

IN THE MATTER OF

\* BEFORE THE

NEIL GARLAND, L.Ac.

\* MARYLAND STATE

License No: 000421

\* ACUPUNCTURE BOARD

\* \* \* \* \*

FINAL ORDER

PROCEDURAL BACKGROUND

On January 23, 1996, the Maryland State Acupuncture Board (the "Board") charged Neil Garland, L.Ac. (the "Respondent"), with the following violations of § 1A-309 of the Maryland Acupuncture Act, Md. Code Ann., Health Occ. ("H.O.") §§ 1A-101 et seq:

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(2) Fraudulently or deceptively:

(i) Uses a license;

(3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture;

(4) Is professionally, physically, or mentally incompetent;

(5) Provides professional services while:

(ii) Using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without a valid medical indication; and

(12) Submits a false statement to collect a fee.

The charges were based on Respondent's treatment of Patients A, B, C, D, E, F, and G.<sup>1</sup>

On May 17, 1996, the Board issued amended charges, which, in addition to the above charges, also charged Respondent with violating H.O. § 1A-309 (10), which provides;

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(10) Willfully makes or files a false report or record in the practice of acupuncture.

This charge was based on Respondent's billing for treatment for Patient F.

On July 1, 1996, based on information received, the Board summarily suspended Respondent's license to practice acupuncture based on his treatment of Patient H, which the Board determined violated H.O. § 1A-309 (2)(i), (3) and (4) and that the public health, safety, and welfare imperatively required emergency action pursuant to Md. Code Ann., State Gov't § 10-226(c).

On July 12, 1997, the Board charged Respondent with violating the following provisions § 1A-309 of the Acupuncture Practice Act, based on his treatment of Patient H:

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(2) Fraudulently or deceptively:

(i) Uses a license;

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<sup>1</sup> To protect patient confidentiality, patients are referred to by pseudonyms. The Board maintains a list of patients who correspond to the pseudonyms.

- (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture;
- (4) Is professionally, physically, or mentally incompetent.

A hearing on the Board's charges and the summary suspension was scheduled before the Office of Administrative Hearings for November, 1996. By letter dated November 6, 1996, Respondent offered to surrender his license to the Board. The Board rejected the offer<sup>2</sup> and required Respondent to proceed to a hearing on the charges.

A hearing on the charges and the summary suspension commenced on November 6, 1997 at the Office of Administrative Hearings. Laurie Bennett, Administrative Law Judge (the "ALJ") presided over the hearing. Respondent did not appear at the hearing and did not contest the charges. The hearing proceeded in Respondent's absence, pursuant to H.O. § 1A-310(e).

On February 18, 1997, the ALJ issued a Recommended Decision wherein she concluded that Respondent had violated H.O. § 1A-309 (2)(i), (3), (4), (5), (10), and (12), as charged by the Board. Based on her findings and conclusions the ALJ recommended that Respondent's license be revoked, and that Respondent not be permitted to apply for reinstatement of his Maryland acupuncture license for a period of at least 7 years.

No exceptions to the Recommended Decision were filed by either party, and at its meeting on July 8, 1997, the Board convened for a final decision in this case.

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<sup>2</sup> H.O. § 1A-308 provides that the Board may set conditions for accepting the surrender of a license by a licensee under investigation or against whom charges are pending. If the Board does not agree to accept a surrender, the license may not lapse by operation of law while either an investigation or charges are pending.

FINDINGS OF FACT

The Board adopts the proposed findings of fact of the ALJ as set out in her Recommended Decision dated February 18, 1997. Those findings are incorporated by reference into this Final Order. The Recommended Decision is attached to this Final Order as Appendix A.

CONCLUSIONS OF LAW

The Board bases its conclusions of law on the foregoing Findings of Fact, which were proven by a preponderance of the evidence. Based on these facts, the Board, by a majority of its full authorized membership, concludes that Respondent committed the following acts:

Fraudulently or deceptively: (i) Uses a license [H.O. § 1A-309(2) ;

Is guilty of immoral or unprofessional conduct in the practice of acupuncture [H.O. § 1A-309(3)];

Is professionally, physically, or mentally incompetent [H.O. § 1A-309(4)];

Provides professional services while: (ii) Using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without a valid medical indication [H.O. § 1A-309(5)];

Willfully makes or files a false report or record in the practice of acupuncture [H.O. § 1A-309(10)]; and

Submits a false statement to collect a fee [H.O. § 1A-309(12)].

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9<sup>th</sup>, day

of September, 1997, by a majority of the full membership of the Board considering this case

ORDERED that the license of Respondent, NEIL GARLAND, is hereby REVOKED;  
and it is further

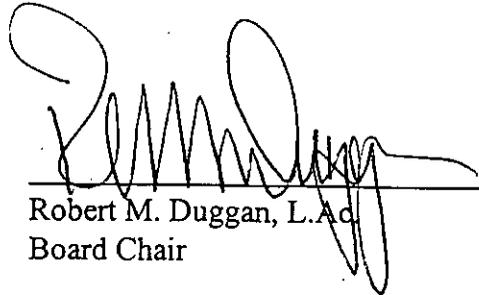
ORDERED that Respondent shall not be eligible to apply for reinstatement of his  
Maryland Acupuncture license for a minimum of seven years from the date of this Final Order;  
and it is further

ORDERED that this is a Final Order of the Maryland State Acupuncture Board and, as  
such, is a PUBLIC DOCUMENT pursuant to Md. Code Ann., State Gov't §§ 10-611 et seq.

NOTICE OF RIGHT TO APPEAL

Pursuant to the Md. Code Ann., Health Occ. § 14-408, you have a right to take a  
direct judicial appeal. A petition for appeal shall be filed within thirty days from your receipt of  
this Final Order and shall be made as provided for judicial review of a final decision in the  
Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 et seq., and  
Title 7, Chapter 200 of the Maryland Rules.

Sept 9, 1997  
Date

  
Robert M. Duggan, L.Ac.  
Board Chair

APPENDIX A

IN THE MATTER OF  
NEIL GARLAND, L.Ac.,  
License No. U00421

\* BEFORE THE  
\* MARYLAND STATE  
\* ACUPUNCTURE BOARD

\* \* \* \* \*

ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE ACUPUNCTURE

Pursuant to Md. Code Ann., State Gov't, §10-226(c)(2)(1995), the Maryland State Acupuncture Board (the "Board") hereby suspends the license to practice acupuncture previously issued to Neil Garland, L.Ac. ("Respondent"), License No. U00421, under the Maryland Acupuncture Act, Md. Code Ann., Health Occ. §1A-101 et seq. (1994) (the "Act"). This order is based on the following information, which the Board has reason to believe is true:

1. At all times relevant to these charges, Respondent was licensed to practice acupuncture in the State of Maryland.
2. At all times relevant to these charges, Respondent maintained an office for the practice of acupuncture and the sale of herbal formulae at 16 Allegheny Avenue, Towson, Maryland 21204.
3. Respondent purports to rely on Chinese herbal therapy and herbal supplements to enhance the effects of his acupuncture treatments. Respondent makes no effort to distinguish his practice of acupuncture from the Chinese herbal therapy he requires his patients to use as part of their acupuncture treatment.

4. Patient H<sup>1</sup> is a 71 year old male, who has been receiving acupuncture treatment from Respondent for approximately eighteen (18) months.

5. During this period, Respondent's treatment of Patient H became increasingly manipulative and abusive. The abuse culminated in June 1996, with fourteen (14) hours of bizarre physical and psychological torment involving needles, moxibustion, physical restraint, and forced feeding that left Patient H burned and scarred, alternately tied to a bed, sitting nude in beer, and sitting in his own excrement.

6. Prior to Patient H's first meeting with Respondent, licensed physicians diagnosed Patient H as suffering from a chronic obstructive pulmonary disorder (COPD), presumed to be emphysema, and multiple myeloma or myelomatosis, a malignant bone marrow cancer.

7. Patient H has been under the care of a physician for COPD for approximately 8 years. Throughout much of this period, the disorder has been managed by the use of supplemental oxygen and bronchodilator treatments administered by oral inhalation (nebulizer). Patient H had been instructed by his physician to use nebulizer treatments every 5 hours, and to use supplemental oxygen as needed.

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<sup>1</sup>In the interest of patient privacy and the confidentiality of health care records, no patient names are used in the order. Respondent has been made aware of the identity of the patient referred to herein.

8. Patient H has been under the care of a physician for multiple myeloma since January 1992. Patient H's physicians prescribed, inter alia, chemo- and radiotherapy as treatment for the cancer.

9. Prior to visiting Respondent, Patient H had received acupuncture treatment from another practitioner, primarily for relief from the symptoms of his COPD. When that practitioner moved out-of-state, Patient H sought another acupuncturist. Having previously seen a newspaper "article" in the *Towson Times* praising Respondent, Patient H decided to visit Respondent for acupuncture treatment.

10. At Patient H's first visit, Respondent charged several hundred dollars for acupuncture and herbs, which Patient H understood were part of a single treatment regime. In the months that followed, Patient H received acupuncture treatments approximately once each week. As part of his treatment, Respondent ordered Patient H to ingest hundreds of different herbal formulae, for which Respondent was paid in excess of \$10,000 in 1995 alone.

11. Because of the seriousness of Patient H's medical condition, Patient H and his wife were fearful and desperate, at times willing to suspend disbelief when offered any hope for cure or relief. From Patient H's first visit with Respondent, and in the months that followed, Respondent exploited these vulnerabilities by regaling Patient H with exaggerated and misleading reports of Respondent's internationally renowned

successes with traditional and Oriental therapies. In an effort to enhance his stature with Patient H, Respondent continually denigrated Patient H's doctors, their diagnoses and their treatment plans.

12. Over the course of his acupuncture treatment, Respondent continued to exploit the patient's vulnerabilities by offering Western medical diagnoses that were inconsistent with those of Patient H's physicians. Respondent eventually convinced Patient H and his wife that Western medicine offered little for Patient H and, in fact, was contributing to the patient's illnesses and suffering. In time, Respondent had Patient H and his wife so skeptical of the skills, knowledge and motivations of physicians that they yielded control of Patient H's medical treatment to Respondent, often refusing to follow medical advice and discontinuing treatment prescribed by Patient H's doctors at the urging of Respondent.

13. In or about Spring 1996, Respondent's interference with Patient H's medical treatment began to intensify. Respondent started to question whether Patient H even suffered from myelomatosis, suggesting to Patient H's wife that the oncologist "fudged the x-rays and the blood tests" used to diagnose the disease. Respondent said to Patient H's wife that this was something physicians "do all the time." Respondent counseled Patient H to forego visits to his physicians, and to refuse any more radiographs, because Patient H already had "too many x-rays"

and was suffering "radiation poisoning" at the hands of the physicians who were "trying to kill him with chemicals."

14. Respondent eventually advised Patient H's wife that Patient H did not have cancer, although he might have "a tumor on his hip" that the physicians failed to detect. Respondent later announced that Patient H did not suffer COPD, but has sarcoidosis, a far different diagnosis which has never been suggested by any of Patient H's physicians.

15. In or about April 1996, Patient H had begun what was to be a series of 15 consecutive daily radiation treatments for the cancer, on the recommendation of his physician. When Patient H reported that the radiation was producing uncomfortable side effects, Respondent assured Patient H that he could "take some time off" from the treatments. Weakened and vulnerable, Patient H seized on this opinion of a licensed health care professional and, contrary to medical orders, stopped radiation therapy for approximately one (1) week.

16. Shortly thereafter, Patient H's medical condition worsened. On or about April 20, 1996, Respondent visited Patient H at home, and advised Patient H's wife that the fever and discomfort Patient H was experiencing resulted from a "flu." Respondent prescribed Chinese herbs and baths. The following day, Patient H was rushed to St. Joseph's Medical Center (Towson), by ambulance, suffering bacteremia marked by confusion, chest congestion and shortness of breath, possibly attributable to

pneumonitis.

17. Several days after being admitted to the hospital, Patient H's condition worsened, and he eventually experienced respiratory distress. Hospital staff led the family to believe that the prognosis for recovery was poor; Patient H's wife feared that death was imminent.

18. Respondent spoke with Patient H's family at the hospital by telephone and assured them that he could "bring him back." Respondent visited Patient H at the hospital and administered acupuncture treatment. When Patient H recovered, Respondent openly took credit for saving Patient H's life when the hospital staff could not.

19. In light of what had transpired, Patient H and his family were more susceptible than ever to Respondent's claims. Respondent exploited these circumstances and firmly established himself as Patient H's primary health care provider. Respondent thereafter became more aggressive in his attacks on Patient H's doctors, cavalierly advising the family and others that the hospital was "trying to murder" Patient H. At the same time, Respondent seemed to become obsessed with his treatment of Patient H, calling several times a day and administering acupuncture and herbal therapies with increasing fervor.

20. When Patient H was first hospitalized, the medical staff prescribed Furosemide (Lasix®), a diuretic, and other medications likely to contribute to diuresis. A catheter was inserted to aid

in the expulsion of waste. When Patient H complained that the catheter was causing him discomfort, his wife asked to have the catheter removed. Patient H's wife, however, could not find a physician to order it. Respondent agreed that the catheter should come out, and encouraged Patient H's wife to push the hospital until she achieved this result. Respondent used the hospital's delay as another example of the physicians' ineptitude.

21. Because of the persistence of Patient H's wife, the catheter was eventually removed. Patient H thereafter had difficulty urinating, and experienced severe pain as a result. The hospital staff recommended re-catheterization to relieve the pain. Patient H's wife was unsure of what to do, so she called Respondent, who said that Patient H could not be catheterized and that he (Respondent) would come to the hospital to resolve the problem. Respondent did come to the hospital to administer treatment, but was ultimately unsuccessful. The catheter had to be reinserted.

22. On May 9, 1996, Patient H was transported from the hospital to Stella Maris Hospice for recovery and physical therapy so that he could eventually return home. On the orders of the physicians responsible for Patient H's care, the hospice staff continued administering medications that had been started at the hospital including, inter alia, Prednisone, Digoxin, Lactulose, Duragesic®, and supplemental oxygen, which by then was being used continuously. The admitting physician's orders also allowed

Patient H to receive herbal formulae, to be administered by Patient H's wife.

23. Several days later, Respondent came to the hospice and insisted that Patient H's wife instruct the hospice to discontinue the prescription medications. Hospice records indicate that by May 13, 1996, Patient H and his wife were refusing to take Prednisone and Digoxin "on the advice of the acupuncturist."

24. Hospice medical staff urged Patient H's wife to continue having Patient H take these medications, or at least to reduce the dosages of some of them gradually to minimize the potential for complications. When Patient H's wife asked Respondent about this medical advice, Respondent erroneously advised her that tapering doses would not be required because Respondent gave Patient H "a detox treatment." Patient H and his wife were required by Stella Maris to execute a document releasing the hospice from responsibility for allowing Patient H to refuse the medications prescribed by the doctors.

25. Upon admission to the hospice, Patient H was evaluated for physical therapy. Medical staff determined that daily physical therapy would enable Patient H to regain his ability to get out of bed and ambulate independently. Respondent, however, convinced Patient H that he was not well enough for physical therapy and needed bed rest. On advice of Respondent, Patient H began refusing some physical therapy treatments on May 13, 1996, and eventually stopped going altogether. Whenever Patient H or his wife seemed

confused about conflicting advice they were receiving, Respondent aggressively challenged them to choose, saying repeatedly, "Who are you going to believe, them or me, them or me. . ."

26. On or about May 18, 1996, Patient H fell and hit his head on the hospice bed, suffering a small abrasion. The wound was cleaned by hospice nursing staff, who determined that no dressing was required. The nurses kept the area clean, and it was resolving normally.

27. Respondent, however, seized on this incident to renew his allegations that the medical staff were "trying to murder" Patient H. Respondent diagnosed the head wound as a "hematoma" or "blood clot," without explanation. In the days that followed, Respondent falsely advised Patient H's wife the patient's condition was "critical," and that he could "crash," "stroke out," have a "heart attack," or suffer "mushbrain" unless Patient H immediately received the various treatments Respondent was offering. Patient H and his wife blindly followed Respondent's advice, fearful of the potential consequences of ignoring it.

28. Respondent also falsely claimed that Patient H suffered fractures in his back, neck, jaw and thumb as a result of the care Patient H was receiving at Stella Maris. So that he could properly "align" Patient H's bones, Respondent announced that no one on the Stella Maris staff could move or disturb the patient, and that all manner of care offered by the hospice had to be refused. Respondent ordered that Patient H not "take anything they want to

give you," saying to Patient H's wife that "you get nothing from these people except a bed," or words to that effect. Respondent thus had them refuse medications, blood tests, and x-rays, as well as further physical therapy, all of which would "aggravate the fracture" in Patient H's bones.

29. Thereafter, when nursing staff tried to enter the room in Respondent's presence to administer care or take vital signs, Respondent abruptly ordered them to leave. Hospice records indicate that when Respondent was present, questions put to Patient H or his wife were answered by Respondent before they could respond.

30. After returning home from visiting the hospice late one night, Patient H's wife received a frantic telephone call from Respondent. Respondent demanded that Patient H's wife return immediately because Patient H had just suffered a "stroke" and was "critical," and that "someone has to stay with him all night." Patient H's wife returned to the hospice to stay at her husband's side, although neither she, Patient H, nor the medical staff observed any extraordinary symptoms or problems.

31. On Saturday, June 1, 1996, Respondent visited Patient H, and continued to treat the "fractures" with acupuncture and herbs. Respondent also ordered Patient H to sleep diagonally across the bed with his body twisted in a particular fashion to allow the "fractures" to heal. Respondent also removed the patient's supplemental oxygen, and advised Patient H and his wife, without

explanation, that he had given Patient H "another spleen" as a precaution against some unstated hazard.

32. At approximately 1:15 a.m. the following morning, after Respondent and Patient H's wife had left, a hospice nurse inquired as to whether Patient H wished to be helped into a more comfortable position. Patient H refused, stating that he was instructed by Respondent to stay in that position all night, and could not be disturbed.

33. The nurse also observed that Patient H was without his supplemental oxygen and was experiencing shortness of breath. The nurse took an oximeter saturation reading and learned that Patient H's oxygen saturation was at 82%, notably low for a COPD patient in Patient H's condition. The nurse advised Patient H of this reading and urged him to resume his supplemental oxygen. Patient H agreed, and by 3:45 a.m. on June 2, 1996, oxygen saturation had been restored to 94%.

34. Respondent returned to the hospice at approximately 4:30 a.m., and removed the patient's oxygen once again. In the presence of the patient, who was becoming anxious and experiencing shortness of breath, Respondent exclaimed to the nurse: "The oxygen that you put on has caused internal bleeding that I now have to fix." Respondent ordered the hospice staff to stay away from the room, to refrain from administering supplemental oxygen, and to take no oximeter or vital sign readings.

35. At approximately 10:00 a.m. on Sunday, June 2, 1996, Patient H's wife received a telephone call from a stranger who identified himself as "Brother Bert" from Fullerton, California. The caller stated that Respondent was concerned that Patient H's wife lacked complete confidence in Respondent's abilities to heal her husband. The caller wanted Patient H's wife to know that she should have full faith in Respondent.

36. Patient H's wife left for the hospice shortly after receiving the telephone call. When she arrived, her husband was laying in his bed, twisted into an unnatural position. Respondent arrived at approximately the same time, and asked Patient H's wife whether his "references" had called her. When he arrived, Respondent was carrying his breakfast, which appeared to be some kind of eggs and muffins.

37. After looking at Patient H Respondent announced, without further explanation, that if Patient H did not get treatment immediately, Patient H would "crash." Respondent then launched into a fourteen (14) hour frenzy, scurrying about the room to administer acupuncture, while frantically pulling from his bag and forcing on Patient H all manner of herbal formulae, without explanation or consent.

38. Between approximately 11:00 a.m. on June 2, and 3:00 a.m., on June 3, 1996, Respondent abused Patient H in the following ways, among others:

a. Over Patient H's objection, Respondent immediately began to force feed Patient H, first with the breakfast he brought with him, and then by shoving into the patient's mouth multiple doses of more than sixty-eight (68) different Chinese herbal formulae and similar supplements. Apparently to facilitate the forced ingestion, Respondent used needles to limit Patient H's control over his tongue.

b. Respondent washed the substances down with a mix of sugar and whatever liquids he could find in and around the room. Sugar, syrup, juice, yogurt, herbs, acupuncture needles, wrappers and other debris were strewn all about the room, as Respondent spilled or dropped whatever he was using when moving to the next procedure. Any time that the hospice nursing staff offered assistance to Patient H or his wife, Respondent would order them out.

c. When Patient H tried to tell Respondent that he could not tolerate any more herbs, Respondent said simply, "you have to." When Patient H or his wife asked Respondent to stop, Respondent said that if the treatments were not completed in a short interval, Patient H could "crash," "stroke out," and "die," or words to that effect. When Patient H's wife resisted, Respondent would yell at her, saying "I'm trying to save his life; why won't you cooperate with me?"

d. Respondent instructed Patient H to wear a Hawaiian print shirt the Respondent brought with him. According to

Respondent, the shirt had much needed "good karma" and was an integral part of the treatment. A small Buddha placed on Patient H's pillow, and an earring Respondent put on Patient H's ear, supposedly served similar purposes.

e. Throughout the course of treatment, Respondent burned moxa directly onto to Patient H's skin, allowing the moxa to burn itself out in dozens of places, including Patient H's head, back, arms, legs, and torso. The moxibustion therapy left approximately two dozen deep scars and scabs up to 1" in diameter over the length of Patient H's body. Respondent attempted to seal several of these wounds with layers of "Elmer's" glue. When later removed by hospital staff, the wounds had become infected.

f. Several hours into this ordeal, Respondent ordered that lunch be brought in for him. Respondent then left the room, but returned shortly thereafter, drinking a beer, to eat the lunch that was brought in for him. Respondent left some crackers and food crumbs in the styrofoam container that his lunch came in and then, without explanation or discussion, poured some of his beer into the container and ordered Patient H to sit in it. When asked why, Respondent said only, "it's good for him," and "there's a reason for that." Respondent offered much the same explanation when asked why he secured a rubber band tightly around Patient H's left ankle causing discoloration and swelling, and when asked why, after the insertion of acupuncture needles, Patient H's tongue had

became swollen. Respondent, however, never proffered any of his reasons for these "treatments."

g. Throughout the ordeal, Respondent had Patient H move in and about hospice room, from bed, to chair, to floor, to styrofoam container, and back, constantly adjusting Patient H's posture, contorting his body, inserting acupuncture needles, and burning moxa. If Patient H expressed discomfort or pain, Respondent would advise him that his condition was "critical," and that he could not be moved.

h. At one point, Patient H was sitting in a chair, bent over at the waist, while Respondent burned moxa and inserted acupuncture needles into his neck and back. Patient H told Respondent that he was too tired to cooperate and needed to adjust his position. When Respondent ignored these requests for relief, Patient H tried to lean on his arms for support. Respondent became furious, screaming at the patient to "get those fucking arms down; I'm trying to fix your neck," or words to that effect. Respondent ordered Patient H's wife to hold her husband's arms down, inducing cooperation by saying that movement at this time could cause serious damage to Patient H's skeletal system.

i. During the acupuncture treatment, Patient H asked if he could get up to go to the rest room, to which Respondent replied, "No; if you need to shit, do it right there!" Patient H defecated on a sheet or towel in the chair. Respondent would not stop what he was doing long enough to allow Patient H to be cleaned

up. Because Respondent was burning moxa and inserting needles into Patient H's neck and back, Patient H's wife was convinced that her refusal to cooperate could have far more grave consequences than the pain and humiliation being suffered by her husband. Respondent also ensured cooperation by falsely claiming throughout the day and evening that he was just about finished with the treatment, and was preparing to leave.

j. In the afternoon, a friend of Patient H telephoned the hospice room and Respondent answered. The friend inquired as to whether she could bring Patient H some ice cream or a snowball, to which Respondent answered, "You're the one trying to kill him with that cold stuff." Respondent advised the caller that he was performing "neurosurgery" on Patient H, whose brain had turned to "mush," and that any cold food or beverages could have fatal consequences.

k. There came a time when Patient H's wife had left the room and Respondent was insisting that Patient H hold his hands open, with his palms facing up. When Patient H had trouble holding this position, Respondent secured Patient H's hands to the bed and immobilized several of his fingers using an unmatched pair of cloth gardening gloves, all over Patient H's express objection. Respondent administered acupuncture treatment while Patient H was tied to the bed.

l. During this phase of treatment, Patient H received a visit from a close friend who witnessed Patient H tied to the bed,

disoriented, naked and without his oxygen. The visitor saw excrement in a sheet on a chair, and noticed that the room lights had been turned off and the shades drawn. When the visitor asked Respondent what he was doing and why Patient H was not using oxygen, Respondent retorted, "What are you, a doctor? I'm doing brain surgery here!" When the visitor asked Patient H whether he would like the supplemental oxygen restored, Respondent intervened, turned to Patient H and said rapidly, "Who are you going to listen to, him or me? Make up your mind! Who saved your life? Tell them you don't need your oxygen; you're breathing better than you did 10 years ago," or words to that effect. When the visitor asked whether the excrement should be cleaned up, Respondent refused to allow it, saying that he wanted everyone to see it because it was the best bowel movement Patient H had in days. The visitor then left the room and asked a nurse to look in on Patient H. The nurse returned and advised the visitor that Respondent had Patient H agree that the visitor should be told to leave because he was no longer a friend and that Patient H "never liked him anyway."

m. Throughout the day and night, Patient H and his wife followed Respondent's orders to restrict hospice staff access to the room. All hospice meals and medications were refused, although the staff was eventually granted access to change the soiled bed linens at approximately 10:30 p.m.

n. At approximately 3:00 a.m., a nurse noticed that the door to Patient H's door was ajar. When she and a colleague looked

in the room, they observed that Patient H sitting nude on the edge of a chair. The nurse entered the room and asked what was going on, to which Respondent retorted, "You stupid bitch . . . you no good piece of shit. . . you're trying to kill him," and similar epithets. The nurses then insisted that Respondent leave the premises, and called security and the police.

o. Respondent continued cursing and threatening the nurses, but did agree to leave. Before departing, Respondent took a length of tape and fashioned a brace to hold in place a series of acupuncture needles running from the back of Patient H's neck and down his spine. Respondent instructed Patient H's wife to leave the needles in overnight. Patient H's wife was afraid to let anyone remove the needles, and left them in until they fell out on their own.

39. After this experience, Patient H refused to see Respondent. Patient H again started following advice and accepting treatment offered by the medical staff and his physicians, including physical therapy. Patient H was discharged from Stella Maris Hospice on June 13, 1996.

40. Based on the foregoing, the Board finds reason to believe that Respondent has violated, and is violating, §1A-309 of the Act, which subjects a licensed acupuncturist to discipline, including but not limited to license suspension or revocation, if the acupuncturist:

(2) Fraudulently or deceptively:

- (i) Uses a license;
- (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture; [or]
- (4) Is professionally, physically, or mentally incompetent[.]

CONCLUSIONS OF LAW

Based on the foregoing, the Board finds that the public health, safety and welfare imperatively requires emergency action pursuant to Md. Code Ann., State Gov't §10-226(c)(2)(1995).

ORDER

It is, therefore, this 1<sup>st</sup> day of ~~June~~ <sup>JULY</sup> 1996, by the State Acupuncture Board,

ORDERED, that pursuant to the authority granted the Board by Md. Code Ann., State Gov't §10-226(c)(2)(1995), the license of Respondent, Neil Garland (no. U00421), to practice acupuncture in the State of Maryland, be and is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED, upon presentation of this order for summary suspension, Respondent shall immediately deliver to the Board, through the Board's executive director or its designee, both the display and wallet-sized license to practice acupuncture previously issued by the Board; and be it further

ORDERED, that upon the Board's receipt of a written request for a hearing, a hearing will be scheduled at which Respondent will be given an opportunity to be heard on the issues raised in this

order. Any such hearing will be held before the Board or its designee within thirty (30) days of receiving Respondent's request therefor.

*July*  
*18* 1996  
*[Signature]*

*[Signature]*  
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Robert L. Duggan, D.Ac.  
Chair, State Acupuncture Board

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