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9
10 **BEFORE THE**
ACUPUNCTURE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 1A-2015-286

14 **SANG SUK LEE, L.Ac.**
15 **6693 Downey Avenue**
16 **Long Beach, CA 90805**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **Acupuncturist License No. AC 16636,**

18 Respondent.

19
20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board
24 (Board). He brought this action solely in his official capacity and is represented in this matter by
25 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney
26 General.

27 2. Respondent Sang Suk Lee, L.Ac. (Respondent) is represented in this proceeding by
28 attorney Kathleen Marie Walker, whose address is: Lewis, Brisbois, Bisgaard & Smith, LLP, 633

1 West 5th Street, Suite 4000, Los Angeles, CA 90071.

2 3. On or about April 29, 2015, the Board issued Acupuncturist License No. AC 16636 to
3 Sang Suk Lee, L.Ac. The Acupuncturist License was in full force and effect at all times relevant
4 to the charges brought in Accusation No. 1A-2015-286, and will expire on August 31, 2020,
5 unless renewed.

6 JURISDICTION

7 4. Accusation No. 1A-2015-286 was filed before the Board, and is currently pending
8 against Respondent. The Accusation and all other statutorily required documents were properly
9 served on Respondent on November 19, 2018. Respondent timely filed her Notice of Defense
10 contesting the Accusation.

11 5. A copy of Accusation No. 1A-2015-286 is attached as exhibit A and incorporated
12 herein by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 1A-2015-286. Respondent has also carefully read,
16 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
17 Disciplinary Order.

18 7. Respondent is fully aware of her legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 1A-2015-286.

1 10. Respondent agrees that her Acupuncturist License is subject to discipline and she
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 **CONTINGENCY**

4 11. This stipulation shall be subject to approval by the Acupuncture Board. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent or her counsel. By signing the stipulation, Respondent
8 understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation
9 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
10 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
11 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
12 and the Board shall not be disqualified from further action by having considered this matter.

13 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
14 copies of this Stipulated Settlement and Disciplinary Order shall have the same force and effect as
15 the originals.

16 13. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Board may, without further notice or formal proceeding, issue and enter the following
18 Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 **IT IS HEREBY ORDERED** that Acupuncturist License No. AC 16636 issued to
21 Respondent Sang Suk Lee, L.Ac. is revoked. However, the revocation is stayed and Respondent
22 is placed on probation for two (2) years on the following terms and conditions.

23 1. **COURSEWORK** Respondent, at her own expense, shall enroll and successfully
24 complete coursework substantially related to the violation(s) no later than the end of the first year
25 of probation. The coursework shall be in addition to that required for license renewal. The Board
26 or its designee shall notify Respondent of the course content and number of hours required.
27 Within thirty (30) days of the Board's written notification of assigned coursework, Respondent
28 shall submit a written plan to comply with this requirement to the Board or its designee. The

1 Board or its designee shall approve such a plan prior to enrollment in any course of study.

2 Upon successful completion of the coursework, Respondent shall submit original completion
3 certificates to the Board within thirty (30) days of course completion.

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

8 3. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
9 penalty of perjury on forms provided by the Board, stating whether there has been compliance
10 with all the conditions of probation.

11 4. SURVEILLANCE PROGRAM Respondent shall comply with the Board's
12 probation surveillance program and shall, upon reasonable notice, report to the assigned
13 investigative district office. Respondent shall contact the assigned probation surveillance monitor
14 regarding any questions specific to the probation order. Respondent shall not have any
15 unsolicited or unapproved contact with 1) victims or complainants associated with the case;
16 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

17 5. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
18 person for interviews with the Board or its designee upon request at various intervals and with
19 reasonable notice.

20 6. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
21 through the assigned probation surveillance compliance officer of any and all changes of
22 employment, location and address within 30 days of such change.

23 7. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event
24 Respondent should leave California to reside or to practice outside the State, Respondent must
25 notify the Board in writing of the dates of departure and return. Periods of residency or practice
26 outside California will not apply to the reduction of this probationary period.

27 8. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
28 employ or supervise or apply to employ or supervise acupuncture trainees during the course of

1 this probation. Respondent shall terminate any such supervisory relationship in existence on the
2 effective date of this probation.

3 9. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
4 enforcement in the amount of \$8,420.81. Respondent shall be permitted to pay these costs in a
5 payment plan approved by the Board or its designee, with payments to be completed no later than
6 three months prior to the end of the probation term. Cost recovery will not be tolled. At
7 Respondent's request, if Respondent has not complied with this condition during the probationary
8 term, and Respondent has presented sufficient documentation of her good faith efforts to comply
9 with this condition, and if no other conditions have been violated, the Board or its designee, in its
10 discretion, may grant an extension of Respondent's probation period up to two (2) years without
11 further hearing in order to comply with this condition. During the two (2) years extension, all
12 original conditions of probation will apply. The filing of bankruptcy by Respondent shall not
13 relieve Respondent of her responsibility to reimburse the Board for its investigation and
14 prosecution costs.

15 10. VIOLATION OF PROBATION If Respondent violates probation in any respect, the
16 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and
17 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is
18 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
19 matter is final, and the period of probation shall be extended until the matter is final. No petition
20 for modification or termination of probation shall be considered while there is an accusation or
21 petition to revoke probation pending against Respondent.

22 11. COMPLETION OF PROBATION Upon successful completion of probation,
23 Respondent's license will be fully restored.

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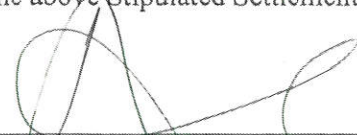
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kathleen Marie Walker. I understand the stipulation and the effect it will have on my Acupuncturist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Acupuncture Board.

DATED: 3/14/19 
SANG-SUK LEE, L.Ac.
Respondent

I have read and fully discussed with Respondent Sang Suk Lee, L.Ac. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/7/19 
KATHLEEN MARIE WALKER
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board.

Dated: March 8, 2019

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

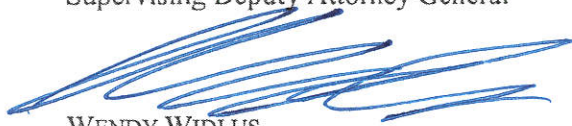
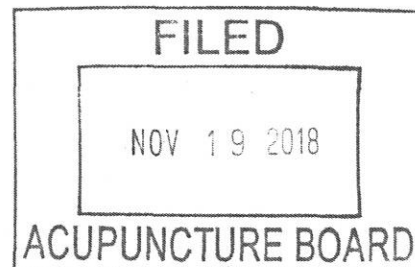

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 1A-2015-286

1 XAVIER BECERRA
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2 E. A. JONES III
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7 E-mail: Wendy.Widlus@doj.ca.gov
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9 **ACUPUNCTURE BOARD**
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12 In the Matter of the Accusation Against:

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

ACCUSATION

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.”

18 **COSTS**

19 11. Section 4959 of the Code states:

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

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

28 “(c) When the payment directed in the board's order for payment of costs is not made by the

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 B¹ 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 ¹ 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 vasovagal² 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 ² 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:

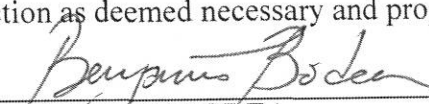
4 1. Revoking or suspending Acupuncturist License Number AC 16636, issued to Sang
5 Suk Lee, L.Ac.;

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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