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ACUPUNCTURE BOARD

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

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

The Complainant alleges:

PARTIES

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

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

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JURISDICTION

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

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

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

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

. . . .

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

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

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

. . . .

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

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

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

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

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)
[Bus. & Prof. Code § 4955(b)]

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

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

SECOND CAUSE FOR DISCIPLINE
(Fraudulent or Dishonest Act)
[Bus. & Prof. Code § 4955.1]

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

action.

THIRD CAUSE FOR DISCIPLINE
(Fraudulent or Dishonest Act)
[Bus. & Prof. Code § 4955.1]

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

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

PRAYER

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

1. Revoking or suspending Acupuncture License Number AC-2480 heretofore issued to respondent Mark Stephen Fields;

2. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case and the costs of probation monitoring if probation is imposed; and

3. Taking such other and further action as the Division may deem necessary of proper.

DATED: 3/4/03.

Marilyn Nielsen

Marilyn Nielsen
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant