

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


|  |   |                     |
|--|---|---------------------|
| In the Matter of the Accusation Against: | ) | Case No. 1A-2014-64 |
|  | ) |                     |
| JOHN JUNGMIN KIM, L.AC.                  | ) |                     |
| 901 N. Pacific Coast Highway, #106       | ) |                     |
| Redondo Beach, CA 90277                  | ) |                     |
|  | ) |                     |
| Acupuncture License No. AC 3059          | ) |                     |
|  | ) |                     |
|  | ) |                     |
| 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 11/9/17.

It is so ORDERED 10/10/17.

  
\_\_\_\_\_  
Amy Matecki, MD, L.Ac., Chair  
Acupuncture Board  
Department of Consumer Affairs  
State of California

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 WENDY WIDLUS  
Deputy Attorney General  
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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 Amended Accusation  
12 Against:

13 **JOHN JUNGMIN KIM, L.Ac.**  
14 **901 N. Pacific Coast Highway, #106**  
**Redondo Beach, CA 90277**

15 **Acupuncturist License No. AC 3059,**

16 Respondent.

Case No. 1A-2014-64

OAH No. 2017021024

**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 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney  
24 General.

25 2. Respondent John Jungmin Kim, L.Ac. (Respondent) is represented in this proceeding  
26 by attorney Jehan N. Jayakumar, whose address is: 2424 S.E. Bristol Street, Ste. 300,  
27 Newport Beach, CA 92660.  
28

1 3. On or about December 1, 1987, the Board issued Acupuncturist License No. AC3059  
2 to John Jungmin Kim, L.Ac. (Respondent). The Acupuncturist License was in full force and  
3 effect at all times relevant to the charges brought in Amended Accusation No. 1A-2014-64, and  
4 will expire on November 30, 2018, unless renewed.

5 **JURISDICTION**

6 4. Amended Accusation No. 1A-2014-64 was filed before the Board, and is currently  
7 pending against Respondent. The Amended Accusation and all other statutorily required  
8 documents were properly served on Respondent on April 10, 2017. Respondent timely filed his  
9 Notice of Defense contesting the Amended Accusation.

10 5. A copy of Amended Accusation No. 1A-2014-64 is attached as exhibit A and  
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Amended Accusation No. 1A-2014-64. Respondent has also carefully  
15 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
18 hearing on the charges and allegations in the Amended Accusation; the right to confront and  
19 cross-examine the witnesses against him; the right to present evidence and to testify on his own  
20 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the  
21 production of documents; the right to reconsideration and court review of an adverse decision;  
22 and all other rights accorded by the California Administrative Procedure Act and other applicable  
23 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 Amended  
28 Accusation No. 1A-2014-64.

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

4 **CONTINGENCY**

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

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

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

20 **DISCIPLINARY ORDER**

21 **IT IS HEREBY ORDERED** that Acupuncturist License No. AC3059 issued to  
22 Respondent John Jungmin Kim, L.Ac. is revoked. However, the revocation is stayed and  
23 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

28 2. **COURSEWORK** Respondent shall take and successfully complete not less than

1 twenty five (25) units of Category 1 Board approved Continuing Education courses. All  
2 coursework shall be taken from a Board approved Continuing Education Provider. Courses shall  
3 be taken through live in-person courses only. Course content shall be pertinent to the violation  
4 and all coursework must be completed within the first two (2) years of probation. The required  
5 coursework must be in addition to any continuing education courses that may be required for  
6 license renewal.

7 Within 90 days of the effective date of this decision, Respondent shall submit a plan,  
8 including date(s) of course(s), Continuing Education Provider (CEP), course title, instructor, and  
9 course description, for the Board's prior approval for meeting not less than twelve (12) hours of  
10 the educational requirements. No later than 365 days after the effective date of this decision,  
11 Respondent shall submit a plan, including date(s) of course(s), Continuing Education Provider  
12 (CEP), course title, instructor, and course description, for the Board's prior approval for meeting  
13 all remaining hours of the educational requirements identified in this section. All costs of the  
14 coursework shall be borne by the Respondent.

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

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

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

1           6.    **CHANGES OF EMPLOYMENT** Respondent shall notify the Board in writing,  
2 through the assigned probation monitor of any and all changes of employment, location and  
3 address within 30 days of such change.

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

8           8.    **EMPLOYMENT AND SUPERVISION OF TRAINEES** Respondent shall not  
9 employ or supervise or apply to employ or supervise acupuncture trainees during the course of  
10 this probation. Respondent shall terminate any such supervisorial relationship in existence on the  
11 effective date of this probation. Respondent shall not teach at any Board approved training  
12 program during the course of this probation.

13           9.    **COST RECOVERY** Respondent shall pay to the Board its costs of investigation  
14 and enforcement in the amount of \$8,163.37. Respondent shall be permitted to pay these costs in  
15 a payment plan approved by the Board or its designee, with payments to be completed no later  
16 than three months prior to the end of the probation term. Cost recovery will not be tolled.

17           At Respondent's request, if Respondent has not complied with this condition during the  
18 probationary term, and Respondent has presented sufficient documentation of his good faith  
19 efforts to comply with this condition, and if no other conditions have been violated, the Board or  
20 its designee, in its discretion, may grant an extension of Respondent's probation period up to two  
21 years without further hearing in order to comply with this condition. During the two years'  
22 extension, all original conditions of probation will apply. The filing of bankruptcy by  
23 Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its  
24 investigation and prosecution costs.

25           10.   **PROBATION MONITORING COSTS**

26           Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the  
27 probation to ensure compliance for the duration of the probation period, including but not limited  
28 to travel and quarterly reviews.

1           11.   **PRACTICE MONITOR** Within 90 days of the effective date of this decision,  
2 Respondent shall submit to the Board for its prior approval, the name and qualifications of one or  
3 more California licensed acupuncturists whose license is clear (no record of complaints) and  
4 current and who has agreed to serve as a practice monitor. Once approved, the monitor shall  
5 submit to the Board a plan by which Respondent's practice shall be monitored. The monitor's  
6 education and experience shall be in the same field of practice as that of the Respondent. The  
7 monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring  
8 has taken place and providing an evaluation of Respondent's performance. It shall be  
9 Respondent's responsibility to assure that the required reports are filed in a timely fashion. The  
10 Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall  
11 be permitted to make direct contact with patients. Further, the monitor shall have no prior  
12 business, professional, personal or other relationship with Respondent. Respondent shall execute  
13 a release authorizing the monitor to divulge any information that the Board may request.

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

18           If the monitor quits or is otherwise no longer available, Respondent shall not practice until a  
19 new monitor has been approved by the Board. All costs of monitoring shall be borne by the  
20 Respondent. Monitoring shall consist of at least two hours every two weeks of individual face to  
21 face meetings during the first year of probation, two hours once a month for the second year, and  
22 one hour per month for the remainder of the probation period.

23           12.   **NOTIFICATION OF NAME, ADDRESS, TELEPHONE NUMBER or E-MAIL**  
24 **ADDRESS CHANGES** Respondent shall notify the assigned probation monitor, in writing  
25 within ten (10) days, of any and all name, address, telephone and/or e-mail address changes.

26           13.   **MAINTENANCE of VALID LICENSE** Respondent shall, at all times, maintain  
27 an active current license with the Board, including any period of suspension or tolled probation.

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**14. RESTRICTION ON PRACTICE TECHNIQUES AND MODALITIES**

Respondent’s practice shall be limited to the techniques and modalities permitted under Business and Professions Code sections 4927, subsection (d), and 4937. Providing or advertising Advanced Regeneration Therapy (ART) will constitute a violation of probation. Within 30 days from the effective date of the decision, Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify his supervisor of the restrictions imposed on his practice.

**15. 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 stated. If an Amended 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 Amended Accusation or petition to revoke probation pending against Respondent.

**16. 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, Jehan N. Jayakumar. 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.


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DATED: 7-20-17   
JOHN JUNGMIN KIM, L.Ac.  
*Respondent*

I have read and fully discussed with Respondent JOHN JUNGMIN KIM, 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: 7-20-17   
JEHAN N. JAYAKUMAR  
*Attorney for Respondent*

**ENDORSEMENT**

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

Dated: July 20, 2017

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

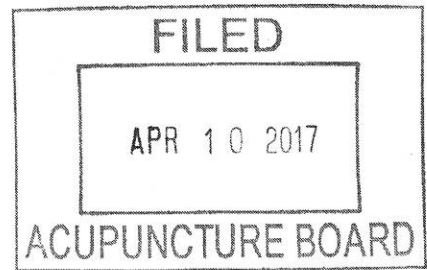
  
WENDY WIDLUS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Amended Accusation No. 1A-2014-64**

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 WENDY WIDLUS  
Deputy Attorney General  
4 State Bar No. 82958  
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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:

Case No. 1A-2014-64

12 **JOHN JUNGMIN KIM, L.Ac.**  
13 **901 N. Pacific Coast Hwy, #116**  
**Redondo Beach, CA 90277**  
14 **Acupuncturist License No. AC 3059,**

**A M E N D E D**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about December 1, 1987, the Acupuncture Board issued Acupuncturist License  
22 Number AC 3059 to John Jungmin Kim, L.Ac. (Respondent). The Acupuncturist License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on  
24 November 30, 2016, unless renewed.

25 **JURISDICTION**

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

1           4.     Section 4928.1 of the Code states:

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

6           5.     Section 4927, of the Code states, in pertinent part:

7           “As used in this chapter, unless the context otherwise requires:

8           “...  
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 4937 of the Code states:

15          “An acupuncturist’s license authorizes the holder thereof:

16          “(a) To engage in the practice of acupuncture.

17          “(b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques,  
18 exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and  
19 dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits  
20 any person who does not possess an acupuncturist’s license or another license as a healing arts  
21 practitioner from performing, or prescribing the use of any modality listed in this subdivision.

22          “(c) For purposes of this section, a ‘magnet’ means a mineral or metal that produces a  
23 magnetic field without the application of an electric current.

24          “(d) For purposes of this section, ‘plant, animal, and mineral products’ means naturally  
25 occurring substances of plant, animal, or mineral origin, except that it does not include synthetic  
26 compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a  
27 controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the  
28 Health and Safety Code.

          “(e) For purposes of this section, ‘dietary supplement’ has the same meaning as defined in

1 subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary  
2 supplement does not include controlled substances or dangerous drugs as defined in Section 4021  
3 or 4022, or a controlled substances listed in Chapter 2 (commencing with Section 11053) of  
4 Division 10 of the Health and Safety Code.”

5 7. Section 4955 of the Code states in pertinent part:

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

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

9 “. . .

10 “(c) False or misleading advertising.

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

13 “. . .

14 “(i) Any action or conduct that would have warranted the denial of the acupuncture license.

15 “. . .”

16 8. Section 4955.1 states, in pertinent part:

17 “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
18 of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be  
19 limited to, any of the following:

20 “. . .

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

23 9. Section 4955.2 of the Code states:

24 “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
25 of any acupuncturist if he or she is guilty of committing any one of the following:

26 “(a) Gross negligence.

27 “(b) Repeated negligent acts.

28 “(c) Incompetence.”

1           10. Section 2051 of the Code states:

2           “The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or  
3 upon human beings and to sever or penetrate the tissues of human beings and to use any and all  
4 other methods in the treatment of diseases, injuries, deformities, and other physical and mental  
5 conditions.”

6           11. California Code of Regulations, title 16, section 1399.451, states, in pertinent part:

7           “... ”

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

11           “(f) Acupuncture shall not be performed using hypodermic needles.

12           “... ”

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

14           “An acupuncturist shall keep complete and accurate records on each patient who is given  
15 acupuncture treatment, including but not limited to, treatments given and progress made as a  
16 result of the acupuncture treatments.”

17           13. California Code of Regulations, title 16, section 1399.455, states:

18           “(a) A licensed acupuncturist may advertise the provision of any acupuncture services  
19 authorized to be provided by such licensure in a manner authorized by Section 651 of the code so  
20 long as such advertising does not promote the excessive or unnecessary use of such services.

21           “(b) It is improper advertising as provided in Section 4955 of the code to disseminate any  
22 advertising which represents in any manner that the acupuncturist can cure any type of disease,  
23 condition or symptom.

24           “(c) It is improper advertising as provided in Section 4955 of the code to disseminate any  
25 advertising of a practice, technique or procedure which is not within the scope of the practice of  
26 acupuncture as defined in Sections 4927 and 4937 of the code and which is the unlawful practice  
27 of medicine.”

28           //

1 **COSTS**

2 14. Section 4959 of the Code states:

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

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

11 “(c) When the payment directed in the board's order for payment of costs is not made by  
12 the licensee, the board may enforce the order for payment in the superior court in the county  
13 where the administrative hearing was held. This right of enforcement shall be in addition to any  
14 other rights the board may have as to any licensee directed to pay costs.

15 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be  
16 conclusive proof of the validity of the order of payment and the terms for payment.

17 “(e) All costs recovered under this section shall be considered a reimbursement for costs  
18 incurred and shall be deposited in the Acupuncture Fund.”

19 **FACTUAL ALLEGATIONS**

20 15. Patient EH<sup>1</sup> was a 44 year old woman with a history of breast cancer, double  
21 mastectomy and breast implants in 2010 and a parathyroidectomy<sup>2</sup> in 2010 when she first saw  
22 Respondent at his office, Re Nu Mi Wellness Center, with a complaint of low energy.

23 16. According to Respondent’s medical records EH had 14 office visits with Respondent  
24 which began in September, 2013. The patient’s complaints during her course of treatment with

25 <sup>1</sup> The name of the patient and/or witnesses are abbreviated to protect their privacy rights. The names will be  
26 provided to Respondent upon written request for discovery.

27 <sup>2</sup> A parathyroidectomy is defined as the removal of one or more of the parathyroid glands. The parathyroid  
28 glands are usually four in number, although the exact number may vary from three to seven, located in the neck in  
front of the Adam's apple and are closely linked to the thyroid gland. The parathyroid glands regulate the balance of  
calcium in the body.

1 Respondent included low energy, dizziness, described as frequent in occurrence and associated  
2 with range of motion (ROM), upper back and neck tightness, anxiety, heart pounding, and upper  
3 leg buzzing. EH also was concerned with scars on her breasts and neck as a result of the double  
4 mastectomy and parathyroidectomy operations she had undergone.

5 17. Respondent repeatedly urged EH to allow him to treat her scars with an acupuncture  
6 technique he called ART (advanced regeneration therapy). Respondent told EH that ART was  
7 used for scarring and would rejuvenate the healing of her skin. When EH asked if Respondent  
8 had used ART on someone who had reconstruction surgery Respondent insisted this procedure  
9 was safe.

10 18. The first sentence in the paragraph regarding “Advanced Regeneration Therapy” in  
11 EH’s informed consent for acupuncture treatment states, “I understand that I will be receiving an  
12 advanced acupuncture technique.”

13 19. Respondent’s flyer entitled “Advanced Regeneration Therapy” states “Re Nu Mi  
14 Advanced Regeneration Therapy (ART) is a cutting edge therapy.”

15 20. At the ART page on the Re Nu Mi Wellness Center website it states:

16 **“Anti-Aging Program – Holistic Facelift**

17 “NON-INVASIVE COSMETIC SURGERY – A.R.T. A natural method of  
18 rejuvenating dry, sagging and wrinkled skin. If you are contemplating invasive,  
19 expensive and temporary anti-aging methods such as surgical face life or chemical  
20 injections, you owe it to yourself to explore the healthier, natural and satisfying  
21 results that can be achieved through the Advanced Regeneration Therapy (ART)  
22 Facial Sculpting. This unique alternative approach removes wrinkles, relieves facial  
23 muscle tension, brightens the complexion, and improves collagen production. Using  
24 time-honored and time-tested Acupuncture Techniques.”

25 21. Respondent performed ART on EH’s neck and right breast on January 11 and 18,  
26 2014. The ART procedure consisted of Respondent taking a hypodermic needle and repeatedly  
27 jamming the needle into the patient’s neck and right breast surgical scars. The ART procedures,  
28 which were extremely painful, lasted approximately 90 minutes and caused bleeding and  
bruising.

29 22. EH was very concerned about the bruising she experienced after the ART procedures  
and consulted with her surgeon. EH’s surgeon advised her to discontinue the ART treatment and



1 recommended that she have an imaging study done of her right breast.

2 23. Prior to scheduling the imaging study EH noticed implant silicone leakage under her  
3 skin. EH informed Respondent that she was experiencing silicone leakage from her right breast  
4 implant. In response to that information Respondent sent EH flowers accompanied by a note of  
5 apology. EH's medical records do not reflect any notation that EH's breast implant was leaking  
6 silicone.

7 24. EH's right breast implant was examined via imaging studies and was found to be  
8 ruptured with extensive leakage of silicone from the implant. As a result of the damage to the  
9 implant EH underwent surgery which consisted of removal of the ruptured implant, irrigation of  
10 the implant pocket to wash out the leaked implant gel, replacement of the damaged implant and  
11 soft tissue reconstruction of the surrounding tissues.

12 25. EH's first office visit to Respondent was on September 12, 2013. The patient's  
13 medical record for this visit shows an undated, unsigned medical history with a chief complaint of  
14 frequent dizziness associated with ROM. The medical records for September 16 and 20, 2013,  
15 state the dizziness was better.

16 26. The medical records for September 20, 2013, state the patient's additional complaint  
17 of low energy.

18 27. The medical records for September 20, 2013, state the patient's dizziness and energy  
19 level was better.

20 28. The medical records for September 27, 2013, state the patient had an upper  
21 respiratory infection.

22 29. The medical records for October 4, 2013, state the patient's chief complaint was low  
23 energy. The chart notes state the patient's dizziness was "all gone."

24 30. The medical records for October 4, 2013, state the patient was reevaluated and her  
25 chief complaint was upper back and neck tightness. There are no history or examination findings  
26 in the chart which reflect the new complaint. The chart notes that "dizziness was gone."

27 31. The medical records for October 14, 2013, state "neck tight same."

28 32. The medical records for November 7, 2013, show a note which states "ART is too

1 much” and “\*want to know scar tx fee.\*”

2 33. The medical records for November 25, 2013, state new chief complaints of “anxiety  
3 7-8/10 heart pounding” as well as “upper leg buzzing.”

4 34. There are medical records for a December visit, but the date of that visit is  
5 indecipherable. The medical records for that date state “anxiety 5/10” and the ‘left leg buzzing  
6 feeling.”

7 35. The medical records for December 16, 2013, state “no complaints” and “left leg  
8 same.”

9 36. The medical records for January 11, 2014, state that the patient’s chief complaint is  
10 “Neck scar tissue removal” and “Ft scar TX.” Another chart note indicates an initial service of  
11 Re Nu Mi ART, sculpting on the “scar (neck and chest)” and “sample right breast.”

12 37. The medical records for January 18, 2014, do not state a chief complaint. There are  
13 notations which state “1. Numbness (L)” with the following words illegible, “2. Vision (L) eye  
14 white” with the following words illegible, “3. (L) thigh buzzing.” The chart note for this visit  
15 indicates Re Nu Mi ART with sculpting on the “scar (neck and chest)” and “fire cupping sample  
16 rt breast.”

17 38. Use of a hypodermic needle for acupuncture treatment is governed by California  
18 Code of Regulations, title 16, section 1399.451, which states, in pertinent part: “(f) Acupuncture  
19 shall not be performed using hypodermic needles.”

20 39. Respondent’s use of a hypodermic needle to perform ART is an extreme departure  
21 from the standard of care.

22 40. When EH informed Respondent that she was experiencing silicone leakage and  
23 Respondent sent her flowers with a note of apology. The appropriate standard of care for  
24 responding to any complication arising from a patient’s acupuncture treatment is governed by  
25 California Code of Regulations, title 16, section 1399.451, which states, in pertinent part:

26 “(e) Any complication, including but not limited to, hematoma, peritonitis or pneumothorax  
27 arising out of acupuncture treatment shall be referred immediately to a physician or dentist or  
28 podiatrist, if appropriate, if immediate medical treatment is required.”

1           41. Respondent's failure to advise EH to immediately contact her primary physician or  
2 the specialist physician with whom EH had been receiving medical care is an extreme departure  
3 from the standard of care.

4           42. Based on Code sections 2051, the scope of what the holder of a physician and  
5 surgeon's certificate is authorized to do in the practice of medicine, and section 4827, subsection  
6 (d), which defines acupuncture, ART is not the practice of acupuncture but instead the unlawful  
7 practice of medicine when performed by an acupuncturist.

8           43. Respondent's performance of ART is an extreme departure from the standard of care.

9           44. Respondent's description of the ART technique as "an advanced acupuncture  
10 technique" for "non-invasive cosmetic surgery" for the stated purpose of altering the appearance  
11 of scars is false advertising and an extreme departure from the standard of care.

12           45. Standards of medical recordkeeping are determined by the Center of Medicare and  
13 Medicaid Services (CMS) as detailed in their 1997 "Documentation Guidelines for Evaluation  
14 and Management Services." The principles of documentation are applicable to all types of  
15 medical and surgical services in all settings and apply to non-physician providers in California  
16 which includes licensed acupuncturists.

17           46. The initial chief complaint for EH was dizziness. During the patient's treatments  
18 additional chief complaints of anxiety and low energy were noted by Respondent. The standard  
19 of care for the treatment of a complaint of dizziness requires further evaluation to determine the  
20 cause of the dizziness.

21           47. The standard of care to determine the cause of dizziness requires the acupuncturist to  
22 obtain a medical history and perform an appropriate examination.

23           48. An appropriate medical history requires a history of present illness (HPI) and a past  
24 family and social history (PFSH).

25           49. An appropriate physical examination includes the performance of a limited review of  
26 systems (ROS), and a physical examination.

27           50. Respondent's medical records did not provide a history or show that he performed a  
28 physical examination of EH to determine the cause of her dizziness. As a result, the patient's

1 evaluation and history are incomplete and Respondent's treatment of EH cannot be justified.

2 51. Respondent's failure to obtain a history of present illness, a past family and social  
3 history, a limited ROS, and an appropriate physical examination of EH when treating EH's  
4 complaints of dizziness are each a simple departure from the standard of care.

5 52. The standard of care for the treatment of a complaint of anxiety requires further  
6 evaluation to determine the cause of the anxiety.

7 53. The standard of care to determine the cause of anxiety requires the acupuncturist to  
8 obtain a medical history and perform an appropriate examination.

9 54. An appropriate medical history requires a HPI and a PFSH.

10 55. An appropriate physical examination includes the performance of a ROS, and a  
11 physical examination.

12 56. Respondent's medical records did not provide a history or show that he performed an  
13 appropriate examination of EH to determine the cause of her anxiety. As a result, the patient's  
14 evaluation and history are incomplete and Respondent's treatment of EH cannot be justified.

15 57. Respondent's failure to obtain a history of present illness, a past family and social  
16 history, a limited ROI, and an appropriate examination of EH when treating EH's complaints of  
17 anxiety are each a simple departure from the standard of care.

18 58. The standard of care for the treatment of a complaint of low energy requires further  
19 evaluation to determine the cause of the patient's complaint of low energy.

20 59. The standard of care to determine the cause of low energy requires the acupuncturist  
21 to obtain a medical history and perform an appropriate examination.

22 60. An appropriate medical history requires a HPI and a PFSH.

23 61. An appropriate physical examination includes the performance of a ROS, and a  
24 physical examination.

25 62. Respondent's medical records did not provide a history or show that he performed an  
26 appropriate examination of EH to determine the cause of her complaints of low energy. As a  
27 result, the patient's evaluation and history are incomplete and Respondent's treatment of EH  
28 cannot be justified.



1 D. Respondent's misleading advertising of ART as acupuncture in his brochure and  
2 consent form.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Repeated Negligent Acts)

5 70. Respondent is subject to disciplinary action under section 4955.2, subdivision (b), of  
6 the Code, in that he has committed repeated acts of negligence in the practice of acupuncture.

7 The circumstances are as follows:

8 71. Complainant refers to, and by reference incorporates herein paragraphs 15 through 8,  
9 42, 45, 62, and 64-66, inclusive, above.

10 72. Respondent's care and treatment of patient EH as set forth above includes the  
11 following acts and/or omissions which constitute departures from the standard of care:

12 A. Respondent's use of a hypodermic needle to perform ART.

13 B. Respondent's failure to advise EH to immediately contact her primary physician or  
14 the specialist physician with whom EH had been receiving medical care when she notified him  
15 that her breast implant was leaking after he performed ART.

16 C. Respondent's practice of medicine when he performed ART.

17 D. Respondent's use of misleading advertising of ART as acupuncture in his brochure  
18 and consent form.

19 E. Respondent's repeated failure to obtain a history of present illness, a past family and  
20 social history, a limited ROS, and to conduct an appropriate physical examination of EH when  
21 treating EH's complaints of dizziness, anxiety, low energy and scarring.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Failure to Maintain Adequate and Accurate Records)

24 73. Respondent is subject to disciplinary action under section 4955, as defined by section  
25 4955.1, subdivision (e), in that he failed to maintain adequate and accurate records relating to the  
26 services he provided to EH. The circumstances are as follows:

27 74. Complainant refers to, and by reference incorporates herein paragraphs 15 through  
28 37, 39 through 41, 43-44, 48 through 67, inclusive, above.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 75. Respondent is subject to disciplinary action under section 4955.1, subdivision (e), of  
4 the Code, and California Code of Regulations, title 16, section 1399.453, in that he committed  
5 unprofessional conduct in his care and treatment of EH. The circumstances are as follows:

6 76. Complainant refers to, and by reference incorporates herein paragraphs 15 through  
7 38, 42-62, and 64-66, inclusive, above.

8 **PRAYER**

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

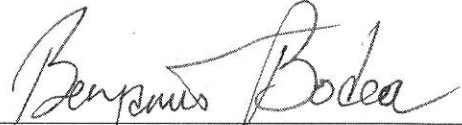
11 1. Revoking or suspending Acupuncturist License Number AC 3059, issued to John  
12 Jungmim Kim, L.Ac.

13 2. Ordering John Jungmin Kim, L.Ac. to pay the Acupuncture Board the reasonable  
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
15 Code section 4959;

16 3. If placed on probation, ordering him to pay to the Acupuncture Board the costs of  
17 probation monitoring; and

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

19  
20 DATED: APR 10 2017

  
21 BENJAMIN BODEA  
22 Executive Officer  
23 Acupuncture Board  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

27  
28 LA2015601985  
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