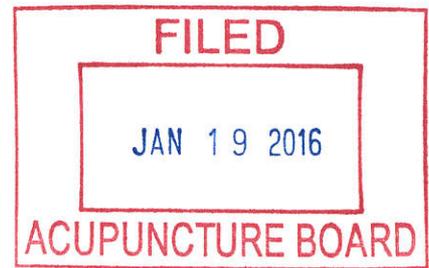


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8
9 **BEFORE THE**
ACUPUNCTURE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12 In the Matter of the First Amended Accusation
Against:

Case No. 1A-2015-157

13 **RANDALL JAMES NEUSTAEDTER**
14

FIRST AMENDED ACCUSATION

15 1779 WOODSIDE ROAD, SUITE 201C
16 REDWOOD CITY, CA 94061

17 ACUPUNCTURE LICENSE NO. AC 1541

18 Respondent.
19

20
21 Complainant alleges:

22 **PARTIES**

23 1. Terri Thorfinnson ("Complainant") brings this First Amended Accusation solely in
24 her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
25 Affairs ("Board").

26 2. On or about August 30, 1983, the Board issued Acupuncture License Number AC
27 1541 to Randall James Neustaedter ("Respondent"). The Acupuncturist License was in full force
28 and effect at all times relevant to the charges brought herein and will expire on November 30,

1 2016, unless renewed. However, Respondent's license is currently suspended by virtue of an
2 Interim Suspension Order that was issued on October 15, 2015, pursuant to Government Code
3 Section 11529.

4 JURISDICTION

5 3. This First Amended Accusation is brought before the Board, under the authority of
6 the following laws. All section references are to the Business and Professions Code unless
7 otherwise indicated.

8 4. Section 4955 of the Code states in pertinent part:

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

11 "Unprofessional conduct shall include, but not be limited to, the following:

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

15 "(f) The use of threats or harassment against any patient or licensee for
16 providing evidence in a disciplinary action, other legal action, or in an investigation
17 contemplating a disciplinary action or other legal action.

18 "(i) Any action or conduct that would have warranted the denial of the
19 acupuncture license."

20 5. Section 726 of the Code states:

21 "The commission of any act of sexual abuse, misconduct, or relations with a
22 patient, client, or customer constitutes unprofessional conduct and grounds for
23 disciplinary action for any person licensed under this division, under any initiative act
24 referred to in this division and under Chapter 17 (commencing with Section 9000) of
25 Division 3.

26 "This section shall not apply to sexual contact between a physician and surgeon
27 and his or her spouse or person in an equivalent domestic relationship when that
28

1 physician and surgeon provides medical treatment, other than psychotherapeutic
2 treatment, to his or her spouse or person in an equivalent domestic relationship."

3 **COST RECOVERY**

4 6. Section 4959 of the Code states:

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

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

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

20 "(d) In any judicial action for the recovery of costs, proof of the board's
21 decision shall be conclusive proof of the validity of the order of payment and the
22 terms for payment.

23 "(e) All costs recovered under this section shall be considered a reimbursement
24 for costs incurred and shall be deposited in the Acupuncture Fund."

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct/Sexual Misconduct)

27 7. Respondent is subject to disciplinary action under Section 726 in that he engaged in
28 unprofessional conduct and committed sexual misconduct while treating four patients.

1 8. The circumstances are as follows:

2 Patient V.V.

3 9. On or about June 25, 2015, Patient V.V.¹ arrived at Cure Guide in Redwood City for
4 treatment with Respondent.

5 10. During the treatment, Respondent slid his hand underneath her underwear, and
6 touched her anus, vagina and clitoris.

7 11. Patient V.V. could feel Respondent's erection, through his pants, touching her arm
8 during this "treatment."

9 12. After the visit, Patient V.V. contacted the San Mateo Police Department and reported
10 the sexual abuse.

11 13. On or about July 8, 2015, in cooperation with Detective S. Berberian and Detective J.
12 Sebring, Patient V.V. contacted Respondent by telephone as part of a "pretext call." Patient V.V.
13 confronted Respondent about him rubbing her vagina and anus area. Respondent told her that he
14 was sorry if the massage got too personal. He told her that acupuncture channels go along the
15 inside of the thighs and that if he inadvertently touched her closer than she felt comfortable with
16 then he was sorry.

17 14. On or about July 13, 2015, Respondent was arrested by the San Mateo County Police
18 for sexually molesting Patient V.V.

19 15. Following Respondent's arrest on or about July 13, 2015, he sent Patient V.V. an
20 email on July 20, 2015. The subject line stated "Appeal" and the email read as follows:

21 "I respectfully and humbly request that you drop the charges against me. This case has
22 caused tremendous distress in my family. My children are terribly frightened and afraid for their
23 future. I'm planning to retire this year and the expense of legal expenses will be devastating to
24 me financially. I beg you to find in your heart to *drop these charges and avoid the horrific ordeal*
25 *of prosecution and court proceedings for both of us.* This case could effectively ruin my life and
26 has already created tremendous hardship." (emphasis added).

27 ¹ Patient initials are used to protect the patient's privacy. Respondent may learn the name
28 of the patients during the discovery process.

1 Patient E.B.

2 16. On or about July 16, 2015, Detective S. Berberian, received a telephone call from
3 Patient E.B., who stated she read a news article regarding Respondent sexually assaulting one of
4 his patients.

5 17. Patient E.B. stated that she too was sexually assaulted by Respondent in December
6 2013. In December 2013, Patient E.B. set up an appointment to see Respondent. During the
7 consultation, Patient E.B. told Respondent that she had a sore throat and lower back pain.
8 Respondent began to rub her back and then started to “move down.” Respondent moved his
9 hands underneath the pants she was wearing and proceeded to rub her anus. Respondent started
10 to put his hand between her labia and was moving toward her clitoris. As Respondent touched
11 her vagina, she was able to sit up, and tell him she was done. After this visit, Patient E.B. never
12 went back to see Respondent.

13 18. On or about, August 14, 2015, Respondent sent Patient E.B. an email. The subject
14 line stated “Where we find ourselves” and reads as follows:

15 “ I just got word that you were upset by our visit nearly two years ago. I am deeply sorry
16 that you felt uncomfortable. I would like to have a dialog if you are willing to resolve the issues
17 ourselves *rather than [sic] involving the police state.* This has created an extremely stressful
18 situation for me and my family and threatens to be financially ruinous and end my career of more
19 than 30 years. I have plans to retire soon in any case, but now there is this nightmarish scenario
20 . . . I am hopeful that we can come to some resolution within our community of healers and
21 friends *rather than pursue a devastating course of prosecution.*” (emphasis added).

22 Patient L.R.

23 19. On or about August 8, 2015, Detective S. Berberian, received a telephone call from
24 Patient L.R., who stated that she had learned of Respondent’s arrest for sexually assaulting
25 patients.

26 20. Patient L.R. is an adult female, who stated that Respondent sexually assaulted her
27 during acupuncture treatment sessions from the age of eight (8) or nine (9) years until she was 13
28

1 years of age. Patient L.R. stated that every time that she visited Respondent in his office, she was
2 alone with him.

3 21. During one office visit, Respondent had Patient L.R. spread her legs and rubbed her
4 vaginal area and then stuck his finger in her vagina. Respondent proceeded to then stick two
5 fingers inside her vagina.

6 22. During another visit, Respondent asked Patient L.R. if she ever thought about sex and
7 if she had ever touched herself. Patient L.R. responded that she was naive and did not know a lot
8 about sex. While Respondent was asking these questions, Patient L.R. noticed that Respondent
9 was rubbing himself through his pants.

10 23. On another visit, while Patient L.R. was laying down in Respondent's office,
11 Respondent rubbed his clothed erect genitals up and down her arm.

12 Patient C.A.

13 24. On or about, August 19, 2015, Detective S. Berberian, received a telephone call from
14 Patient C.A., who stated that she had learned of Respondent's arrest for sexually assaulting
15 patients.

16 25. Patient C.A. stated that Respondent sexually assaulted her during an office visit on or
17 about April 10, 2015. Patient C.A. stated that during one office visit, Respondent pulled her
18 vagina lip outside of her underwear. Patient C.A. was able to push herself from the table, and tell
19 him she was done. After this visit, Patient C.A. never went back to see Respondent.

20 26. Respondent's conduct, as described above, constitutes sexual misconduct and
21 represents extreme departures from the standard of care, including but not limited to
22 Respondent's inappropriate touching of Patient V.V., Patient E.B's, Patient L.R., and Patient
23 C.A.'s genitals and anus areas.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct/ Threats or Harassment)**

26 27. Respondent is subject to disciplinary action under Section 4955 subdivision (d), in
27 that he violated terms of this chapter or any regulation adopted by the Board; subdivision (f), in
28 that he engaged in unprofessional conduct by the use of threats or harassment against any patient

1 or licensee for providing evidence in a disciplinary action, other legal action, or in an
2 investigation contemplating a disciplinary action or other legal action; and subdivision (i), in that
3 he committed any action that would have warranted the denial of the acupuncture license. The
4 circumstances are as follows:

5 28. The facts alleged in paragraphs 10 through 26, above, are incorporated herein by
6 reference as if fully set forth.

7 **THIRD CAUSE FOR DISCIPLINE**
8 **(Unprofessional Conduct/Failure to Comply with Court Orders and/or Failure to**
9 **Cooperate with Board)**

10 29. Respondent is subject to disciplinary action under Section 4955, in that he engaged in
11 unprofessional conduct by failing to comply with a criminal court order and by not cooperating
12 with the Board. The circumstances are as follows:

13 30. On or about August 21, 2015, San Mateo Superior Court Judge Elizabeth Lee ordered
14 that "As a condition of remaining on bail, [Respondent] must have a Board appointed chaperone
15 present for all office visits with any patient of the female sex (children or adults). If [Respondent]
16 violates, he will be remanded."

17 31. Pursuant to Judge Lee's order, on or about August 27, 2015, the Board mailed a letter
18 via overnight mail to [Respondent's] attorney of record, informing him of the Board's chaperone
19 terms and conditions related to all visits with any female patients. The letter notified Respondent
20 that he would need to submit to the Board, the name of a person, who would act as a chaperone
21 for the Board's approval, within ten (10) calendar days of Judge Lee's order. Respondent failed
22 to timely submit the name of a chaperone.

23 32. The Board made numerous attempts to obtain the name of a proposed chaperone from
24 Respondent. As of the October 14, 2015, Interim Suspension Order hearing date, Respondent had
25 not submitted the name of a proposed chaperone to the Board.

26 33. Respondent's conduct, as described above, constitutes unprofessional conduct due to
27 his violation of a criminal court order and administrative court order, and failure to cooperate
28 with the Board in implementing its chaperone terms and conditions.

1 **PRAYER**

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

4 1. Revoking or suspending Acupuncture License Number AC 1541, issued to Randall
5 James Neustaedter;

6 2. Ordering Randall James Neustaedter to pay the Acupuncture Board the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 4959;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: **JAN 19 2016**


11 **TERRI THORFINNSON**
12 Executive Officer
13 Acupuncture Board
14 Department of Consumer Affairs
15 State of California *Complainant*