

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6457
Facsimile: (916) 731-2117
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant
8

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2021-074979

14 **OSCAR V. ROSAS, M.D.**

15 **466 Foothill Boulevard, Suite 314**
16 **La Canada, CA 91011-3518**

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. A 66042,**

Respondent.

19
20
21
22 **PARTIES**

23 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
24 the Executive Director of the Medical Board of California (Board).

25 2. On July 17, 1998, the Board issued Physician's and Surgeon's Certificate Number A
26 66042 to Oscar V. Rosas, M.D. (Respondent). That license was in full force and effect at all
27 times relevant to the charges brought herein and will expire on June 30, 2024, unless renewed.

28 //

1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2001.1 of the Code states:

6 Protection of the public shall be the highest priority for the Medical Board of
7 California in exercising its licensing, regulatory, and disciplinary functions.
8 Whenever the protection of the public is inconsistent with other interests sought to be
9 promoted, the protection of the public shall be paramount.

10 5. Section 2004 of the Code states:

11 The board shall have the responsibility for the following:

12 (a) The enforcement of the disciplinary and criminal provisions of the Medical
13 Practice Act.

14 (b) The administration and hearing of disciplinary actions.

15 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
16 an administrative law judge.

17 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
18 of disciplinary actions.

19 (e) Reviewing the quality of medical practice carried out by physician and
20 surgeon certificate holders under the jurisdiction of the board.

21 (f) Approving undergraduate and graduate medical education programs.

22 (g) Approving clinical clerkship and special programs and hospitals for the
23 programs in subdivision (f).

24 (h) Issuing licenses and certificates under the board's jurisdiction.

25 (i) Administering the board's continuing medical education program.

26 6. Section 2227 of the Code states:

27 (a) A licensee whose matter has been heard by an administrative law judge of
28 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
Code, or whose default has been entered, and who is found guilty, or who has entered
into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one

1 year upon order of the board.

2 (3) Be placed on probation and be required to pay the costs of probation
3 monitoring upon order of the board.

4 (4) Be publicly reprimanded by the board. The public reprimand may include a
5 requirement that the licensee complete relevant educational courses approved by the
6 board.

7 (5) Have any other action taken in relation to discipline as part of an order of
8 probation, as the board or an administrative law judge may deem proper.

9 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
10 medical review or advisory conferences, professional competency examinations,
11 continuing education activities, and cost reimbursement associated therewith that are
12 agreed to with the board and successfully completed by the licensee, or other matters
13 made confidential or privileged by existing law, is deemed public, and shall be made
14 available to the public by the board pursuant to Section 803.1.

15 7. Section 2228 of the Code states:

16 The authority of the board or the California Board of Podiatric Medicine to
17 discipline a licensee by placing him or her on probation includes, but is not limited to,
18 the following:

19 (a) Requiring the licensee to obtain additional professional training and to pass
20 an examination upon the completion of the training. The examination may be written
21 or oral, or both, and may be a practical or clinical examination, or both, at the option
22 of the board or the administrative law judge.

23 (b) Requiring the licensee to submit to a complete diagnostic examination by
24 one or more physicians and surgeons appointed by the board. If an examination is
25 ordered, the board shall receive and consider any other report of a complete
26 diagnostic examination given by one or more physicians and surgeons of the
27 licensee's choice.

28 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
including requiring notice to applicable patients that the licensee is unable to perform
the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than
violations relating to quality of care.

STATUTORY PROVISIONS

8. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with
unprofessional conduct. In addition to other provisions of this article, unprofessional
conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or
abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

1 (c) Repeated negligent acts. To be repeated, there must be two or more
2 negligent acts or omissions. An initial negligent act or omission followed by a
3 separate and distinct departure from the applicable standard of care shall constitute
4 repeated negligent acts.

5 (1) An initial negligent diagnosis followed by an act or omission medically
6 appropriate for that negligent diagnosis of the patient shall constitute a single
7 negligent act.

8 (2) When the standard of care requires a change in the diagnosis, act, or
9 omission that constitutes the negligent act described in paragraph (1), including, but
10 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
11 licensee's conduct departs from the applicable standard of care, each departure
12 constitutes a separate and distinct breach of the standard of care.

13 (d) Incompetence.

14 (e) The commission of any act involving dishonesty or corruption that is
15 substantially related to the qualifications, functions, or duties of a physician and
16 surgeon.

17 (f) Any action or conduct that would have warranted the denial of a certificate.

18 (g) The failure by a certificate holder, in the absence of good cause, to attend
19 and participate in an interview by the board. This subdivision shall only apply to a
20 certificate holder who is the subject of an investigation by the board.

21 9. Section 2242 of the Code states:

22 (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
23 4022 without an appropriate prior examination and a medical indication, constitutes
24 unprofessional conduct. An appropriate prior examination does not require a
25 synchronous interaction between the patient and the licensee and can be achieved
26 through the use of telehealth, including, but not limited to, a self-screening tool or a
27 questionnaire, provided that the licensee complies with the appropriate standard of
28 care.

(b) No licensee shall be found to have committed unprofessional conduct within
the meaning of this section if, at the time the drugs were prescribed, dispensed, or
furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in
the absence of the patient's physician and surgeon or podiatrist, as the case may be,
and if the drugs were prescribed, dispensed, or furnished only as necessary to
maintain the patient until the return of the patient's practitioner, but in any case, no
longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a
licensed vocational nurse in an inpatient facility, and if both of the following
conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed
vocational nurse who had reviewed the patient's records.

1 (B) The practitioner was designated as the practitioner to serve in the absence
of the patient's physician and surgeon or podiatrist, as the case may be.

2 (3) The licensee was a designated practitioner serving in the absence of the
3 patient's physician and surgeon or podiatrist, as the case may be, and was in
4 possession of or had utilized the patient's records and ordered the renewal of a
medically indicated prescription for an amount not exceeding the original prescription
in strength or amount or for more than one refill.

5 (4) The licensee was acting in accordance with Section 120582 of the Health
6 and Safety Code.

7 10. Section 4022 of the Code states:

8 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
9 self-use in humans or animals, and includes the following:

10 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

11 (b) Any device that bears the statement: "Caution: federal law restricts this
12 device to sale by or on the order of a _____," "Rx only," or words of similar
import, the blank to be filled in with the designation of the practitioner licensed to use
13 or order use of the device.

14 (c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

15 11. Section 725 of the Code states:

16 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
17 administering of drugs or treatment, repeated acts of clearly excessive use of
diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
18 treatment facilities as determined by the standard of the community of licensees is
unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
19 physical therapist, chiropractor, optometrist, speech-language pathologist, or
audiologist.

20 (b) Any person who engages in repeated acts of clearly excessive prescribing or
21 administering of drugs or treatment is guilty of a misdemeanor and shall be punished
by a fine of not less than one hundred dollars (\$100) nor more than six hundred
22 dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
180 days, or by both that fine and imprisonment.

23 (c) A practitioner who has a medical basis for prescribing, furnishing,
24 dispensing, or administering dangerous drugs or prescription-controlled substances
shall not be subject to disciplinary action or prosecution under this section.

25 (d) No physician and surgeon shall be subject to disciplinary action pursuant to
26 this section for treating intractable pain in compliance with Section 2241.5.

27 12. Section 2228.1 of the Code states:

28 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),

1 the board and the Podiatric Medical Board of California shall require a licensee to
2 provide a separate disclosure that includes the licensee's probation status, the length
3 of the probation, the probation end date, all practice restrictions placed on the licensee
4 by the board, the board's telephone number, and an explanation of how the patient can
5 find further information on the licensee's probation on the licensee's profile page on
6 the board's online license information internet website, to a patient or the patient's
7 guardian or health care surrogate before the patient's first visit following the
8 probationary order while the licensee is on probation pursuant to a probationary order
9 made on and after July 1, 2019, in any of the following circumstances:

10 (1) A final adjudication by the board following an administrative hearing or
11 admitted findings or prima facie showing in a stipulated settlement establishing any
12 of the following:

13 (A) The commission of any act of sexual abuse, misconduct, or relations with a
14 patient or client as defined in Section 726 or 729.

15 (B) Drug or alcohol abuse directly resulting in harm to patients or the extent
16 that such use impairs the ability of the licensee to practice safely.

17 (C) Criminal conviction directly involving harm to patient health.

18 (D) Inappropriate prescribing resulting in harm to patients and a probationary
19 period of five years or more.

20 (2) An accusation or statement of issues alleged that the licensee committed any
21 of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
22 stipulated settlement based upon a nolo contendere or other similar compromise that
23 does not include any prima facie showing or admission of guilt or fact but does
24 include an express acknowledgment that the disclosure requirements of this section
25 would serve to protect the public interest.

26 (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
27 obtain from the patient, or the patient's guardian or health care surrogate, a separate,
28 signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to
subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the
disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a
guardian or health care surrogate is unavailable to comprehend the disclosure and
sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit
is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to
the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following
information, with respect to licensees on probation and licensees practicing under
probationary licenses, in plain view on the licensee's profile page on the board's
online license information internet website.

1 (1) For probation imposed pursuant to a stipulated settlement, the causes
2 alleged in the operative accusation along with a designation identifying those causes
3 by which the licensee has expressly admitted guilt and a statement that acceptance of
4 the settlement is not an admission of guilt.

5 (2) For probation imposed by an adjudicated decision of the board, the causes
6 for probation stated in the final probationary order.

7 (3) For a licensee granted a probationary license, the causes by which the
8 probationary license was imposed.

9 (4) The length of the probation and end date.

10 (5) All practice restrictions placed on the license by the board.

11 (e) Section 2314 shall not apply to this section.

12 13. Section 2266 of the Code states:

13 The failure of a physician and surgeon to maintain adequate and accurate
14 records relating to the provision of services to their patients constitutes unprofessional
15 conduct.

16 COST RECOVERY

17 14. Section 125.3 of the Code states:

18 (a) Except as otherwise provided by law, in any order issued in resolution of a
19 disciplinary proceeding before any board within the department or before the
20 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
21 administrative law judge may direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
23 investigation and enforcement of the case.

24 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
25 order may be made against the licensed corporate entity or licensed partnership.

26 (c) A certified copy of the actual costs, or a good faith estimate of costs where
27 actual costs are not available, signed by the entity bringing the proceeding or its
28 designated representative shall be prima facie evidence of reasonable costs of
investigation and prosecution of the case. The costs shall include the amount of
investigative and enforcement costs up to the date of the hearing, including, but not
limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount
of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard
to costs shall not be reviewable by the board to increase the cost award. The board
may reduce or eliminate the cost award, or remand to the administrative law judge if
the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any

1 appropriate court. This right of enforcement shall be in addition to any other rights
2 the board may have as to any licensee to pay costs.

3 (f) In any action for recovery of costs, proof of the board's decision shall be
4 conclusive proof of the validity of the order of payment and the terms for payment.

5 (g) (1) Except as provided in paragraph (2), the board shall not renew or
6 reinstate the license of any licensee who has failed to pay all of the costs ordered
7 under this section.

8 (2) Notwithstanding paragraph (1), the board may, in its discretion,
9 conditionally renew or reinstate for a maximum of one year the license of any
10 licensee who demonstrates financial hardship and who enters into a formal agreement
11 with the board to reimburse the board within that one-year period for the unpaid
12 costs.

13 (h) All costs recovered under this section shall be considered a reimbursement
14 for costs incurred and shall be deposited in the fund of the board recovering the costs
15 to be available upon appropriation by the Legislature.

16 (i) Nothing in this section shall preclude a board from including the recovery of
17 the costs of investigation and enforcement of a case in any stipulated settlement.

18 (j) This section does not apply to any board if a specific statutory provision in
19 that board's licensing act provides for recovery of costs in an administrative
20 disciplinary proceeding.

21 DEFINITIONS

22 15. Ashlyna is a hormonal contraceptive drug containing progestin and an estrogen used
23 to prevent pregnancy and also regulate the menstrual cycle, decrease blood loss and painful
24 menstruation, decrease the risk of ovarian cysts, and treat acne.

25 16. Temazepam is a benzodiazepine used to treat insomnia and is for short-term (usually
26 seven to 10 days) use only. Benzodiazepines belong to the group of medicines called central
27 nervous system depressants, which are medicines that slow down the nervous system.
28 Temazepam is a Schedule IV controlled substance as designated by Health and Safety Code
section 11057, subdivision (d) (29), and is a dangerous drug pursuant to Code section 4022 with
the potential for abuse, dependence, and addiction.

17. Xanax is a trade name for alprazolam, a psychotropic triazolo-analogue of the
benzodiazepine class of central nervous system-active compounds. Xanax is used for the
management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a
Schedule IV controlled substance as defined by section 11057, subdivision (d) of the Health and
Safety Code, and by section 1308.14 (c) of Title 21 of the Code of Federal Regulations, and is a

1 dangerous drug as defined in Code section 4022. In 2021 the National Institutes of Health stated
2 that regular use of benzodiazepines has been shown to cause severe, harmful psychological and
3 physical dependence, leading to withdrawal symptoms similar to that of alcohol withdrawal.
4 Abrupt discontinuation of these medications can have life-threatening consequences. Xanax has a
5 central nervous system depressant effect and patients should be cautioned about the simultaneous
6 ingestion of alcohol and other central nervous system depressant drugs during treatment with
7 Xanax.

8 18. Zoloft (sertraline), a prescription medication, is not a controlled substance. It is in an
9 antidepressant medication class known as selective serotonin reuptake inhibitors (SSRIs)
10 commonly used to treat depression, anxiety, panic attacks and other mood disorders. Zoloft
11 carries risks for withdrawal and overdose.

12 19. Zolpidem Tartrate, a prescription sedative-hypnotic sleep medication commonly
13 marketed under the brand name Ambien. It is a Schedule IV controlled substance as defined by
14 section 11057, subdivision (d) of the Health and Safety Code, and by section 1308.14 (c) of Title
15 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Code section 4022.

16 20. CURES is the Department of Justice's Controlled Substance Utilization Review and
17 Evaluation System. CURES stores Schedule II, III, IV, and V controlled substance prescription
18 information reported as dispensed in California. A CURES Patient Activity Report contains the
19 following information: patient first name, patient last name, patient date of birth, patient gender,
20 patient address, number of prescriptions, prescriber name, prescriber DEA number, prescriber
21 address, pharmacy name, pharmacy license number, pharmacy address, date prescription was
22 filled, prescription number, drug name, drug form, quantity, drug strength, refill number, number
23 of authorized refills, number of days supply, payment method, and prescription form serial
24 number.

25 **FACTUAL ALLEGATIONS**

26 21. The case was initiated when the Board received a complaint from a police agency that
27 alleged domestic abuse and prescribing to family members by Respondent. The Board's
28

1 investigators ascertained that both Respondent and his estranged wife, Witness 1¹ had mutual
2 restraining orders against each other. Witness 1 told the police agency that she filed for divorce
3 September 22, 2020.

4 22. During an interview with the Board's Investigators, Witness 1 stated that Respondent,
5 a psychiatrist, has been medically treating her for depression and anxiety during the past several
6 years of their marriage. Witness 1 stated Respondent prescribed medications to multiple family
7 members for diversion to Witness 1. Witness 1 identified those family members as Witness 2,
8 Witness 1's sister; Witness 3, Witness 1's brother-in-law; Witness 4, Witness 1's 12-year-old
9 niece; and Witness 5, Witness 1's nanny. Witness 1 stated that she had developed a need for
10 Xanax.

11 23. During an interview with the Board's Investigators Witness 1 stated she was currently
12 divorcing Respondent after 23 years of marriage. Witness 1 stated she developed a need to take
13 Xanax to engage in sexual intercourse with Respondent. Witness 1 stated she told Respondent
14 she should see a psychiatrist, but Respondent informed her that was not necessary because he
15 knew her best.

16 24. During an interview with the Board's Investigators Witness 5 stated that Witness 1
17 approached her and asked to use Witness 5's name to get prescriptions filled for her son.
18 Witness 1 offered Witness 5 a bonus and explained that her sister, Witness 2, used to do this.
19 Witness 5 found out that Witness 1 continued to use her name to pick up prescriptions. Witness 5
20 said she never spoke to Respondent about the prescriptions because all of her communications
21 were with Witness 1.

22 25. The Board's Investigator's report notes that Witness 5, Respondent, and Witness 1's
23 children were interviewed. The police agency that investigated Witness 1's allegations of
24 domestic violence did not find evidence to substantiate Witness 1's account of the domestic
25 violence allegations.

26 26. During Respondent's March 16, 2023, subject interview, Respondent admitted that

27 ¹ To protect the privacy of the witnesses involved, witness names have not been included in this pleading. Witnesses
28 are referred to by number to protect their privacy.

1 although Witness 1 had never been his patient, he had prescribed medications to Witness 1.
2 Respondent admitted that he prescribed Xanax to Witness 1 for “a number of years.”

3 27. During Respondent’s March 16, 2023, Subject Interview Respondent admitted that
4 he had prescribed medications to Witness 2 (his wife’s sister), Witness 3 (his wife’s brother-in-
5 law), and to Witness 4, (the niece). On his attorney’s advice, Respondent refused to provide any
6 information regarding Witness 5 (the nanny).

7 28. During Respondent’s March 16, 2023, Subject Interview, Respondent admitted that
8 Witness 2 had never been a patient of his. Respondent admitted he prescribed Xanax and
9 Temazepam to Witness 2 to enable her to provide the medications to Witness 1.

10 29. During Respondent’s March 16, 2023, Subject Interview, Respondent admitted that
11 Witness 3 had never been a patient of his, but that he had nonetheless prescribed medications for
12 Witness 3.

13 30. The Board’s investigation determined that Respondent did not have medical records
14 for Witness 1. Pharmacy and CURES records for Witness 1 were obtained by the Board’s
15 Investigators.

16 31. The Board’s investigation determined that Respondent did not have medical records
17 for Witness 2. Pharmacy and CURES records for Witness 2 were obtained by the Board’s
18 Investigators.

19 32. The Board’s investigation determined that Respondent did not have medical records
20 for Witness 3. Pharmacy and CURES records for Witness 3 were obtained by the Board’s
21 Investigators.

22 33. The Board’s investigation determined that Respondent did not have medical records
23 for Witness 4. Pharmacy and CURES records for Witness 4 were obtained by the Board’s
24 Investigators.

25 34. The Board’s investigation determined that Respondent did not have medical records
26 for Witness 5. Pharmacy and CURES records for Witness 5 were obtained by the Board’s
27 Investigators.

28 35. Pharmacy records show Respondent provided a prescription of Ashlyna for Witness

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. 36. Pharmacy records show Respondent provided multiple 90-day prescriptions for 1 mg Xanax three times a day, from May 16, 2012, continuing until January 22, 2019, to Witness 2.
37. Pharmacy records show on September 9, 2017, Respondent prescribed 30, 10 mg Ambien with 4 refills to Witness 3.
38. Pharmacy records show on June 20, 2016, Respondent prescribed 30, .5 mg Xanax and 30 50 mg Zoloft to Witness 4.
39. Pharmacy records show on July 18, 2016, Respondent prescribed 30, .25 mg Xanax and 45 50 mg Zoloft to Witness 4.
40. Pharmacy records show on August 17, 2016, Respondent prescribed 90, 100 mg Zoloft to Witness 4.
41. Pharmacy records show on October 30, 2016, Respondent prescribed 30, .5 alprazolam to Witness 4.
42. Pharmacy records show on October 30, 2016, Respondent prescribed 30, .5 alprazolam to Witness 4.
43. Pharmacy records show on August 6, 2020, Respondent prescribed 30, 100 mg Zoloft to Witness 5.
44. Pharmacy records show on November 4, 2020, Respondent prescribed 30, 100 mg Zoloft to Witness 5.
45. Pharmacy records show that in 2020 Respondent prescribed Xanax to Witness 5 three times. On June 5, 2020, Respondent prescribed 60, 2 mg Xanax, filled by the pharmacy on October 8, 2020; on November 4, 2020, Respondent prescribed 90, 2 mg Xanax, filled by the pharmacy on November 20, 2020; and on December 4, 2020, Respondent prescribed 60, 2 mg Xanax, filled by the pharmacy on December 4, 2020.
46. Pharmacy records show that in 2021 Respondent prescribed Xanax to Witness 5 ten times. On December 4, 2020, Respondent prescribed 60, 2 mg Xanax, with four refills, first filled by the pharmacy on December 4, 2020. The prescription was refilled on January 11, 2021, February 15, 2021, April 1, 2021, and April 29, 2021, a total of four times.

1 47. On June 7, 2021, Respondent prescribed 60, 2 mg Xanax, with four refills, first filled
2 by the pharmacy on June 8, 2021. On August 1, 2021, Respondent prescribed 60, 2 mg Xanax,
3 with no refills. That prescription was filled on August 2, 2021.

4 48. On September 14, 2021, Respondent prescribed 60, 2 mg Xanax, with two refills, first
5 filled by the pharmacy on September 14, 2021. Of note, handwritten on the prescription is “Pt
6 [sic] doesn't have and Im [sic] & will pay.” That prescription was filled on September 14, 2021.
7 That prescription was refilled on October 21, 2021, and November 18, 2021.

8 49. On December 17, 2021, Respondent prescribed 60, 2 mg Xanax, with six refills, first
9 filled by the pharmacy on December 18, 2021.

10 50. The December 17, 2021, prescription was refilled January 20, 2022, and February 17,
11 2022, a total of two times.

STANDARD OF CARE

12 51. The standard of care for a physician prescribing controlled substances requires the
13 physician to obtain the patient’s medical history. That medical history must include an
14 assessment of the patient's psychological status, substance abuse history, history of prior
15 psychiatric treatments, and assessment of other underlying or coexisting conditions. The medical
16 history and examination should contain documentation of the patient’s psychiatric and medical
17 indications when controlled substances such as benzodiazepines, hypnotic sedative medications,
18 or opioids are provided. The failure of a physician who is prescribing controlled substances to
19 obtain a complete medical history as described above, is an extreme departure from the standard
20 of care.
21

22 52. The standard of care for a physician who is prescribing controlled substances for an
23 initial psychiatric exam includes the physician’s timely documentation of the history of the
24 patient’s present illness, past medical and substance abuse history, drug allergies, current
25 medications, social and family history, review of systems, full mental status examination, and an
26 assessment and plan that includes prescribing controlled substances. The diagnosis and treatment
27 of mental conditions requires a face-to-face mental status exam or the equivalent analysis. Based
28 on the community standards, a physician, personally or through an appropriately designated other,

1 obtains and documents this information before providing treatment to the patient. The failure of a
2 physician who is prescribing controlled substances to timely document the completion of an
3 examination of a patient, which included the patient's present illness, past medical and substance
4 abuse history, drug allergies, current medications, social and family history, review of systems, a
5 face to face full mental status examination, or the equivalent analysis, and an assessment and plan
6 that includes prescribing controlled substances is an extreme departure from the standard of care.

7 53. The standard of care for a physician who prescribes controlled substances requires
8 that the physician discuss the risks and benefits of the use of controlled substances and other
9 treatment modalities with the patient, with persons designated by the patient, or with the patient's
10 conservator if the patient is without medical decision-making capacity. The failure of a physician
11 who is prescribing controlled substances to discuss the risks and benefits of the use of controlled
12 substances and other treatment modalities with the patient, or with the patient's conservator, is an
13 extreme departure from the standard of care.

14 54. The standard of care for a physician who prescribes controlled substances requires
15 that the physician create medical records that document that the patient, and family members, if
16 appropriate, have been counseled on the potential dangers of benzodiazepines, such as a patient
17 accumulating large amounts of a benzodiazepine, taking excessive amounts, obtaining multiple
18 prescriptions or the patient's abrupt discontinuation of benzodiazepines which can result in life-
19 threatening complications. The failure of a physician who is prescribing controlled substances to
20 document that the patient has been counseled on the potential dangers of benzodiazepines is an
21 extreme departure from the standard of care.

22 55. The standard of care for a physician who is providing treatment that includes
23 prescriptions for medication to a patient, requires that the physician provide an initial evaluation
24 of the patient. The failure of a physician who is prescribing medication to a patient to provide an
25 initial evaluation of the patient is a simple departure from the standard of care.

26 **DEPARTURES FROM THE STANDARD OF CARE**

27 56. Respondent demonstrated an extreme departure from the standard of care when he
28 he prescribed Xanax and Temazepam to Witness 2, a person who was not his patient for the

1 purpose of diverting it to Witness 1.

2 57. Respondent demonstrated an extreme departure from the standard of care when he
3 prescribed Xanax on an ongoing basis to Witness 5, who was not his patient, for the purpose of
4 diverting it to Witness 1.

5 58. Respondent demonstrated an extreme departure from the standard of care when he
6 he prescribed Ambien with refills to Witness 3 with a complete absence of medical records that
7 supported his diagnosis, treatment, assessment or plan for Witness 3, who was not his patient.

8 59. Respondent demonstrated an extreme departure from the standard of care when he
9 he repeatedly prescribed Xanax and Zoloft to Witness 4 with a complete absence of medical
10 records that supported his diagnosis, treatment, assessment or plan for Witness 4, who was not his
11 patient.

12 60. Respondent demonstrated an extreme departure from the standard of care when he
13 he repeatedly prescribed Xanax to Witness 5 with a complete absence of medical records that
14 supported his diagnosis, treatment, assessment or plan for Witness 5, who was not his patient.

15 61. Respondent demonstrated a simple departure from the standard of care when he
16 prescribed Ashlyna to Witness 1 without an evaluation or plan to Witness 1, who was not his
17 patient.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Gross Negligence)**

20 62. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
21 the Code in that Respondent was grossly negligent when he prescribed Xanax and Temazepam to
22 Witness 2, who was not his patient, for the purpose of diverting it to Witness 1. The allegations
23 contained in paragraphs 21 through 56, inclusive above, are incorporated herein by reference as if
24 fully set forth.

25 63. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
26 the Code in that Respondent was grossly negligent when he prescribed Xanax on an ongoing
27 basis to Witness 2, who was not his patient, for the purpose of diverting it to Witness 1. The
28 allegations contained in paragraphs 21 through 57, inclusive above, are incorporated herein by

1 reference as if fully set forth.

2 64. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
3 the Code in that Respondent was grossly negligent when he prescribed Ambien with refills to
4 Witness 3 with a complete absence of medical records that supported his diagnosis, treatment,
5 assessment or plan for Witness 3 who was not his patient. The allegations contained in
6 paragraphs 21 through 58, inclusive above, are incorporated herein by reference as if fully set
7 forth.

8 65. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
9 the Code in that Respondent was grossly negligent when he prescribed Xanax and Zoloft to
10 Witness 4 with a complete absence of medical records that supported his diagnosis, treatment,
11 assessment or plan for Witness 4 who was not his patient. The allegations contained in
12 paragraphs 21 through 59, inclusive above, are incorporated herein by reference as if fully set
13 forth.

14 66. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
15 the Code in that Respondent was grossly negligent when he prescribed Xanax on an ongoing
16 basis to Witness 5, who was not his patient, for the purpose of diverting it to Witness 1. The
17 allegations contained in paragraphs 21 through 60, inclusive above, are incorporated herein by
18 reference as if fully set forth.

19 67. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
20 the Code in that Respondent was grossly negligent when he prescribed Xanax and Zoloft to
21 Witness 5 with a complete absence of medical records that supported his diagnosis, treatment,
22 assessment, or plan for Witness 5 who was not his patient. The allegations contained in
23 paragraphs 21 through 60, inclusive above, are incorporated herein by reference as if fully set
24 forth.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Repeated Acts of Negligence)**

27 68. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
28 the Code in that Respondent engaged in repeated acts of negligence as regards Witnesses 1

1 through 5 above. The circumstances are as follows:

2 69. The facts and circumstances regarding this Cause for Discipline are alleged in
3 paragraphs 21 through 60 above and are hereby incorporated by reference and realleged as if fully
4 set forth herein.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 70. Respondent is subject to disciplinary action under section 2234 of the Code in that
8 she committed general unprofessional conduct. The circumstances are as follows:

9 71. The facts and circumstances set forth in paragraphs 21 through 69, are incorporated
10 by reference as if set forth in full herein.

11 //

12 //

13 //

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 66042, issued to Respondent;
2. Revoking, suspending, or denying approval of Oscar V. Rosas, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Oscar V. Rosas, M.D., to pay the Board the costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;
4. If placed on probation, ordering Respondent Oscar V. Rosas, M.D., to provide patient notification in accordance with Business and Professions Code section 2228.1; and
5. Taking such other and further action as deemed necessary and proper.

DATED: OCT 05 2023

JENNA JONES FOR
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

LA2023602209
66261341.docx