BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF ARIZONA

In the Matter of **MARK GOLDBERG, M.D.** Holder of License No. 18592 For the Practice of Medicine In the State of Arizona. Re: BOMEX Inquiry (01-12-95) - Mark Goldberg, M.D. (Inv. # 8580)	)	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF CENSURE**

MARK GOLDBERG, M.D. appeared before the Arizona Board of Medical Examiners for an Informal Interview on January 17, 1996 with legal counsel Greg Clark, Esq. The State of Arizona was represented by Assistant Attorney General James M. McGee. Based upon the evidence and testimony and oral arguments presented, the Board adopted the following Findings of Fact, Conclusions of Law and Decree of Censure:

FINDINGS OF FACT

1. The Board of Medical Examiners of the State of Arizona is the duly constituted authority for the regulation and control of the practice of medicine in the State of Arizona.

2. MARK GOLDBERG, M.D., is the holder of License No. 18592 for the practice of medicine in the State of Arizona.

3. On or about January 24, 1994, patient L.B., an undercover agent working for the Attorney General's Office, presented herself to Dr. GOLDBERG complaining of wrist and knee pain. L.B. represented to Dr. GOLDBERG that she was a dancer and had fallen in some spilled beer at her place of employment. L.B. indicated to Dr. GOLDBERG that she was interested in pursuing a lawsuit against her employer or a worker's compensation claim through the Industrial Commission of

Arizona (ICA). Dr. GOLDBERG's staff took x-rays of L.B.'s knee and Dr. GOLDBERG prescribed Naprosyn 375 b.i.d. Dr. GOLDBERG's diagnosis was "knee sprain/strain."

4. L.B. followed up with Dr. GOLDBERG on March 1, 1994 at which time she was experiencing ongoing pain in the knee. The wrist pain was resolved.

5. On or about March 22, 1994, L.B. presented herself once again to Dr. GOLDBERG. For this visit Dr. GOLDBERG charged and/or intended to charge ICA $52.00 for a detailed examination using CPT code 99214. Dr. GOLDBERG's medical record of this visit indicates that the patient was also provided ultrasound treatment. According to L.B., no ultrasound was rendered to the patient and no examination was performed. During this visit, Dr. GOLDBERG stated to L.B. "you probably ought to come in two more times...just to create a nice picture for the whole thing."

6. On or about March 29, 1994, L.B. presented herself once again to Dr. GOLDBERG. For this visit Dr. GOLDBERG charged and/or intended to charge ICA $52.00 for a detailed examination using CPT code 99214. According to L.B., no examination was performed.

7. On or about April 12, 1994, L.B. presented herself once again to Dr. GOLDBERG. For this visit, Dr. GOLDBERG charged and/or intended to charge ICA $52.00 for a detailed examination using CPT code 99214. According to L.B., no examination was performed.

8. On or about April 14, 1994, L.B. telephoned Dr. GOLDBERG at his office. Dr. GOLDBERG had contacted a personal injury attorney in the interim on behalf of L.B. who advised L.B. through Dr. GOLDBERG to "wait a couple of weeks" before submitting a claim for worker's compensation. Dr. GOLDBERG told L.B. to "just let the case build."

9. On or about April 21, 1994, L.B. presented herself once again to Dr. GOLDBERG. For this visit Dr. GOLDBERG charged and/or intended to charge ICA

$52.00 for a detailed examination using CPT code 99214 and $20.00 for ultrasound treatment using CPT code 97128. According to L.B., no examination was performed and no ultrasound was rendered.

10. On or about May 10, 1994, L.B. presented herself once again to Dr. GOLDBERG. For this visit Dr. GOLDBERG charged and/or intended to charge ICA $52.00 for a detailed examination using CPT code 99214. According to L.B., no examination was performed.

CONCLUSIONS OF LAW

1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over , MARK GOLDBERG, M.D.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(25)(q) (any conduct or practice which is or might be harmful or dangerous to the health of the patient or the public).

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(t) (knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution).

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(u) (charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement which has the same effect).

5. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(v) (obtaining a fee by fraud, deceit or misrepresentation).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that MARK GOLDBERG, M.D. is hereby censured pursuant to A.R.S. § 32-1451(G).

DATED this 26 day of January, 1996.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

[S E A L]

By _____
MARK R. SPEICHER
Executive Director

COPY of the foregoing Findings of Fact, Conclusions of Law, and Decree of Censure mailed by Certified Mail this 31st day of January, 1996 to:

Mark Goldberg, M.D.
5801 E. Main
Mesa, Arizona 85205

COPY of the foregoing Findings of Fact, Conclusions of Law, and Decree of Censure mailed this 31st day of January, 1996 to:

Greg Clark, Esq.
45 W. Jefferson, 11th Floor
Phoenix, Arizona 85003-2307
Attorney for Mark Goldberg, M.D.

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Secretary

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