

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 ROBERT W. LINCOLN  
Deputy Attorney General  
4 State Bar No. 316290  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9453  
7 Facsimile: (619) 645-2012

8 *Attorneys for Complainant*

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-2018-47

14 **YOUNG KI KIM, L.AC**  
15 **3575 Campbell Street**  
**Riverside, CA 92509**

**ACCUSATION**

16 **Acupuncture License No. AC 14813,**

17 Respondent.  
18

19  
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about April 2, 2012, the Acupuncture Board issued Acupuncture License No.  
25 AC 14813 to Young Ki Kim, L.Ac (Respondent). The Acupuncture License was in full force and  
26 effect at all times relevant to the charges brought herein and will expire on November 30, 2021,  
27 unless renewed.

28 ///

**JURISDICTION**

3. This Accusation is brought before the Acupuncture Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. 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:

...

(e) Failing to maintain adequate and accurate records relating to the provision of services to their patients.

5. Section 4955.2 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 any one of the following:

- (a) Gross negligence.
- (b) Repeated negligent acts.

...

6. Section 4961 of the Code states, in pertinent part:

(a) Every person who is now or hereafter licensed to practice acupuncture in this state shall register, on forms prescribed by the Acupuncture Board, the licensee's place of practice, or, if the licensee has more than one place of practice, all of the places of practice. If the licensee has no place of practice, the licensee shall notify the board of that fact. A person licensed by the board shall register within 30 days after the date of his or her licensure.

...

7. Section 4962 of the Code states, in pertinent part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019.

...

1 8. Section 4979 of the Code states, in pertinent part:

2 The board may adopt and reinforce regulations to carry out the purposes and  
3 objectives of this article...

4 9. California Code of Regulations, title 16, section 1399.451, states, in pertinent part:

5 In treating a patient, an acupuncturist shall adhere to the following procedures:

6 ...

7 (e) Any complication, including but not limited to, hematoma, peritonitis or  
8 pneumothorax arising out of acupuncture treatment shall be referred immediately to a  
9 physician or dentist or podiatrist, if appropriate, if immediate medical treatment is  
10 required.

11 ...

12 10. California Code of Regulations, title 16, section 1399.453, states:

13 An acupuncturist shall keep complete and accurate records on each patient who  
14 is given acupuncture treatment, including progress made as a result of the acupuncture  
15 treatments.

### 16 **COST RECOVERY**

17 11. Section 4959 of the Code states, in pertinent part:

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

23 ...

### 24 **FIRST CAUSE FOR DISCIPLINE**

#### 25 **(Gross Negligence)**

26 12. Respondent has subjected her Acupuncture License No. AC 14813 to disciplinary  
27 action under section 4955.2, subdivision (a), of the Code, in that Respondent committed gross  
28 negligence in her care and treatment of Patient A,<sup>1</sup> as more particularly alleged hereinafter:

13 13. Since in or around 2014, Respondent has owned, operated, and practiced acupuncture  
14 at Riverside Family Acupuncture clinic in Riverside, CA. Since 2014, Respondent has not  
15 registered that practice location with the Board.

16 \_\_\_\_\_  
17 <sup>1</sup> To protect the privacy of the patient involved, the patient's name has not been included  
18 in this pleading. Respondent is aware of the identity of the patient referred to herein.

1           14. On or about January 26, 2017, Patient A, a then sixty-four year old female, presented  
2 to Respondent for the first time for acupuncture treatment. Patient A complained of body pain,  
3 migraines, fatigue, and tension in her neck, shoulders, arms, stomach, and back. Prior to  
4 receiving treatment, Patient A completed and signed an intake form that included a paragraph  
5 regarding consent for treatment. Pneumothorax was not identified in the paragraph as a possible  
6 complication of treatment.

7           15. Respondent examined Patient A and determined she had tension in her arms, neck,  
8 shoulders, and back. Respondent did not take the patient's blood pressure, but determined her  
9 pulse was weak. Respondent palpated Patient A's bladder and examined her tongue. At the  
10 conclusion of her examination, Respondent determined Patient A was suffering from a hormonal  
11 imbalance and planned to invigorate her bladder. Respondent did not document her examination  
12 of Patient A in the patient's chart, and did not perform a urine test to confirm her diagnosis.

13           16. Respondent initially had Patient A lay on her back and she placed needles at various  
14 locations on the front of the patient's body. The number of needles, the location of placement,  
15 and the treatment duration is not documented in the patient's chart. After approximately fifteen  
16 to twenty minutes, Respondent had the patient turn over and lay on her stomach. Respondent  
17 then placed needles at various locations on the back of the patient's body, including but not  
18 limited to, the nape of her neck, behind her ears, and down her shoulder blades and back. As  
19 Respondent placed the needles around the shoulder blades, Patient A immediately felt the wind  
20 being knocked out of her and she suddenly found it difficult to breathe. The number of needles,  
21 the location of placement, and the treatment duration is not documented in the patient's chart.  
22 Respondent also used a heat lamp during this treatment, but that is not documented in the  
23 patient's chart.

24           17. At the conclusion of the treatment, Respondent told Patient A to sit in a chair next to  
25 the table. Patient A struggled to pull herself from the table to the chair, and told Respondent that  
26 she felt weak like she was going to faint, pain on her left side, and was having trouble breathing.  
27 Respondent then massaged Patient A's back and left side. Patient A again told Respondent that

28 ///

1 she felt weak. Respondent then brought the patient some tea. After finishing her tea, Patient A  
2 asked for more tea and told Respondent that she still felt too weak to leave. Respondent told the  
3 patient, “too many needles not good for you,” and brought her another cup of tea.

4 18. After finishing her second cup of tea, Patient A drove herself home. Because she was  
5 still experiencing pain and difficulty breathing, Patient A laid on a heating pad and took a nap.  
6 After approximately two hours, Patient A awoke and felt pain in her neck below her left ear.  
7 When she touched that area, she found an acupuncture needle deeply embedded in her skin. The  
8 patient then removed the needle, but continued to experience back pain and difficulty breathing.

9 19. At approximately 9:48 p.m., Patient A presented to the emergency department (ED)  
10 at Riverside Community Hospital with complaints of chest pain following the acupuncture she  
11 received that day. An x-ray was performed that revealed a pneumothorax on the patient’s left  
12 side. Patient A then underwent a chest tube thoracostomy to reduce the pneumothorax.

13 20. On or about January 29, 2017, Patient A returned to the ED for the removal of the  
14 chest tube.

15 21. Respondent committed gross negligence in her care and treatment of Patient A, which  
16 included, but was not limited to, the following:

- 17 A. Failing to provide a comprehensive informed consent to the patient prior to  
18 performing acupuncture;
- 19 B. Inserting one or more needles too deeply into the patient’s body, puncturing the  
20 patient’s lung, and causing a pneumothorax;
- 21 C. Failing to remove all needles inserted into the patient during the acupuncture  
22 procedure; and
- 23 D. Failing to immediately refer the patient to a physician after the patient informed  
24 Respondent that she felt weak, pain, and trouble breathing.

25 ///

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 22. Respondent has further subjected her Acupuncture License No. AC 14813 to  
4 disciplinary action under section 4955.2, subdivision (b), in that she committed repeated negligent  
5 acts in her care and treatment of Patient A, as more particularly alleged hereinafter:

6 A. Paragraphs 12 through 21(D), above, are hereby incorporated by reference and  
7 realleged as if fully set forth herein; and

8 B. Failing to complete detailed and accurate records documenting her care and  
9 treatment of the patient.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Adequate and Accurate Records)**

12 23. Respondent has further subjected her Acupuncture License No. AC 14813 to  
13 disciplinary action under section 4955.1, subdivision (e), of the Code, and section 4979, as  
14 defined by California Code of Regulations, title 16, section 1399.453, in that Respondent failed to  
15 maintain adequate and accurate records relating to the provision of services she provided to  
16 Patient A, as more particularly alleged in paragraphs 12 through 22(B), above, which are hereby  
17 incorporated by reference and realleged as if fully set forth herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Failure to Refer Patient to Physician)**

20 24. Respondent has further subjected her Acupuncture License No. AC 14813 to  
21 disciplinary action under section 4979, of the Code, as defined by California Code of Regulations,  
22 title 16, section 1399.451, in that Respondent failed to refer Patient A to a physician immediately  
23 after a complication arose from acupuncture treatment, as more particularly alleged in paragraphs  
24 12 through 21(D), above, which are hereby incorporated by reference and realleged as if fully set  
25 forth herein.

26 ///

27 ///

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Register Practice with the Board)**

3 25. Respondent has further subjected her Acupuncture License No. AC 14813 to  
4 disciplinary action under section 4961, of the Code, in that Respondent failed to register her place  
5 of practice with the Board, as more particularly alleged in paragraphs 12 through 21(D), above,  
6 which are hereby incorporated by reference and realleged as if fully set forth herein.

7 **PRAYER**

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

- 10 1. Revoking or suspending Acupuncture License No. AC 14813, issued to Respondent,
- 11 Young Ki Kim, L.Ac;
- 12 2. Ordering Respondent, Young Ki Kim, L.Ac., to pay the Acupuncture Board the
- 13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 14 Professions Code section 4959;
- 15 3. Ordering Respondent, Young Ki Kim, L.Ac., if placed on probation, to disclose the
- 16 disciplinary order to patients pursuant to Business and Professions Code section 4962;
- 17 4. Ordering Respondent, Young Ki Kim, L.Ac., if placed on probation, to pay the Board
- 18 the costs of probation monitoring; and,
- 19 5. Taking such other and further action as deemed necessary and proper.

20 DATED: December 22, 2020

21 Original Signature on File  
 22 BENJAMIN BODEA  
 23 Executive Officer  
 24 Acupuncture Board  
 25 Department of Consumer Affairs  
 26 State of California  
 27 *Complainant*

28 SD2020800321  
82654048.docx