

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

In the Matter of the Accusation Against:

**DEOK SANG YU, L.AC.
1100 W. Shaw Avenue, Suite 118
Fresno, CA 93711**

Licensed Acupuncturist No. AC 12562

Respondent.

Case No. 1A-2018-68

OAH No. 2020090713

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 June 10, 2021.

It is so ORDERED May 11, 2021.

Original Signature on File with Board
FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 MATTHEW RODRIQUEZ
Acting Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 SARAH J. JACOBS
Deputy Attorney General
4 State Bar No. 255899
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
6 Telephone: (559) 705-2312
Facsimile: (559) 445-5106
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **DEOK SANG YU, L.AC.**
14 **1100 W. Shaw Avenue, Suite 118**
Fresno, CA 93711
15 **Licensed Acupuncturist No. AC 12562**

16 Respondent.

Case No. 1A-2018-68

OAH No. 2020090713

17 **STIPULATED SETTLEMENT AND**
DISCIPLINARY ORDER

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Acupuncture Board of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board
25 (Board). He brought this action solely in his official capacity and is represented in this matter by
26 Matthew Rodriquez, Acting Attorney General of the State of California, by Sarah J. Jacobs,
27 Deputy Attorney General.

28 ///

1 2. Respondent Deok Sang Yu, L.Ac. (Respondent) is represented in this proceeding by
2 attorney Elizabeth M. Brady, whose address is: 8880 Rio San Diego Drive, Suite 800, San Diego,
3 CA 92108-1642.

4 3. On or about September 5, 2008, the Board issued Acupuncture License No. AC
5 12562 to Deok Sang Yu, L.Ac. (Respondent). The Acupuncture License was in full force and
6 effect at all times relevant to the charges brought in Accusation No. 1A-2018-68, and will expire
7 on January 31, 2022, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 1A-2018-68 was filed before the Board, and is currently pending
10 against Respondent. The Accusation and all other statutorily required documents were properly
11 served on Respondent on August 18, 2020. Respondent timely filed his Notice of Defense
12 contesting the Accusation.

13 5. A copy of Accusation No. 1A-2018-68 is attached as Exhibit A and incorporated
14 herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 1A-2018-68. Respondent has also carefully read, fully
18 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
19 Order.

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

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

28 ///

1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, complainant could
3 establish a prima facie case with respect to the charges and allegation contained in Accusation
4 No. 1A-2018-68, and that he has thereby subjected his Acupuncture License No. AC 12562 to
5 disciplinary action.

6 10. Respondent agrees that if he ever petitions for early termination or modification of
7 probation, or if an accusation and/or petition to revoke probation is filed against him before the
8 Board, all of the charges and allegation in Accusation No. 1A-2018-68 shall be deemed true,
9 correct and fully admitted by Respondent for purposes of any such proceeding or any other
10 licensing proceeding involving Respondent in the State of California.

11 11. Respondent agrees that his Acupuncture License No. AC 12562 is subject to
12 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
13 Disciplinary Order below.

14 **RESERVATION**

15 12. The admissions made by Respondent herein are only for the purposes of this
16 proceeding, or any other proceedings in which the Acupuncture Board or other professional
17 licensing agency is involved, and shall not be admissible in any other criminal or civil
18 proceeding.

19 **CONTINGENCY**

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

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Acupuncture License No. AC 12562 issued to Respondent
9 Deok Sang Yu, L.Ac. is revoked. However, the revocation is stayed and Respondent is placed on
10 probation for four (4) years on the following terms and conditions:

11 1. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all
12 regulations governing the practice of acupuncture in California. A full and detailed account of
13 any and all violations of law shall be reported by the respondent to the Board in writing within
14 seventy-two (72) hours of occurrence. This condition applies to any jurisdiction with authority
15 over the Respondent, whether inside or outside California.

16 2. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
17 penalty of perjury on forms provided by the Board, stating whether there has been compliance
18 with all the conditions of probation. If the final probation report is not submitted as directed,
19 probation shall be extended automatically until such time as the final report is submitted and
20 accepted by the Board or its designee.

21 3. COURSEWORK- PROFESSIONAL BOUNDARIES AND ETHICS COURSE
22 Respondent, his own expense, shall enroll and successfully complete the Professional Boundaries
23 and Ethics course (PB-24 Essential Option) offered at: <https://pbieducation.com/courses/pb-24/>.
24 All coursework shall be taken at the graduate level at a school approved by the Board or its
25 designee. Course content shall be pertinent to the violation and all coursework must be
26 completed within the first year of probation. The coursework shall be in addition to that required
27 for license renewal. The Board or its designee shall notify Respondent of the course content and
28 number of hours required. Within thirty (30) days of the Board's written notification of assigned

1 coursework, Respondent shall submit a written plan to comply with this requirement to the Board
2 or its designee. The Board or its designee shall approve such a plan prior to enrollment in any
3 course of study.

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

6 Within 90 days of the effective date of this decision, respondent shall submit a plan for the
7 Board's prior approval for meeting the educational requirements. All costs of the coursework
8 shall be borne by the respondent.

9 4. MONITORING PROGRAM Respondent shall comply with the Board's probation
10 monitoring program and shall, upon reasonable notice, report to the assigned probation monitor.
11 Respondent shall contact the assigned probation monitor regarding any questions specific to the
12 probation order. Unless the Respondent obtains prior approval from his assigned Board probation
13 monitor to allow for contact, Respondent shall not have any contact with (1) victims, witnesses,
14 and/or complainants associated with the case; (2) Board members and/or members of its staff; (3)
15 persons serving the Board as subject matter experts; and/or (4) persons who previously rendered
16 expert opinions on behalf of the Board in Respondent's disciplinary proceeding.

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 or
19 without prior notice throughout the term of probation.

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

23 7. TOLLING OF PROBATION If Respondent leaves California to reside or practice
24 outside this state, or for any reason, unless by Board order, should Respondent stop practicing
25 acupuncture in California, Respondent must notify the Board in writing of the dates of departure
26 and return or the dates of non-practice within ten (10) days of departure or return. Non-practice is
27 defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in
28 the practice of acupuncture or any time the license is inactive or in cancelled status. Periods of

1 temporary residency or practice outside the state or of non-practice within the state shall not apply
2 to reduction of the probationary period. It shall be a violation of probation for respondent's
3 probation to remain tolled pursuant to the provisions of this condition for a period exceeding a
4 total, consecutive period of two years.

5 For purposes of this condition, a Board ordered suspension or non-practice in compliance
6 with any other condition of probation shall not be tolled. Any order for payment of cost recovery
7 shall remain in effect whether or not probation is tolled.

8 All provisions of probation shall recommence on the effective date of resumption of
9 practice in California, and the term of probation shall be extended for the period of time
10 respondent was out of state or in state and not practicing.

11 8. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
12 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
13 this probation. Respondent shall terminate any such supervisory relationship in existence on the
14 effective date of this probation. Respondent shall not teach at any Board approved training
15 program or continuing education courses during the course of this probation.

16 9. EMPLOYMENT REQUIREMENTS During probation, Respondent shall work in his
17 capacity as an acupuncturist in the State of California. This practice shall consist of no less than
18 forty (40) hours per month.

19 10. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
20 enforcement in the amount of \$33,671.50. Respondent shall be permitted to pay these costs in a
21 payment plan approved by the Board or its designee, with payments to be completed no later than
22 three months prior to the end of the probation term. Cost recovery will not be tolled.

23 At Respondent's request, if Respondent has not complied with this condition during the
24 probationary term, and Respondent has presented sufficient documentation of his good faith
25 efforts to comply with this condition, and if no other conditions have been violated, the Board or
26 its designee, in its discretion, may grant an extension of Respondent's probation period up to two
27 (2) years without further hearing in order to comply with this condition. During the two (2) years
28 extension, all original conditions of probation will apply. The filing of bankruptcy by Respondent

1 shall not relieve Respondent of his/her responsibility to reimburse the Board for its investigation
2 and prosecution costs.

3 11. VIOLATION OF PROBATION If Respondent violates probation in any respect, the
4 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and
5 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is
6 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
7 matter is final, and the period of probation shall be extended until the matter is final. No petition
8 for modification or termination of probation shall be considered while there is an accusation or
9 petition to revoke probation pending against Respondent. If Respondent has not complied with
10 any term or condition of probation, the Board shall have continuing jurisdiction over Respondent,
11 and probation shall automatically be extended until all terms and conditions have been satisfied or
12 the Board has taken other action as deemed appropriate to treat the failure to comply as a
13 violation of probation, to terminate probation, and to impose the penalty which was stayed.

14 12. LICENSE SURRENDER Following the effective date of this Decision, if
15 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
16 the terms and conditions of probation, Respondent may request the voluntary surrender of his or
17 her license or registration. The Board or its designee reserves the right to evaluate Respondent's
18 request and to exercise its discretion whether or not to grant the request, or to take any other
19 action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of
20 the surrender, Respondent shall, within fifteen (15) days, deliver Respondent's pocket and/or wall
21 certificate to the Board or its designee and Respondent shall no longer practice acupuncture.
22 Upon formal acceptance of the tendered license, Respondent will no longer be subject to the
23 terms and conditions of probation.

24 Voluntary surrender of Respondent's license shall be considered disciplinary action and
25 shall become a part of Respondent's license history with the Board. If Respondent reapplies for
26 an acupuncture license, the application shall be treated as a petition for reinstatement of a revoked
27 or surrendered license

28 13. SEVERABILITY CLAUSE Each condition of probation is a separate and distinct

1 condition. If any condition of this Decision and Order, or any application thereof, is declared
2 unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all
3 other applications thereof, shall not be affected. Each condition of this Decision and Order shall
4 separately be valid and enforceable to the fullest extent permitted by law.

5 14. NOTIFICATION OF NAME, ADDRESS, TELEPHONE NUMBER OR E-MAIL
6 ADDRESS CHANGES Respondent shall notify the assigned probation monitor, in writing
7 within ten (10) days, of any and all name, address, telephone and/or e-mail address changes.

8 15. DISCLOSURE OF PROBATION STATUS Within ten (10) days of the effective
9 date of this Decision, Respondent shall submit a proposed written disclosure to provide to all
10 patients or a patient's guardian or health care surrogate to the Board for prior approval. The
11 written disclosure shall include the following:

- 12 (1) Respondent's probation status;
- 13 (2) Length of probation;
- 14 (3) Probation end date;
- 15 (4) All practice restrictions imposed by the probation order;
- 16 (5) The Board's telephone number; and
- 17 (6) Explanation of how the patient can find further information on Respondent's probation
18 by running a license verification on the Board's web site.

19 Once the Board approves Respondent's written disclosure, Respondent shall obtain from
20 the patient, or the patient's guardian or health care surrogate, a separate, signed copy of the
21 written disclosure.

22 Within five (5) days prior to a patient's first visit following the effective date of the Board's
23 Decision, Respondent shall provide the written disclosure to all patients or a patient's guardian or
24 health care surrogate except when any of the following applies:

- 25 (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign
26 the copy of the disclosure pursuant to subdivision (b) and a guardian or health care
27 surrogate is unavailable to comprehend the disclosure and sign the copy.
- 28 (2) The visit occurs in an emergency room or an urgent care facility or the visit is

1 unscheduled, including consultations in inpatient facilities.

2 (3) The licensee who will be treating the patient during the visit is not known to the patient
3 until immediately prior to the start of the visit.

4 (4) The licensee does not have a direct treatment relationship with the patient.

5 Respondent shall make all records available for immediate inspection and copying on the
6 premises by the Board or its designee at all times during business hours and shall retain the
7 records for the entire term of probation.

8 16. MAINTENANCE OF CLEAR AND ACTIVE LICENSE Respondent shall, at all
9 times, maintain a clear and active current license with the Board, including any period of
10 suspension or tolled probation.

11 If an initial license must be issued (Statement of Issues) or a license is reinstated, probation
12 shall not commence until a license is issued by the Board. Respondent must complete the
13 licensure process within two (2) years from the effective date of the Board's Decision.

14 Should Respondent's license expire, by operation of law or otherwise, upon renewal or
15 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not
16 previously satisfied.

17 17. THIRD PARTY CHAPERONE During probation, Respondent shall provide written
18 notification to Respondent's patients that a female third party chaperone shall be present during
19 all consultations, examination, or treatment with female patients unless the female patient signs a
20 waiver for the treatment session. Respondent shall, within thirty calendar days of the effective
21 date of the Decision, submit to the Board or its designee for prior approval a chaperone waiver
22 form for patient review and signature. Respondent shall, within thirty calendar days of the
23 effective date of the Decision, submit to the Board or its designee for prior approval the name of a
24 person who will act as the third party chaperone. Respondent shall maintain in the patient's file a
25 copy of the written notification, shall make the notification available for immediate inspection
26 and copying on the premises at all times during business hours by the Board or its designee, and
27 shall retain the notification for the entire term of probation.

28 Respondent shall maintain a log of all patients seen for whom a third party chaperone is

1 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical
2 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
3 in chronological order, shall make the log available for immediate inspection and copying on the
4 premises at all times during business hours by the Board or its designee, and shall retain the log
5 for the entire term of probation.

6 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of
7 the effective date of this Decision, Respondent shall receive a notification from the Board or its
8 designee to cease the practice of acupuncture within three (3) calendar days after being so
9 notified. Respondent shall cease the practice of acupuncture until a chaperone is approved to
10 provide monitoring responsibility. Each third party chaperone shall read the Decision and the
11 Accusation, and fully understand the role of the third party chaperone. Each third party chaperone
12 shall sign (in ink or electronically) and date each patient medical record at the time the
13 chaperone's services are provided. Respondent is prohibited from terminating employment of a
14 Board approved third party chaperone solely because that person provided information as
15 required to the Board or its designee. If the third party chaperone resigns or is no longer available,
16 Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the
17 Board or its designee, for prior approval, the name of the person(s) who will act as the third party
18 chaperone. If Respondent fails to obtain approval of a replacement chaperone within 60 calendar
19 days of the resignation or unavailability of the chaperone, Respondent shall receive a notification
20 from the Board or its designee to cease the practice of acupuncture within three (3) calendar days
21 after being so notified. Respondent shall cease the practice of acupuncture until a replacement
22 chaperone is approved and assumes monitoring responsibility.

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

25 **ACCEPTANCE**

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
27 discussed it with my attorney, Elizabeth M. Brady. I understand the stipulation and the effect it
28 will have on my Acupuncture License No. AC 12562. I enter into this Stipulated Settlement and

1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Acupuncture Board.

3
4 DATED: 4/15/2021



5 DEOK SANG YU, L.AC.
6 Respondent

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

10
11 DATED: April 15, 2021



12 ELIZABETH M. BRADY
13 Attorney for Respondent

14
15 **ENDORSEMENT**

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

18
19 DATED: April 15, 2021

Respectfully submitted,

20 MATTHEW RODRIQUEZ
Acting Attorney General of California
21 STEVE DIEHL
Supervising Deputy Attorney General



22
23 SARAH J. JACOBS
24 Deputy Attorney General
25 Attorneys for Complainant

Exhibit A

Accusation No. 1A-2018-68