17 Respondent inserted the needles into the patient sometime after 4:45 p.m. Respondent did not  
18 document the location of the needles. Respondent did not provide aftercare instructions to the  
19 patient. Patient B fell asleep during the treatment. When Patient B awoke between 6:00 p.m. and  
20 6:20 p.m. the room was dark. Patient B yelled but no one responded. Respondent did not have a  
21 protocol in place to ensure all treatment rooms were empty before she left for the day.

22 15. Patient B attempted to get off of the acupuncture treatment table but was unable to do  
23 so as the acupuncture needles were still inserted into his body. When the patient attempted to get  
24 off of the treatment table, he fell a distance of approximately 42 inches to the floor. Patient B  
25 sustained injuries to his left arm, wrist, hand, shoulder, hips, knee, neck and back as a result of his  
26 fall.

27 \_\_\_\_\_  
28 <sup>1</sup> The names of the patient and/or witnesses are abbreviated to protect their privacy rights. The names will  
be provided to Respondent upon written request for discovery.

1 16. Due to his injuries and the fact that the acupuncture needles were still in, Patient B  
2 had to slowly crawl to the reception area where he discovered the office doors were locked. The  
3 patient then called his brother who called the police who in turn called the fire department. The  
4 fire department personnel had to utilize a saw to cut open the clinic door and release the patient.  
5 Patient B was locked within the clinic for two (2) to three (3) hours.

6 17. The paramedics removed eight (8) needles from Patient B's lower spine. The patient  
7 was then transported by ambulance to the nearest hospital. Patient B had a known history of high  
8 blood pressure and his vital signs were extremely abnormal during his initial hospital evaluation.  
9 The hospital medical personnel found Patient B was "very anxious" and the patient had spasms  
10 throughout his lower back. Several hours after his admission Patient B was discharged from the  
11 hospital. Patient B subsequently received chiropractic care for injuries sustained in the incident.

12 18. Patient B filed a complaint with the Acupuncture Board regarding what occurred  
13 during his August 20, 2015, acupuncture treatment. Subsequently as part of the investigation a  
14 Department of Consumer Affairs investigator interviewed Respondent regarding Patient B's  
15 treatment. During her interview Respondent stated that on August 20, 2015, she treated 25  
16 patients between 1:00 p.m. and 6:00 p.m. and it was a very busy day for her. Respondent stated  
17 she was running late and missed lunch but insisted she was not preoccupied.

18 19. Respondent stated she customarily worked alone every Thursday afternoon, with no  
19 receptionist present on Thursdays. Respondent told the investigator that because there was a  
20 higher than normal number of patients that day Respondent chose to treat Patient B in a "physical  
21 therapy room" not in "a normal acupuncture room." Respondent stated she last saw Patient B at  
22 approximately 5:30 p.m.

### 23 **FIRST CAUSE FOR DISCIPLINE**

24 (Gross Negligence)

25 20. Respondent is subject to disciplinary action under 4955.2, subsection (a), in that she  
26 was grossly negligent in her care and treatment of Patient B. The circumstances are as follows:

27 21. Respondent's care and treatment of Patient B as set forth above includes the  
28 following acts and/or omission which constitutes an extreme departure from the standard of care:

1 22. Respondent abandoned Patient B.

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Repeated Negligent Acts)

4 23. Respondent is subject to disciplinary action under section 4955.2, subdivision (b), of  
5 the Code, in that she has committed repeated acts of negligence in the practice of acupuncture  
6 with respect to Patient B. The circumstances are as follows:

7 24. Complainant refers to, and by reference incorporates herein paragraphs 12 through  
8 19, inclusive, above.

9 25. Respondent was negligent when she failed to document which acupuncture points  
10 were needed.

11 26. Respondent was negligent when she failed to have a protocol to use to ensure that the  
12 patient was not abandoned during acupuncture treatment.

13 27. Respondent was negligent when she failed to ensure the acupuncture needles were  
14 removed from the patient.

15 28. Respondent was negligent when she failed to personally remove the needles from the  
16 patient.

17 29. Respondent was negligent when she failed to remove the needles from the patient and  
18 inspect the patient's body for bleeding or complications from the treatment.

19 30. Respondent was negligent when she failed to protect the patient from falling when the  
20 patient sat up and to protect from a possible vasovagal<sup>2</sup> response after a treatment and removal of  
21 the needles from the patient.

22 31. Respondent was negligent when she failed to provide aftercare instructions to the  
23 patient after the treatment.

24 32. Respondent was negligent when she failed to ensure that the patient left the office  
25 safely.

26 33. Respondent was negligent when she failed to have a protocol to use to ensure all  
27

28 <sup>2</sup> Vasovagal is a temporary fall in blood pressure, with pallor, fainting, sweating, and nausea, caused by over activity of the vagus nerve.

1 treatment rooms were empty before leaving at the end of the day.

2 **THIRD CAUSE FOR DISCIPLINE**

3 (Record Keeping)

4 34. Respondent is subject to disciplinary action under section 4955, subdivision (e) of the  
5 Code, and California Code of Regulations, title 16, section 1399.453, in that she failed to  
6 maintain adequate and accurate records relating to the provision of services to Patient B. The  
7 circumstances are as follows:

8 35. Complainant refers to, and by reference incorporates herein, paragraphs 12 through  
9 19, inclusive, above.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct)

12 36. Respondent is subject to disciplinary action under section 4955 of the Code in that  
13 she engaged in unprofessional conduct. The circumstances are as follows:

14 37. Complainant refers to, and by reference incorporates herein, paragraphs 11 through  
15 18, inclusive, above.

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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:

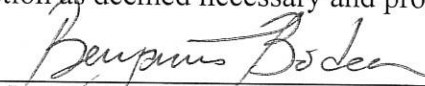
4 1. Revoking or suspending Acupuncturist License Number AC 16636, issued to Sang  
5 Suk Lee, L.Ac.;

6 2. Ordering Sang Suk Lee, L.Ac. to pay the Acupuncture Board the reasonable costs of  
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 4959;

9 3. If placed on probation, ordering her to pay to the Acupuncture Board the costs of  
10 probation monitoring; and

11 4. Taking such other and further action as deemed necessary and proper.

12 DATED: NOV 19 2018

  
13 BENJAMIN BODEA  
14 Executive Officer  
15 Acupuncture Board  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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