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FILED

JUN 3 2014

ACUPUNCTURE BOARD

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

12 In the Matter of the Accusation Against:

Case No. 1A-2011-27

13 **BRENT JOSEPH BERTOLAMI, L.AC.**
14 **6644 Blucher Avenue**
Van Nuys, CA 91406
Acupuncturist License No. AC12979,

A C C U S A T I O N

Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Acupuncture Board.

22 2. On or about February 24, 2009, the Acupuncture Board issued Acupuncturist License
23 Number AC12979 to Brent Joseph Bertolami (Respondent). That Acupuncturist License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 December 31, 2014, unless renewed.

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1 **JURISDICTION**

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

5 4. 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 “(a) Using or possessing any controlled substance as defined in Division 10
10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or
11 alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any
12 other person, or to the public, and to an extent that the use impairs his or her ability to
13 engage in the practice of acupuncture with safety to the public. . . .

14 “ . . .

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

17 “ . . .”

18 **COST RECOVERY**

19 5. Section 4959 of the Code states:

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

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

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

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

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

9 **Factual Summary**

10 6. Respondent was arrested on February 7, 2011 for a violation of Health and Safety Code
11 section 11377, subdivision (a), unlawful possession of methamphetamine, a misdemeanor, when
12 the Los Angeles County Sheriff's Department came to his home in response to a reported
13 disturbance. After investigation of the circumstances which resulted in the call, the deputies
14 seized .31 grams of methamphetamine from Respondent's home. As a result of Respondent's
15 completion of a 90 day outpatient treatment program the criminal court dismissed all charges
16 against him.

17 7. On July 12, 2012, Division of Investigation Investigator Scott Vredenburgh
18 interviewed Respondent about the events surrounding his arrest. Respondent admitted to using
19 methamphetamine for approximately three years prior to his arrest. Respondent started smoking
20 methamphetamine occasionally, gradually increasing to smoking three to four times daily, using
21 one half of a gram of methamphetamine a day, by the time he was arrested. Since he was self-
22 employed Respondent liked staying up all night, and then seeing approximately ten patients a
23 week at their homes.

24 8. Use of methamphetamine by a licensee is substantially related to the practice of
25 acupuncture, resulting in grave danger to the licensee's patients. Methamphetamine impairs a
26 user's judgment, with the user believing his intellectual ability is greatly enhanced and that he is
27 performing exceptionally well, while in fact he is engaged in behavior that is destructive to
28 himself or others. Methamphetamine's side effects include the inability to sleep for days or

1 weeks, and delusional behavior. A medicinal dose of amphetamine seldom exceeds 60 mg per
2 day. Use of one half gram of methamphetamine is equivalent to 500 mg; if used on a regular
3 basis, this amount results in withdrawal. Withdrawal symptoms include depression, muscle
4 aches, abdominal pain, chills, tremors, apathy, fatigue and sluggishness during which time the
5 user is less alert and responsive than normal. Methamphetamine is highly addictive, with the
6 relapse rate being very high. Smoking methamphetamine is more addictive than snorting or
7 injecting the drug.

8 Frequent use of methamphetamine can result in a psychosis which is comparable to
9 schizophrenia. Over time the increasing brain damage caused by methamphetamine can result in
10 movement disorders similar to Parkinson's Disease. Studies of chronic methamphetamine users
11 have found severe, longterm structural and functional changes in areas of the brain associated
12 with emotion and memory.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Possession of a Controlled Substance)

15 9. Respondent is subject to disciplinary action under section 4955, subdivisions (a) and
16 (i) of the Code, for unprofessional conduct. The circumstances are as follows:

17 10. Complainant refers to, and by reference incorporates herein paragraphs 6 through 7,
18 inclusive, above.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct)

21 11. Respondent is subject to disciplinary action under section 4955 of the Code, for
22 unprofessional conduct. The circumstances are as follows:

23 12. Complainant refers to, and by reference incorporates herein paragraphs 6 through 8,
24 inclusive, above.

25 **PRAYER**

26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Acupuncture Board issue a decision:
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1. Revoking or suspending Acupuncturist License Number AC12979, issued to Brent Joseph Bertolami, L.Ac.
2. Ordering Brent Joseph Bertolami to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;
3. If placed on probation, ordering him to pay to the Acupuncture Board the costs of probation monitoring, and;
4. Taking such other and further action as deemed necessary and proper.

DATED: JUN 03 2014


TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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