ROB BONTA
Attorney General of California
MACHAELA M. MINGARDI
Supervising Deputy Attorney General
C. HAY-MIE CHO
Deputy Attorney General
State Bar No. 282259
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-4433
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **DAVID BRODY, M.D.** **859 Washington Street, #203** **Red Bluff, CA 96080** **Physician's and Surgeon's Certificate No. G 56780,** Respondent.	Case No. 800-2021-081126 OAH Case No. 2025010194 **FIRST AMENDED ACCUSATION**

PARTIES

1. Reji Varghese (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 24, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 56780 to David Brody, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2025, unless renewed.

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JURISDICTION

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

4. Section 802.1 states as follows:

> (a)(1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant shall report either of the following to the entity that issued his or her license:
>
> (A) The bringing of an indictment or information charging a felony against the licensee.
>
> (B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.
>
> (2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.
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> (b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000).

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. 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.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

(d) Incompetence.

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

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

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

(h) Any action of the licensee, or another person acting on behalf of the licensee, intended to cause their patient or their patient's authorized representative to rescind consent to release the patient's medical records to the board or the Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DEFINITIONS

9. Alprazolam, known by the trade name Xanax, is a psychotropic triazolo analogue of the 1,4 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

dangerous drug as defined in section 4022 of the Code and a Schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d), of the Health and Safety Code.

10. Amitriptyline, known by the trade name Elavil, is a dangerous drug as defined in section 4022 of the Code. It is an antidepressant with sedative effects. Lower dosages of amitriptyline are recommended for elderly patients.

11. Aripiprazole, known by the trade name Abilify, is an antipsychotic medication. It works by changing the actions of chemicals in the brain. Aripiprazole is used to treat the symptoms of psychotic conditions such as schizophrenia and bipolar disorder (manic depression).

12. Carisoprodol, known by the trade name SOMA, is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022 of the Code, and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

13. Clonazepam, known by the trade name Klonopin, is an anticonvulsant of the benzodiazepine class of drugs. It is a dangerous drug as defined in section 4022 of the Code, and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It produces central nervous system depression and should be used with caution with other central nervous system depressant drugs.

14. Diazepam, known by the trade name Valium, is a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

15. Fluoxetine, known by the trade name Prozac, is an antidepressant, and a dangerous drug within the meaning of Business and Professions code section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Prozac is an antidepressant agent chemically unrelated to tricyclic, tetracyclic, or other available antidepressant agents.

16. Olanzapine, known by the trade name Zyprexa, is a psychotropic agent that belongs to the thienobenzodiazepine class. It is a dangerous drug as defined by section 4022 of the Code. Olanzapine is indicated for the management of the manifestations of psychotic disorders, the treatment of schizophrenia, and the short term treatment of the acute manic episodes associated with Bipolar I disorder.

17. Ziprasidone, known by the trade name Geodon, is a Schedule I atypical antipsychotic, approved for the treatment of schizophrenia, bipolar mania, and acute agitation in individuals with schizophrenia. It is a dangerous drug as defined in section 4022 of the Business and Professions Code.

FACTUAL ALLEGATIONS

Respondent's Treatment of Patient 1

18. On or about May 7, 2015, Respondent commenced treating Patient 1,[1] a then 39-year-old female, through the Contra Costa County health services. Patient 1 allegedly had complaints of depression, was at significant risk of suicide or self-harm, and had possible psychotic or dissociative symptoms.

19. In or about August 2017, Respondent subsequently left his position with the county medical system and went into private practice. Respondent continued to treat Patient 1 in his private practice. Respondent has no medical records of his treatment of Patient 1 from August 2017 through July 2022. Medical records from a pharmacy show that Respondent prescribed controlled substances to Patient 1 beginning in 2015.

20. While in private practice, Respondent began prescribing carisoprodol after another treatment provider told Patient 1 that the physician could not continue prescribing the drug to her for Patient 1's complaints of chronic pain related to lupus, rheumatoid arthritis, and/or fibromyalgia.

21. From August 2017 through July 2022, there were no records that Respondent consulted with any other physicians, such as rheumatology specialists, or referred to

[1] The patient is identified by a number to protect their privacy. The patient's name will be disclosed in discovery.

contemporary information about the treatment of rheumatological conditions for Patient 1. There was also no evidence that Respondent supplemented the history provided by Patient 1 about her condition by review of previous treatment records.

22. In fact, there was no record of a history of Patient 1's rheumatological conditions, such as rheumatoid arthritis, lupus, and fibromyalgia. There were no records of any physical examination findings in connection with Respondent's treatment of Patient 1's rheumatological conditions.

23. Prescription records show that from August 2017 through June 2022, Respondent prescribed to Patient 1 the antidepressants amitriptyline and fluoxetine; the benzodiazepine anxiolytics alprazolam, clonazepam, and diazepam; and the antipsychotic medications aripiprazole, olanzapine, and ziprasidone. No documentation evidences that Respondent completed an adequate psychiatric evaluation to determine the indication for these psychiatric medications, or completed adequate psychiatric evaluations at follow up visits to determine whether the medications were safe, effective, and continued to be medically indicated.

24. As of November 21, 2022, Patient 1 had been diagnosed with severe recurrent major depression with psychotic features, post-traumatic stress disorder, seizure disorder, atypical dissociative disorder, and is status post multiple head traumas and memory loss.

25. Respondent's materials include no medical records prior to June 2022 establishing a history of the patient's symptoms, documentation of objective findings of a psychiatric disorder, a recorded assessment of the patient, and an adequate description of how the symptoms and objective findings led to a particular diagnosis. The decision to prescribe the controlled substances while in private practice does not appear to be based on an adequate history and examination to establish an appropriate medical indication for their use.

26. Respondent's records for his care and treatment of Patient 1 from July 2022 forward do not contain sufficient information about Patient 1's treatment to be considered complete and adequate. They do not contain information about objective observations regarding mental status examinations or physical examinations, and do not contain sufficient information about

Respondent's impressions to understand the medical decision-making process regarding the care and treatment of Patient 1.

Respondent's Federal Indictment

27. On or about June 12, 2024, Respondent and a co-defendant were indicted for Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. § 846, Distribution of Controlled Substances in violation of 21 U.S.C. § 841(a) and (b)(1)(C), Conspiracy to Commit Health Care Fraud in violation of 18 U.S.C. § 1349, Conspiracy to Obstruct Justice in violation of 18 U.S.C. § 1512(k), and Aiding and Abetting in violation of 18 U.S.C. § 2, in a federal criminal proceeding entitled *United States v. Ruthia He and David Brody*, N.D. Cal. Case No. 3:24-cr-00329-CRB, in the U.S. District Court for the Northern District of California. The circumstances are as follows:

A. Okay Health, Inc. was allegedly a Delaware corporation incorporated on or about February 26, 2020. In approximately April 2021, Respondent's co-defendant, the founder of Okay Health, Inc., submitted a certificate of amendment of incorporation to rename the corporation Done Global, Inc. (Done Global).

B. Done Health, P.C. (Done), a California corporation, was allegedly incorporated on or about August 7, 2020, solely by Respondent, but his co-defendant owned, controlled, and operated Done. Respondent was also allegedly the clinical president of Done, a self-proclaimed "digital health company" operating on a subscription-based model, in which individuals paid a monthly fee to Done to receive online diagnoses, treatment, and refills of medication for attention deficit hyperactivity disorder (ADHD). Done allegedly had a network of physicians and nurses, including Respondent, who Done paid to diagnose its subscribing members with ADHD and to issue prescriptions for controlled substances. Since the beginning of the COVID-19 pandemic, Done allegedly arranged for the prescription of over 40 million pills of Adderall and other stimulants and obtained over $100 million in revenue.

C. Through Done, Respondent and his co-defendant allegedly received payment for signing prescriptions that were not for a legitimate medical purpose in the usual course of professional practice between approximately February 2020 and January 2023. They also

allegedly made false representations to pharmacies about Done's prescription practices and policies and submitted false and fraudulent claims to Medicare, Medicaid, and commercial insurance companies. Pharmacies allegedly filled the prescriptions based on information received from Done prescribers.

28. Respondent did not report this indictment to the Board, and there was no report made on his behalf pertaining to the indictment.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Gross Negligence)

29. Paragraphs 18 through 26 are incorporated by reference as if fully set forth.

30. Respondent is subject to disciplinary action under section 2234(b) of the Code, in that Respondent was grossly negligent in the care and treatment of Patient 1. The circumstances are as follows:

A. Respondent prescribed controlled substances without medical indication.

B. Respondent treated Patient 1's rheumatological conditions by prescribing carisoprodol without taking an adequate examination and maintaining adequate records.

C. Respondent conducted an inadequate psychiatric evaluation and assessment of Patient 1.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

31. Paragraphs 18 through 26 are incorporated by reference as if fully set forth.

32. Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent failed to maintain adequate and accurate records of his treatment of Patient 1.

THIRD CAUSE FOR DISCIPLINE

(Failure to Report Indictment within 30 Days)

33. Paragraphs 27 through 28 are incorporated by reference as if fully set forth.

34. Respondent is subject to disciplinary action under section 802.1 of the Code, in that Respondent was indicted on federal charges and did not report this indictment to the Board within 30 days.

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 G 56780, issued to Respondent David Brody, M.D.;

2. Revoking, suspending or denying approval of Respondent David Brody, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent David Brody, 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; and

4. Taking such other and further action as deemed necessary and proper.

DATED: APR 0 7 2025

for

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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