

1 ROB BONTA  
Attorney General of California  
2 GREG W. CHAMBERS  
Supervising Deputy Attorney General  
3 State Bar No. 237509  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 510-3382  
5 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7 **BEFORE THE**  
8 **MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Corrected Accusation  
Against:

Case No. 800-2021-081126

**CORRECTED ACCUSATION**

12 **DAVID BRODY, M.D.**  
13 **859 Washington Street, #203**  
**Red Bluff, CA 96080**

14 **Physician's and Surgeon's Certificate**  
15 **No. G 56780,**

16 Respondent.

17  
18  
19 **PARTIES**

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

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

27 ///

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

9 5. Section 2234 of the Code states:

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

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

15 (b) Gross negligence.

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

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

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

27 (d) Incompetence.

28 (e) The commission of any act involving dishonesty or corruption that is substantially

1 related to the qualifications, functions, or duties of a physician and surgeon.

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

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

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

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

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

### 16 COST RECOVERY

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

### 23 DEFINITIONS

24 8. Alprazolam, known by the trade name Xanax, is a psychotropic triazolo analogue of  
25 the 1,4 benzodiazepine class of central nervous system-active compounds. Xanax is used for the  
26 management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a  
27 dangerous drug as defined in section 4022 of the Code and a Schedule IV controlled substance  
28 and narcotic as defined by section 11057, subdivision (d), of the Health and Safety Code.

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

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

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

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

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

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

27          15.    Olanzapine, known by the trade name Zyprexa, is a psychotropic agent that belongs  
28 to the thienobenzodiazepine class. It is a dangerous drug as defined by section 4022 of the Code.

1 Olanzapine is indicated for the management of the manifestations of psychotic disorders, the  
2 treatment of schizophrenia, and the short term treatment of the acute manic episodes associated  
3 with Bipolar I disorder.

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

8 **FACTUAL ALLEGATIONS**

9 17. On or about May 7, 2015, Respondent commenced treating Patient 1,<sup>1</sup> a then 39-  
10 year-old female, through the Contra Costa County health services. Patient 1 allegedly had  
11 complaints of depression, was at significant risk of suicide or self-harm, and had possible  
12 psychotic or dissociative symptoms.

13 18. In or about August 2017, Respondent subsequently left his position with the county  
14 medical system and went into private practice. Respondent continued to treat Patient 1 in his  
15 private practice. Respondent has no medical records of his treatment of Patient 1 from August  
16 2017 through July 2022. Medical records from a pharmacy show that Respondent prescribed  
17 controlled substances to Patient 1 beginning in 2015.

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

22 20. From August 2017 through July 2022, there were no records that Respondent  
23 consulted with any other physicians, such as rheumatology specialists, or referred to  
24 contemporary information about the treatment of rheumatological conditions for Patient 1. There  
25 was also no evidence that Respondent supplemented the history provided by Patient 1 about her  
26 condition by review of previous treatment records.

27 \_\_\_\_\_  
28 <sup>1</sup> The patient is identified by a number to protect their privacy. The patient's name will be  
disclosed in discovery.

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

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

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

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

21           25. Respondent's records for his care and treatment of Patient 1 from July 2022 forward  
22 do not contain sufficient information about Patient 1's treatment to be considered complete and  
23 adequate. They do not contain information about objective observations regarding mental status  
24 examinations or physical examinations, and do not contain sufficient information about  
25 Respondent's impressions to understand the medical decision-making process regarding the care  
26 and treatment of Patient 1.

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Gross Negligence)**

3 26. Paragraphs 17 through 25 are incorporated by reference as if fully set forth.

4 27. Respondent David Brody, M.D. is subject to disciplinary action under section 2234(b)  
5 of the Code, in that Respondent was grossly negligent in the care and treatment of Patient 1. The  
6 circumstances are as follows:

7 A. Respondent prescribed controlled substances without medical indication.

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

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

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Maintain Adequate and Accurate Records)**

14 28. Paragraphs 17 through 25 are incorporated by reference as if fully set forth.

15 Respondent David Brody, M.D. is subject to disciplinary action under section 2266 of the  
16 Code, in that Respondent failed to maintain adequate and accurate records of his treatment of  
17 Patient 1.

18 **PRAYER**

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 56780,  
22 issued to Respondent David Brody, M.D.;

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

25 3. Ordering Respondent David Brody, M.D., to pay the Board the costs of the  
26 investigation and enforcement of this case, and if placed on probation, the costs of probation  
27 monitoring; and

28 ///

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

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

DATED: JUN 28 2024

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