

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

In the Matter of the Accusation Against:

Case No. 1A-2016-178

**ASHLEY RO AKA HEE RO KYUNG  
1101 S. Winchester Blvd  
Suite D-138  
San Jose, CA 95128**

**Acupuncture License No. AC 15197**

Respondent.

**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 September 17, 2020.

It is so ORDERED August 18, 2020.

Original Signature on File  
\_\_\_\_\_  
FOR THE ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

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Case No. 1A-2016-178

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

**PARTIES**

1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Hamsa M. Murthy, Deputy Attorney General.

2. Respondent Ashley Ro AKA Hee Ro Kyung (Respondent) is represented in this proceeding by attorney Shannon Baker, whose address is: 765 University Avenue

Sacramento, CA 95825.

3. On or about April 2, 2013, the Board issued Acupuncture License No. AC 15197 to Ashley Ro AKA Hee Ro Kyung (Respondent). The Acupuncture License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2016-178, and will expire on October 31, 2020, unless renewed.

#### **JURISDICTION**

4. Accusation No. 1A-2016-178 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 21, 2019. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2016-178 is attached as exhibit A and incorporated herein by reference.

#### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2016-178. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

#### **CULPABILITY**

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 1A-2016-178.

9. Respondent agrees the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 4962, serves to protect the public interest.

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

### **CONTINGENCY**

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

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

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

### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Acupuncture License No. AC 15197 issued to Respondent Ashley Ro (AKA Hee Ro Kyung) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. Obey All Laws. Respondent shall obey all federal, state and local laws,

remain in full compliance with any court ordered criminal probation terms, payments, and/or other orders, and all regulations governing the practice of acupuncture in California. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. This condition applies to any jurisdiction with authority over the Respondent, whether inside or outside California.

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

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

4. Interview with the Board or Its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with or without prior notice throughout the term of probation.

5. Changes of Employment. Respondent shall notify the Board in writing, through the assigned probation monitor of any and all changes of employment, location and employment address within thirty (30) days of such change.

6. Tolling of Probation. If Respondent leaves California to reside or practice outside this state, or for any reason, unless by Board order, should Respondent stop practicing

acupuncture in California, Respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which Respondent is not engaging in the practice of acupuncture or any time the license is inactive or in cancelled status. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of two years. For purposes of this condition, a Board ordered suspension or non-practice in compliance with any other condition of probation shall not be tolled. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. All provisions of probation shall recommence on the effective date of resumption of practice in California, and the term of probation shall be extended for the period of time respondent was out of state or in state and not practicing.

7. Restriction on Employing and Supervision of Trainees. Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this probation. Respondent shall not teach at any Board approved training program or continuing education courses during the course of this probation.

8. Cost Recovery. Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$37, 225.75. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, with payments to be completed no later than three months prior to the end of the probation term. Cost recovery will not be tolled. At Respondent's request, if Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board or its designee, in its discretion, may grant an extension of Respondent's probation period up to two (2) years without further hearing in order to comply with this condition. During the two (2) years' extension, all original conditions of probation will apply. The filing of

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

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

10. Probation Monitoring Costs. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board or its designee, which may be adjusted on an annual basis. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

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

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

12. Severability Clause. Each condition of probation is a separate and distinct condition. If any condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each condition of this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

13. Notification of Name, Address, Telephone Number or E-mail Address Changes. Respondent shall notify the assigned probation monitor, in writing within ten (10) days, of any and all name, address, telephone and/or e-mail address changes.

14. Disclosure of Probation Status. Within ten (10) days of the effective date of this Decision, Respondent shall submit a proposed written disclosure to provide to all patients or a patient's guardian or health care surrogate to the Board for prior approval. The written disclosure shall include the following: (1) Respondent's probation status; (2) Length of probation; (3) Probation end date; (4) All practice restrictions imposed by the probation order; (5) The Board's telephone number; (6) Explanation of how the patient can find further information on Respondent's probation by running a license verification on the Board's web site. Once the Board approves Respondent's written disclosure, Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of the written disclosure. Within five (5) days prior to a patient's first visit following the effective date of the Board's Decision, Respondent shall provide the written disclosure to all patients or a patient's guardian or health care surrogate except when any of the following applies: (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities; (3)



The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit; (4) The licensee does not have a direct treatment relationship with the patient. Respondent shall make all records available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall retain the records for the entire term of probation.

15. Maintenance of Active License. Respondent shall, at all times, maintain an active, current license with the Board, including during any period of suspension or tolled probation. Should Respondent's license expire, by operation of law or otherwise, upon renewal or reinstatement, Respondent's license shall be subject to any and all conditions of this probation not previously satisfied.

16. Actual Suspension. As part of the probation, Respondent is suspended from the practice of acupuncture for 30 days beginning with the effective date of this Decision.

17. Coursework. Respondent, at her own expense, shall enroll and successfully complete the following forty-five hours coursework, which is substantially related to the violation(s): 5 hours of coursework in Ethics in each of the following years: 2021, 2023, and 2025; and 30 total live in-person or live webinar hours of Billing to be completed within the first three years of probation. The coursework shall be in addition to that required for license renewal. Within thirty (30) days of the Effective date of the Decision, Respondent shall submit a written plan to comply with this requirement to the Board or its designee. The Board or its designee shall review such a plan and notify Respondent if the plan is approved. Respondent must await the approval of the Board or its designee prior to enrollment in any course of study intended to satisfy the coursework requirements of this paragraph. Upon successful completion of the coursework, Respondent shall submit original completion certificates to the Board within thirty (30) days of course completion.

18. Community Service. Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, a community service program in which Respondent shall provide volunteer services, without accepting any payment, to a community or charitable facility or agency, for at least 25 hours

annually for the duration of probation. Such community service does not necessarily include acupuncture service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a quarterly basis.

Respondent shall complete all community service hours prior to the completion of probation.

19. Practice and Billing Monitor. Within ninety (90) days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice and billing monitor (monitor), the name and qualifications of one or more California licensed acupuncturists whose license is clear and active, in good standing and not disciplined by the Board. Prior to seeking the Board's approval for an individual to serve as practice and billing monitor, Respondent shall provide a copy of the Board's Accusation and Decision to that individual. Any practice and billing monitor to be approved by the Board shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the monitor's ability to render fair and unbiased reports to the Board or its designee. The proposed practice and billing monitor must also agree to serve in that role for the purpose and duration of Respondent's probation. Respondent shall pay all monitoring costs. The Board, in its sole discretion, shall have the option of rejecting a proposed monitor for any reason, and Respondent shall work to provide an alternative monitor(s) as set forth above. Upon approval of a practice and billing monitor, the Board or its designee shall provide a monitoring plan. Within fifteen (15) days of receipt of the monitoring plan, the practice and billing monitor shall submit a signed statement that he or she has read the Decision and Accusation in this case, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit to the Board or its designee a revised monitoring plan with the signed statement. Within one-hundred twenty (120) days of the effective date of this Decision, and continuing through probation, Respondent shall make all records available for immediate inspection and copying on the premises by the practice and billing monitor at all times during business hours, and Respondent shall retain the records for the entire term of probation. Respondent shall notify all current and potential patients in writing that their confidential records

may be reviewed by the practice and billing monitor. Such written notification shall be signed by each patient prior to continuing or commencing treatment, and the written notification shall be kept as part of the patient's healthcare record. The practice and billing monitor shall submit a quarterly written report to the Board or its designee which shall include: an evaluation of Respondent's performance; an evaluation of whether Respondent's practices are within the standards of practice of acupuncture; and an evaluation of whether Respondent is billing appropriately. It shall be the sole responsibility of Respondent to ensure that the practice and billing monitor submits written reports to the Board or its designee quarterly. If the practice and billing monitor resigns or is no longer available, Respondent shall, within five days of such resignation or unavailability, notify the Board or its designee. Within thirty (30) days, Respondent shall submit to the Board or its designee, for approval, the name and qualifications of a replacement practice and billing monitor. Upon approval, the replacement practice and billing monitor shall assume immediate responsibility. If Respondent fails to obtain approval of a replacement practice and billing monitor within sixty (60) days of the resignation or unavailability of the previous monitor, the Board or its designee may notify Respondent that she has been suspended from the practice of acupuncture until a replacement monitor is approved and available to immediately begin monitoring. Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises by the practice and billing monitor, or to comply with any portion of this term of probation, as outlined above, is a violation of probation.

20. Completion of Probation. Upon successful completion of probation, Respondent's license will be fully restored.

**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Shannon Baker. I understand the stipulation and the effect it will have on my Acupuncture 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: 7/10/2020                      Original Signature on File  
ASHLEY RO AKA HEE RO KYUNG  
*Respondent*

I have read and fully discussed with Respondent Ashley Ro AKA Hee Ro Kyung the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/10/2020                      Original Signature on File  
SHANNON BAKER  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: July 13, 2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General

Original Signature on File

HAMSA M. MURTHY  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 1A-2016-178**