

**FILED**

MAR 11 2003

ACUPUNCTURE BOARD

**C O P Y**

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7  
 8 **BEFORE THE**  
**ACUPUNCTURE BOARD OF CALIFORNIA**  
 9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10  
 11 In the Matter of the Accusation Against: ) Case No. 1A-1998-111  
 )  
 12 **MARK STEPHEN FIELDS** )  
 87 Scripps Drive, #212 )  
 13 Sacramento, CA 95825 ) **ACCUSATION**  
 )  
 14 Acupuncture License )  
 15 No. AC-2480, )  
 )  
 16 Respondent. )

17  
 18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Marilyn Nielsen, is the Executive Officer of the  
 21 Acupuncture Board of California (hereinafter the "Board") and brings this accusation solely in her  
 22 official capacity.

23 2. On or about July 23, 1985, Acupuncture License No. AC-2480 was issued  
 24 by the Board to Mark Stephen Fields (hereinafter "respondent"), and at all times relevant to the  
 25 charges brought herein, this license has been in full force and effect.

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1 JURISDICTION

2 3. This accusation is brought before the Acupuncture Board of California,  
3 Department of Consumer Affairs (hereinafter the "Board"), under the authority of the following  
4 sections of the California Business and Professions Code (hereinafter "Code") and/or other  
5 relevant statutory enactment:

6 A. Section 4955 of the Code provides that the Board may deny, suspend or  
7 revoke or impose probationary conditions upon the license of any acupuncturist who has  
8 been found guilty of unprofessional conduct.

9 B. Section 4955(b) of the Code provides that conviction of a crime  
10 substantially related to the qualifications and duties of an acupuncturist constitutes  
11 unprofessional conduct, and that the record of conviction is conclusive evidence of that  
12 conviction.

13 C. Section 4955.1 of the Code provides that the Board may deny, suspend,  
14 revoke, or impose probationary conditions upon the license of any acupuncturist if he is  
15 guilty of committing a fraudulent act including, but not limited to, any of the following:

16 . . . .

17 (b) Committing a fraudulent or dishonest act as an acupuncturist.

18 (c) Committing any act involving dishonesty or corruption with  
19 respect to the qualifications, functions or duties of an acupuncturist.

20 (d) Altering or modifying the medical record of any person, with  
21 fraudulent intent, or creating any false medical record.

22 . . . .

23 D. Section 4956 of the Code provides that a plea or verdict of guilty or a  
24 conviction following a plea of nolo contendere made to a charge which is substantially  
25 related to the qualifications, functions, or duties of an acupuncturist is deemed to be a  
26 conviction within the meaning of this chapter. The Board may order a license suspended  
27 or revoked, or may deny a license, or may impose probationary conditions upon a license,

1 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on  
2 appeal, or when an order granting probation is made suspending the imposition of  
3 sentence irrespective of a subsequent order under the provisions of section 1203.4 of the  
4 Penal Code allowing the person to withdraw his or her pleas of guilty and to enter a plea  
5 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
6 complaint, information, or indictment.

7 E. Section 4959 of the Code provides in pertinent part that the Board may  
8 request the administrative law judge to direct any licentiate found to have committed a  
9 violation or violations of the licensing act to pay the Board a sum not to exceed actual and  
10 reasonable costs of the investigation and prosecution of the case.

11 4. Respondent is guilty of unprofessional conduct within the meaning of  
12 Code sections 4955(b) and 4955.1 as more particularly set forth hereinbelow.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Conviction of a Crime)

15 [Bus. & Prof. Code § 4955(b)]

16 5. On May 22, 2000, in Sacramento County Superior Court, respondent Mark  
17 Stephen Fields was convicted by plea of nolo contendere to one count of a 41 count criminal  
18 complaint of violating Penal Code section 550(A)(7), knowingly submitting a false health  
19 insurance claim, a felony. On June 26, 2000, respondent was placed on three years formal  
20 probation with one day in jail, credit for time served.

21 6. Respondent's conduct as set forth above constitutes unprofessional  
22 conduct in violation of section 4955(b) of the Code and constitutes grounds for disciplinary  
23 action.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Fraudulent or Dishonest Act)

26 [Bus. & Prof. Code § 4955.1]

27 7. Complainant realleges paragraph 5 above as if fully set forth herein.

8.. Respondent's submission of fraudulent health insurance claims constitutes  
unprofessional conduct pursuant to section 4955.1 of the Code and is grounds for disciplinary

1 action.

2 THIRD CAUSE FOR DISCIPLINE

(Fraudulent or Dishonest Act)

3 [Bus. & Prof. Code § 4955.1]

4 9. Complainant realleges paragraph 5 above as if fully set forth herein.


5 10. On April 23, 2002, respondent submitted a license renewal application to  
6 the Acupuncture Board. On the renewal application, respondent checked "no" on the section  
7 which asked if he had been convicted of any violation of any law since the date of his last license  
8 renewal. As respondent had been convicted in May, 2000, of a violation of a law of the State of  
9 California, his answer on his license renewal application was an act of dishonesty and  
10 unprofessional conduct in violation of section 4955.1 of the Code and is grounds for disciplinary  
11 action.

12 PRAYER

13 WHEREFORE complainant requests that a hearing be held on the matters herein  
14 alleged and that, following the hearing, the Board issue a decision:

- 15 1. Revoking or suspending Acupuncture License Number AC-2480  
16 heretofore issued to respondent Mark Stephen Fields;
- 17 2. Ordering respondent to pay the Division the actual and reasonable costs of  
18 the investigation and enforcement of this case and the costs of probation monitoring if probation  
19 is imposed; and
- 20 3. Taking such other and further action as the Division may deem necessary  
21 of proper.

22 DATED: 3/4/03

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25 \_\_\_\_\_  
Marilyn Nielsen  
Executive Officer  
Acupuncture Board  
Department of Consumer Affairs  
State of California  
26 Complainant  
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