

BEFORE THE BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. AOM-18-6-COM

Megumi Hirayama,
License No. DOM 517,

Respondent.

SETTLEMENT AGREEMENT

Whereas, Megumi Hirayama (hereafter, "Respondent") is licensed in New Mexico under the Acupuncture and Oriental Medicine Practice Act (the "Act"), NMSA 1978, Sections 61-14A-1 through -22 (1993, as amended through 1997) ("the Act"), and is subject to the jurisdiction of the New Mexico Board of Acupuncture and Oriental Medicine ("Board"); and

Whereas, the Board received a formal complaint alleging that Respondent has violated the Act; and

Whereas, the Board found sufficient evidence to refer the matter to its administrative prosecutor and request that a Notice of Contemplated Action ("NCA") be issued against Respondent; and

Whereas, this Settlement Agreement ("Agreement") is entered into voluntarily by both parties;

Whereas, if the Agreement is rejected by the Board, the Administrative Prosecutor will process the formal complaint in this matter for further consideration, which may include the initiation of formal disciplinary action and the possible issuance of an NCA against Respondent; and

Whereas, Respondent is willing to resolve this matter without the need for, and time and expense of, a formal hearing being conducted; and

Whereas, the Board's administrative prosecutor believes that this proposed Settlement Agreement (the "Agreement") is appropriate and in the best interest of the Board and the State:

THEREFORE, IT IS AGREED AS FOLLOWS:

1. Jurisdiction: Respondent is licensed by the Board or otherwise subject to the Act and jurisdiction of the Board.
2. Voluntary Agreement: Respondent enters into this Agreement knowingly and voluntarily, without duress or coercion, and after a full opportunity to consult an attorney. Respondent understands that if Respondent rejects this agreement the

Board will conduct a formal evidentiary hearing that could result in the Board imposing discipline that is more severe or less severe than the sanctions imposed herein.


3. Board Approval: This Agreement requires Board approval. If the Board rejects this Agreement, the Board may proceed with a full evidentiary hearing on a date scheduled by the Board in a subsequent notice. If the Board rejects this Agreement, the terms of this Agreement or statements made by Respondent in support of this Agreement shall not be used against Respondent in a subsequent hearing. The approval shall be effective the date this Agreement is signed by the Board or its designee.
4. Waivers: If this Agreement is accepted by the Board, Respondent agrees to waive any and all rights under the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017), including but not limited to the right to an evidentiary hearing, the right to discovery, the right to present evidence, the right to call and cross examine witnesses, and the right to judicial review.
5. Alleged Violations: The following violations were alleged against Respondent:
 - a. NMSA 1978, Section 61-14A-17(A)(5) and (8)
 - b. Rule 16.2.2.8 NMAC
 - c. Rule 16.2.13.27 and .31 NMAC
6. Sanctions and Conditions: Respondent agrees to the following disciplinary sanctions and conditions:
 - a. Permanent Revocation: The Parties stipulate to a full and indefinite revocation of Respondent's license, which shall begin the date this Agreement is signed by the Board
7. By entering into this agreement, Respondent does not admit to the factual allegations contained in the formal complaint; however, he does not contest the revocation of his license.
8. Reportable Discipline: Respondent understands that this Agreement does constitute formal disciplinary action by the Board, and the action will be reported to the applicable professional licensing national database, if any, and may include any violations alleged against Respondent by the Board listed above.
 - a. National Practitioner Databank
9. Non-Compliance: Respondent understands and agrees that failure to comply with the terms of this Agreement will result in further Board action. Any violation of this Agreement will result in the immediate, automatic filing of an administrative Notice of Non-Compliance by Board staff. Upon the filing of a Notice of Non-

Compliance, the matter shall be scheduled for the next public meeting of the Board, at which time the Board shall hear from Board staff regarding the alleged non-compliance. Respondent shall have the opportunity to address the allegations or offer any other relevant argument or evidence regarding the reasons for non-compliance. Such argument or evidence may be provided in writing prior to the meeting or in person at the Board meeting. Any presentation regarding the Notice of Non-Compliance shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement. Upon finding such violation occurred, the Board may suspend Respondent's license(s), provided that this suspension may only remain in effect until such time as the Respondent has complied with the terms of this agreement, or take other enforcement action as permitted by law. If Respondent's non-compliance constitute acts that are prohibited under the Board's statute or rules, the Board may also initiate a new disciplinary action and refer that matter for administrative prosecution.

10. Public Record: This Agreement and the original complaint are public records and may be provided for inspection if requested, pursuant to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2018). The Board may also publish this Agreement or a summary of the Agreement to the public, which may include posting to the Board's website.
11. Full Compliance and Final Disposition: Upon Respondent's satisfactory completion of the terms of this agreement, the case will be deemed closed for administrative purposes without the filing of an order or official vote of the Board. However, this matter may still constitute disciplinary action as provided herein for purposes of Respondent's record with the Board.


I understand and have read this document and hereby agree to the terms of this Agreement freely and voluntarily. I understand that by entering into this Agreement I am giving up my rights under the Uniform Licensing Act, including my right to an evidentiary hearing on the merits of the alleged violations.

I understand that if the Board accepts this Agreement, I am required to comply with the terms stated herein, and that failure to comply with the Agreement may subject me to further discipline, including temporary suspension of my license(s).



Respondent

02/26/2020
Date



Respondent's Attorney (if any)

2/26/2020
Date

ORDER

This document is not valid unless it is accepted by vote of the Board. Having come before the Board during a properly scheduled public meeting, with a quorum present and majority voting in the affirmative, this Agreement is:

✓ ACCEPTED

IT IS SO ORDERED.

Deborah J. Don
VICE-Chairperson
Board of Acupuncture and Oriental Medicine

3/11/2020
Date