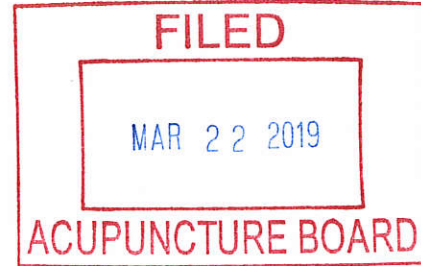


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8



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

13 In the Matter of the Petition to Revoke
14 Probation Against:

Case No. D1-2014-206

15 **KANG DAE CHOI, L.Ac.**
16 **3030 West Olympic Blvd., Suite 202**
Los Angeles, CA 90006

PETITION TO REVOKE PROBATION

17 **Acupuncturist License No. AC 4900,**
18 Respondent.

19
20
21 Complainant alleges:

22 **PARTIES**

23 1. Benjamin Bodea (Complainant) brings this Petition to Revoke Probation solely in his
24 official capacity as the Executive Officer of the Acupuncture Board (Board).

25 2. On or about September 7, 1994, the Board issued Acupuncture License Number AC
26 4900 to Kang Dae Choi, L.Ac. (Respondent). The Acupuncture License was in effect at all times
27 relevant to the charges brought herein and will expire on April 30, 2020, unless renewed.

28 3. In a disciplinary action entitled "*In the Matter of Accusation Against Kang Dae Choi,*

1 *L.Ac.*,” Case No. 1A-2014-206, the Board issued a decision, effective March 31, 2017, in which
2 Respondent's Acupuncture License was revoked. However, the revocation was stayed and
3 Respondent's Acupuncture License was placed on probation for a period of two (2) years with
4 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
5 by reference.

6 JURISDICTION

7 4. This Petition to Revoke Probation is brought before the Board under the authority of
8 the following laws. All section references are to the Business and Professions Code unless
9 otherwise indicated.

10 5. Section 4928.1 of the Code states:

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

15 6. Section 4955 of the Code states:

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

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

19 “. . .

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

23 “. . .”

24 7. Section 4959 of the Code states:

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

1 B. In the March 20, 2017, letter the Board's Probation Monitor Kristine Brothers
2 (Brothers) stated "Pursuant to Condition 1 (Practice monitor), within 90 days you are
3 required to submit for the Board's prior approval, names and qualifications of one [sic]
4 more California licensed acupuncturists whose license is clear and current and who has
5 agreed to serve as a practice monitor. This is due no later than **June 30, 2017.**" Brothers
6 also enclosed a Practice Monitor Quarterly Evaluation Form in the letter.

7 C. On July 31, 2017, Brothers sent Respondent a letter which stated that
8 Respondent was in violation of Condition 1 because the Board had not been provided
9 sufficient information regarding Respondent's proposed monitor to evaluate his
10 qualifications to act as a practice monitor prior to using him as a practice monitor. Brothers
11 asked Respondent to submit his practice monitor proposal by August 15, 2017, and
12 instructed Respondent to discontinue using Respondent's proposed monitor as a practice
13 monitor until the Board provided approval to utilize the proposed monitor as the practice
14 monitor.

15 D. On September 15, 2017, Brothers emailed Respondent and stated Respondent
16 needed to provide more information about the proposed monitor by September 29, 2017, in
17 order to use him as his Board approved monitor.

18 E. On June 4, 2018, Brothers sent Respondent a letter which stated that
19 Respondent was in violation of Condition 1, Practice Monitor, because the Board had not
20 been provided enough information about his proposed monitor to evaluate his qualifications
21 as a practice monitor. Brothers once more stated Respondent had failed to submit the
22 proposed monitor's name and qualifications for the Board's review prior to using the
23 proposed monitor as a practice monitor. Brothers once more stated that Respondent needed
24 to provide more information about the proposed monitor by June 9, 2018, in order to use
25 him as his monitor. Brothers instructed Respondent to discontinue use of the proposed
26 monitor until the Board had an opportunity to evaluate his qualifications and provided
27 approval to use the proposed monitor.

28 F. Respondent has never provided Brothers with the requisite information

1 regarding his proposed monitor to permit the Board to approve the proposed monitor,
2 thereby violating Condition 1 of his Probationary Order.

3 **SECOND CAUSE TO REVOKE PROBATION**

4 (Failure to Complete Coursework)

5 10. At all times after the effective date of Respondent's probation, Condition 3,
6 Coursework, stated:

7 "Respondent shall take and successfully complete not less than eight (8) hours of
8 coursework which the Board's probation monitor approves in each of the following area (s)for a
9 total of thirty-two (32) hours: CNT (clean needle technique), herbal preparation, record keeping,
10 and public health. All coursework shall be taken at the graduate level at a school approved by the
11 Board. Classroom attendance must be specifically required. Course content shall be pertinent to
12 the violation and all coursework must be completed within the two (2) year probationary period.
13 Within 90 days of the effective date of this decision, Respondent shall submit a plan for the
14 Board's prior approval for meeting the educational requirements."

15 11. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 3, referenced above. The facts and circumstances regarding this violation
17 are as follows:

18 A. The Board sent Respondent a March 20, 2017, letter enclosing a copy of the
19 March 3, 2017, Decision and Order and noting the March 31, 2017, effective date.

20 B. In the March 20, 2017, letter Brothers stated Respondent "... was required to
21 submit a plan for the Board's prior approval for meeting the required 32 hours of
22 coursework (eight hours in each area) in the areas of CNT (clean needle technique), herbal
23 preparation, record keeping, and public health by June 30 2017. **Due to there not being
24 enough available coursework to fulfill the order's 20 semester units or 30 quarter
25 units requirement, the Board is, instead, requiring 20 hours.**" (emphasis added)

26 C. In her July 31, 2017, letter to Respondent Brothers stated that the Board was in
27 receipt of his coursework plan for review and prior approval and that Respondent would
28 receive the Board's response to his proposed coursework plan in a separate letter.

1 D. On September 15, 2017, Brothers emailed Respondent and stated that
2 Respondent should refer to the Board's updated list of continuing education courses she had
3 provided to Respondent in August to prepare his plan to comply with Condition 3. Brothers
4 stated that Respondent needed to provide his coursework plan by September 29, 2017.

5 E. On July 5, 2017, Respondent provided the Board with a coursework plan to
6 comply with Condition 3.

7 F. On August 18, 2017, Brothers sent Respondent a letter which stated that 12
8 hours of his required hours of coursework was approved by the Board. Brothers stated the
9 other courses Respondent provided in his plan did not receive Board approval and that
10 Respondent needed to submit a coursework plan for the remaining coursework hours to the
11 Board by September 1, 2017, to comply with Condition 3.

12 G. On or about June 4, 2018, the Monitor sent Respondent a letter at his address
13 of record regarding his violation of his terms and conditions of probation. Brothers stated
14 Respondent was in violation of Condition 3 of his probation as a result of his failure to
15 provide the Board with a coursework plan for remaining hours and courses which included
16 the subject area, provider name or CEP number, course title, number of hours and dates
17 information regarding his coursework plan to permit the Board to approve the balance of
18 his coursework plan.

19 H. Respondent has never provided Brothers with a coursework plan beyond the 12
20 hours approved August 18, 2017, which included the subject area, provider name or CEP
21 number, course title, number of hours and dates information regarding his coursework plan
22 to permit the Board to approve the coursework plan thereby violating Condition 3 of his of
23 his Probationary Order.

24 **THIRD CAUSE TO REVOKE PROBATION**

25 (Failure to Provide Quarterly Reports)

26 12. At all times after the effective date of Respondent's probation, Condition 5, Quarterly
27 Reports, stated:

28 "Respondent shall submit quarterly declarations under the penalty of perjury on forms

1 provided by the Board, stating whether there has been compliance with all the conditions of
2 probation."

3 13. Respondent's probation is subject to revocation because he failed to comply with
4 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
5 are as follows:

6 A. The Board sent Respondent a March 20, 2017, letter enclosing a copy of the
7 March 3, 2017, Decision and Order and noting the March 31, 2017, effective date.

8 B. The March 20, 2017, letter Brothers enclosed two blank reporting forms for
9 submitting Quarterly Written Probation Reports (Reports) and a list of dates on which the
10 completed Reports were due to be submitted to the Board, starting on July 5, 2017.

11 C. Respondent did not provide the Board with his quarterly report due no later
12 than October 5, 2017.

13 D. Respondent did not provide the Board with his quarterly report due no later
14 than April 5, 2017.

15 E. Respondent did not provide the Board with his quarterly report due no later
16 than January 5, 2018.

17 F. On or about June 4, 2018, the Board sent Respondent a letter at his address of
18 record regarding his violation of his terms and conditions of probation, which stated that
19 Respondent was in violation of Condition 5 of his probation as a result of his failure to
20 provide the Board with three quarterly reports.

21 **FOURTH CAUSE TO REVOKE PROBATION**

22 (Failure to Pay Costs)

23 14. At all times after the effective date of Respondent's probation, Condition 9, Cost
24 Recovery, stated:

25 "Respondent shall pay to the Board its cost of investigation and enforcement in the
26 amount of \$6,000.00."

27 15. Respondent's probation is subject to revocation because he failed to comply with
28 Probation Condition 9, referenced above. The facts and circumstances regarding this violation

1 are as follows:

2 A. The Board sent Respondent a March 20, 2017, letter enclosing a copy of the
3 March 3, 2017, Decision and Order and noting the March 31, 2017, effective date.

4 B. The March 20, 2017, letter Brothers informed Respondent that his total cost
5 recovery must be paid in full six months prior to the 2019 end date of his probation.
6 Respondent was instructed to submit a written payment plan request to the Board.

7 C. In July, 2017, Respondent paid the Board \$500.00 towards his cost recovery.

8 D. Respondent failed to provide the Board with a written payment plan request.

9 E. Respondent failed to pay the Board any other amount towards his cost recovery.

10 F. On or about June 4, 2018, the Board sent Respondent a letter at his address of
11 record regarding his violation of the terms and conditions of probation, which stated that
12 Respondent was in violation of Condition 9 of his probation as a result of his failure to pay
13 the Board any additional cost recovery other than his July, 2017, payment of \$500.00.

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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 the probation that was granted by the Acupuncture Board in Case No. 1A-
5 2014-206 and imposing the disciplinary order that was stayed thereby revoking Acupuncture
6 License No. AC 4900 issued to Kang Dae Choi, L.Ac.;

7 2. Revoking or suspending Acupuncture License No. AC 4900, issued to Kang Dae
8 Choi, L.Ac.;

9 3. Ordering Kang Dae Choi, L.Ac., to pay the Acupuncture Board the reasonable costs
10 of the investigation and enforcement of this case pursuant to Business and Professions Code
11 section 4959; and

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

13
14
15 DATED: **MAR 22 2019**


16 BENJAMIN BODEA
17 Executive Officer
18 Acupuncture Board
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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LA2019500128
Petition to Revoke Probation.docx

Exhibit A

Decision and Order

Acupuncture Board Case No. D1-2014-206

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)
)
KANG DAE CHOI, L.AC.)
1029 1/2 S. Berendo Street)
Los Angeles, CA 90006)
)
Acupuncture License No. AC 4900)
)
Respondent.)
_____)

Case No. 1A-2014-206

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 31, 2017.

It is so ORDERED March 3, 2017.

I certify that this document
was copied by me from
an original document.

Kristi Brown 1/11/19
Signature Date

Position Ent. Coord.

Hildegard Aguilardo, Board President
Acupuncture Board
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 WENDY WIDLUS
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Attorneys for Complainant
8

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

11 In the Matter of the Accusation Against:

12 **KANG DAE CHOI, L.Ac.**
13 **1029 1/2 S. Berendo Street**
14 **Los Angeles, CA 90006**
Acupuncturist License No. AC 4900,

15 Respondent.

Case No. 1A-2014-206

OAH No. 2016060226

16 **STIPULATED SETTLEMENT AND**
DISCIPLINARY ORDER

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

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

25 2. Kang Dae Choi, L.Ac. (Respondent) is represented in this proceeding by attorney
26 Dale J. Park, whose address is: 3333 Wilshire Blvd., Suite 320, Los Angeles, CA 90010.

27 //

1 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

2 CONTINGENCY

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

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

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

18 DISCIPLINARY ORDER

19 **IT IS HEREBY ORDERED** that Acupuncturist License No. AC 4900 issued to
20 Respondent Kang Dae Choi, is revoked. However, the revocation is stayed and Respondent is
21 placed on probation for two (2) years on the following terms and conditions.

22 1. PRACTICE MONITOR Within 90 days of the effective date of this decision,
23 Respondent shall submit to the Board for its prior approval, the name and qualifications of one or
24 more California licensed acupuncturists whose license is clear (no record of complaints) and
25 current and who has agreed to serve as a practice monitor. Once approved, the monitor shall
26 submit to the Board a plan by which Respondent's practice shall be monitored. The monitor's
27 education and experience shall be in the same field of practice as that of the Respondent. The
28 monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring

1 has taken place and providing an evaluation of Respondent's performance. It shall be
2 Respondent's responsibility to assure that the required reports are filed in a timely fashion. The
3 Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall
4 be permitted to make direct contact with patients. Further, the monitor shall have no prior
5 business, professional, personal or other relationship with Respondent. Respondent shall execute
6 a release authorizing the monitor to divulge any information that the Board may request.

7 Respondent shall notify all current and potential patients of any term or condition of
8 probation which will affect their treatment or the confidentiality of their records (such as this
9 condition which requires a practice monitor). Such notification shall be signed by each patient
10 prior to continuing or commencing treatment.

11 If the monitor quits or is otherwise no longer available, Respondent shall not practice until a
12 new monitor has been approved by the Board. All costs of monitoring shall be borne by the
13 Respondent. Respondent shall meet with the monitor once every other month for a total of twelve
14 (12) meetings during the probationary period. Monitoring shall consist of at least one hour of
15 individual face to face meetings.

16 2. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

17 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to
18 ensure compliance for the duration of the probation period.

19 3. COURSEWORK Respondent shall take and successfully complete not less than
20 eight (8) hours of coursework which the Board's probation monitor approves in each of the
21 following area (s) for a total of thirty-two (32) hours: CNT (clean needle technique), herbal
22 preparation, record keeping, and public health. All coursework shall be taken at the graduate
23 level at a school approved by the Board. Classroom attendance must be specifically required.
24 Course content shall be pertinent to the violation and all coursework must be completed within
25 the two (2) year probationary period.

26 Within 90 days of the effective date of this decision, Respondent shall submit a plan for the
27 Board's prior approval for meeting the educational requirements. All costs of the coursework
28 shall be borne by the Respondent.

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

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

8 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
9 person for interviews with the Board or its designee upon request at various intervals and with
10 reasonable notice.

11 7. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
12 through the assigned probation surveillance compliance officer of any and all changes of
13 employment, location and address within 30 days of such change.

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

18 9. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
19 enforcement in the amount of \$6,000.00. This amount shall be paid in full, directly to the Board
20 within six (6) months prior to the termination date of probation. Cost recovery will not be tolled.
21 Respondent understands that failure to timely pay costs is a violation of probation, and
22 submission of evidence demonstrating financial hardship does not preclude the Board from
23 pursuing further disciplinary action. However, Respondent understands that providing evidence
24 and supporting documentation of financial hardship may delay further disciplinary action.
25 Consideration to financial hardship will not be given should Respondent violate this term and
26 condition, unless an unexpected AND unavoidable hardship is established from the date of this
27 order to the date payment(s) is due.

28 10. VIOLATION OF PROBATION If Respondent violates probation in any respect, the

1 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and
2 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is
3 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
4 matter is final, and the period of probation shall be extended until the matter is final. No petition
5 for modification or termination of probation shall be considered while there is an accusation or
6 petition to revoke probation pending against Respondent.

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


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1 ACCEPTANCE

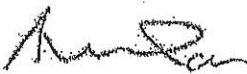
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Dale J. Park. I understand the stipulation and the effect it will have
4 on my Acupuncturist License. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Acupuncture Board.

7
8 DATED: 12/15/2016


9 KANG DAE CHOI, L.Ac.
Respondent

10 I have read and fully discussed with Respondent KANG DAE CHOI, L.Ac. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 12/15/16


14 DALE J. PARK
Attorney for Respondent

15
16 ENDORSEMENT


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

19 Dated:

December 15, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General


24 WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant