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OSTEOPATHIC MEDICAL BOARD
OF CALIFORNIA

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

12 In the Matter of the Second Amended Accusation
13 Against:

Case No. 900-2019-000047

14 **CUYLER BURNS GOODWIN, D.O.**
15 P.O. Box 695
Cotati, CA 94931-0695

SECOND AMENDED ACCUSATION

16 Osteopathic Physician's and Surgeon's Certificate
17 No. 20A 13049

Respondent.

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19
20
21 **PARTIES**

22 1. Mark M. Ito (Complainant) brings this Second Amended Accusation solely in his
23 official capacity as the Executive Director of the Osteopathic Medical Board of California,
24 Department of Consumer Affairs.

25 2. On November 19, 2013, the Osteopathic Medical Board of California issued
26 Osteopathic Physician's and Surgeon's Certificate No. 20A 13049 to Cuyler Burns Goodwin, D.O.
27 (Respondent). The Osteopathic Physician's and Surgeon's Certificate was in full force and effect
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1 at all times relevant to the charges brought herein and will expire on October 31, 2022, unless
2 renewed.

3 **JURISDICTION**

4 3. This Second Amended Accusation is brought before the Osteopathic Medical Board
5 of California (Board), Department of Consumer Affairs, under the authority of the following
6 laws. All section references are to the Business and Professions Code (Code) unless otherwise
7 indicated.

8 4. Section 3600 of the Code states that the law governing licentiates of the Osteopathic
9 Medical Board of California is found in the Osteopathic Act and in Chapter 5 of Division 2,
10 relating to medicine, known as the Medical Practice Act.

11 5. Section 3600-2 of the Code states:

12 “The Osteopathic Medical Board of California shall enforce those portions of the Medical
13 Practice Act identified as Article 12 (commencing with Section 2220), of Chapter 5 of Division 2
14 of the Business and Professions Code, as now existing or hereafter amended, as to persons who
15 hold certificates subject to the jurisdiction of the Osteopathic Medical Board of California. . .”

16 6. Section 2227(a) of the Code provides in pertinent part that a licensee whose matter
17 has been heard by an administrative law judge. . .who is found guilty. . .may, in accordance with
18 the provisions of this chapter: have his license revoked; have his right to practice medicine
19 suspended for a period not to exceed one year upon order of the board; be placed on probation
20 and be required to pay the costs of probation monitoring upon order of the board; be publicly
21 reprimanded which may include relevant educational courses; or have any other action taken in
22 relation to discipline as part of an order of probation.

23 7. Section 2234 of the Code states, in pertinent part:

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

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

1 (b) Gross negligence.

2 (c) Repeated negligent acts.

3 (d) Incompetence.

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

7 9. Section 2452 of the Code provides that the Medical Practice Act applies to the
8 Osteopathic Medical Board of California so far as it is consistent with the Osteopathic Act.

9 10. Section 2459.4(a) of the Code provides, in pertinent part, that a licensee of the Board
10 must notify his patients if he is placed on probation based on the commission of any act of sexual
11 abuse, misconduct, or relations with a patient or client.

12 11. Section 726 of the Code provides that the commission of any act of sexual abuse,
13 misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and
14 grounds for disciplinary action.

15 12. Section 729 of the Code provides that any physician and surgeon who engages in any
16 act of sexual intercourse, sodomy, oral copulation or sexual contact with a patient is guilty of
17 sexual exploitation.

18 13. Section 2246 provides that a proposed decision or decision containing a finding of
19 fact that the licensee engaged in sexual exploitation of two or more victims shall contain an order
20 revocation that shall not be stayed by the administrative law judge.

21 **ETHICAL PRINCIPLES**

22 14. Beginning in 1973, with periodic revisions, the American Psychiatric Association has
23 promulgated *The Principles of Medical Ethics with Annotations Especially Applicable to*
24 *Psychiatry (Principles with Annotations)*. As explained in the Foreword to the 2013 Edition:

25 All physicians should practice in accordance with the medical code of ethics set
26 forth in the *Principles of Medical Ethics* of the American Medical Association . . .
27 However, these general guidelines have been difficult to interpret for psychiatry, so
28 further annotations to the basic principles are offered in this document. While
psychiatrists have the same goals as all physicians, there are special ethical problems
in psychiatric practice that differ in coloring and degree from ethical problems in
other branches of medical practice, even though the basic principles are the same.

1 15. The *Principles with Annotations*, provide:

2 *Section 1*

3 *A physician shall be dedicated to providing competent medical care with*
4 *compassion and respect for human dignity and rights.*

5 1. A psychiatrist shall not gratify his or her own needs by exploiting the
6 patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct
7 has upon the boundaries of the doctor-patient relationship, and thus upon the well-
8 being of the patient. These requirements become particularly important because of the
9 essentially private, highly personal, and sometimes intensely emotional nature of the
10 relationship established with the psychiatrist.

11 16. The *Principles with Annotations* further provide:

12 *Section 2*

13 *A physician shall uphold the standards of professionalism, be honest in all*
14 *professional interactions and strive to report physicians deficient in character or*
15 *competence, or engaging in fraud or deception to appropriate entities.*

16 1. The requirement that the physician conduct himself/herself with propriety in
17 his or her profession and in all the actions of his or her life is especially important in
18 the case of the psychiatrist because the patient tends to model his or her behavior after
19 that of his or her psychiatrist by identification. Further, the necessary intensity of the
20 treatment relationship may tend to activate sexual and other needs and fantasies on
21 the part of both the patient and psychiatrist, while weakening the objectivity
22 necessary for control. Additionally, the inherent inequality in the doctor-patient
23 relationship may lead to exploitation of the patient. Sexual activity with a current or
24 former patient is unethical.

25 17. The *Principles with Annotations* further provide:

26 *Section 8*

27 *A Physician shall, while caring for a patient, regard responsibility to the patient as*
28 *paramount.*

29 . . . 2. When the psychiatrist's outside relationships conflict with the clinical
30 needs of the patient, the psychiatrist must always consider the impact of such
31 relationships and strive to resolve conflicts in a manner that the psychiatrist believes
32 is likely to be beneficial to the patient.

33 3. When significant relationships exist that may conflict with patients' clinical
34 needs, it is especially important to inform the patient or decision maker about these
35 relationships and potential conflicts with clinical needs.

36 18. In addition, the American Medical Association publishes Medical Ethics Opinions to
37 inform the ethical practice of medicine. American Medical Association Code of Medical Ethics
38 Opinion 9.1.2 states that third-party patient relationships involving sexual or romantic interactions

1 between physicians and third parties may detract from the goals of the patient-physician
2 relationship, exploit the vulnerability of the third-party, compromise the physician's ability to
3 make objective judgments, and be detrimental to the patient's well-being. The opinion states that
4 physicians should avoid sexual or romantic relations with any individual whose decisions directly
5 affect the health and welfare of the patient.

6 **COST RECOVERY**

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

13 20. At all times relevant to these allegations, Respondent was the Medical Director at
14 Sequoia Mind Health in Santa Rosa, where he practiced as a psychiatrist.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct/Gross Negligence/Negligence/Incompetence)**

17 **Patient A**

18 21. Respondent treated Patient A¹ for schizophrenia² from June 11, 2017 to January 15,
19 2019, for a total of 38 appointments. Patient A suffers auditory hallucinations, delusional beliefs
20 including paranoia, suicidal ideations, and daily severe panic attacks. Respondent concurred in
21 the diagnosis of schizophrenia.

22 22. Respondent's treatment of Patient A was provided by way of house calls to the home
23 where the patient lived with his mother. Patient A's sister (Sister) was a frequent visitor to the
24

25 ¹ The first patient in this document is designated as Patient A to protect his privacy. The
26 second patient is designated as Patient B to protect her privacy. The third patient is designated as
27 Patient C to protect her privacy. All other witnesses will be designated by their relationship with
28 Patient A. Respondent knows the names of the patients and witnesses and can confirm their
identities through the discovery process.

² Schizophrenia is a serious mental disorder in which people interpret reality abnormally
and may result in hallucinations, delusions, and extremely disordered thinking with behavior that
can impair daily functioning, and can be disabling.

1 home, was very close to and involved in Patient A's life, and provided significant assistance to
2 her family in caring for her schizophrenic and significantly younger brother. Patient A often
3 visited Sister's home, had a close relationship with her children and husband. Sister was present
4 at her mother's home for most, if not all, of the treatment sessions. Sister was a primary source of
5 contact with Respondent, and actively facilitated the care of Patient A. She obtained a referral for
6 and arranged for Patient A to be seen by Respondent, scheduled appointments, consulted
7 frequently with Respondent regarding Patient A's care and response to treatment, monitored his
8 medication, and paid cash for each session. Before and after the treatment sessions, Respondent
9 met with Patient A's mother and Sister to discuss the patient's status and response to treatment.
10 Respondent was well aware of Patient A's close relationship with his family, and the importance
11 of those relationships in his mental stability. In January 2018, Respondent authored a letter
12 stating that Patient A should not be placed in situations that could be "potentially destabilizing"
13 and trigger his anxiety, and that the patient's routines, including spending time with loved ones,
14 should not be altered.

15 23. Sister was extremely grateful for the care and treatment Respondent provided to
16 Patient A, and even believed that Respondent had saved her brother's life. Sister conveyed her
17 gratitude to Respondent in what she described as "effusive" terms. In the fall of 2018,
18 Respondent and Sister entered into a sexual relationship that lasted for several months.

19 24. Sister became pregnant during the sexual relationship. At Sister's request, on
20 November 13, 2018 Respondent prescribed Misoprostol³. The prescription included the words
21 "fetal abortion." Respondent maintained no medical record of the treatment provided to Sister.

22 25. The sexual relationship ended after it was discovered by Sister's family. The
23 discovery of the relationship resulted in significant turmoil and disruption of the family. Sister
24 believed she was in love with Respondent, and was very angry with her family over the end of her
25 relationship with Respondent. Sister separated from her husband and spent less time with her
26 family. Sister became far less involved in Patient A's life, and Patient A had far less contact with
27

28 ³ Misoprostol is a medication which can be used to induce an abortion.

1 Sister's husband and children. Patient A's family had to locate a new psychiatrist. These
2 changes were disruptive, confusing and painful to Patient A.

3 26. Respondent was interviewed by the Board's investigators, but refused to answer
4 questions about the nature of his relationship with Patient A's sister - which he characterized as
5 outside of his care of Patient A and his own business - or whether he had provided medical
6 treatment to Sister.

7 27. Respondent is subject to disciplinary action under Business and Professions Code
8 section 2234(unprofessional conduct) and/or 2234(b) (gross negligence) and/or 2234 (c) (repeated
9 negligent acts) and/or 2234 (d) (incompetence) and/or a violation of ethical standards, in that
10 Respondent:

11 A. Had an emotional, physical, and sexual relationship with Patient A's sister while
12 Respondent was treating Patient A;

13 B. Violated ethical principles and professional boundaries of the patient-psychiatrist
14 relationship by engaging in a sexual relationship with Patient A's sister, who was a significant
15 third-party in Patient A's life;

16 C. Entered into a sexual relationship with Patient A's sister, whose decisions and
17 presence in Patient's A's life directly affected the health and welfare of Patient A.

18 D. Demonstrated either a lack of knowledge of ethics and boundaries, or chose to ignore
19 his knowledge of ethics and boundaries, by engaging in a physical, emotional, and sexual
20 relationship with a significant third party in Patient A's life, demonstrating both poor judgment
21 and lack of knowledge of the potential adverse effects on Patient A;

22 E. Prescribed to Patient A's sister without conducting an appropriate medical
23 examination or assessment, and without documenting the medical indication or creating any
24 medical record of the prescription.

25 F. Violated boundaries and ethics, and exhibited poor judgment and/or lack of
26 knowledge by prescribing abortion medication to a sexual partner who was his patient's sister.

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28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct/Gross Negligence/Negligence/Incompetence/Sexual Misconduct)**

3 **Patient B**

4 28. Patient B was referred to Respondent by her therapist for assistance in tapering off
5 antidepressant medication. Respondent began treating 27-year-old Patient B on June 6, 2017.
6 Patient B suffered from generalized anxiety disorder, panic attacks and premenstrual dysphoric
7 disorder. She had a history of sexual trauma, including multiple sexual assaults. By July 5, 2017,
8 Patient B had successfully tapered off the antidepressants, and for a brief period of time, stopped
9 treatment with Respondent. Shortly thereafter, Respondent hired Patient B to work part-time at
10 his office. In the fall of 2017, while she was Respondent's employee, Patient B returned to
11 Respondent's psychiatric care for her anxiety, and was treated with Ketamine infusions.⁴ At
12 times during the infusions, Respondent asked Patient B personal questions regarding her sexual
13 history and her relationship with her boyfriend. He also disclosed his own previous extra-marital
14 affair, and talked about other personal information. Respondent's medical record does not
15 indicate that his treatment of Patient B was ever terminated.

16 29. At the end of the work day on January 12, 2018, Respondent offered Patient B a glass
17 of wine and led her to his personal office. Respondent proceeded to ask Patient B personal
18 questions about her boyfriend and discussed his personal life. Respondent told Patient B that he
19 liked her and kissed her. He then unbuttoned Patient B's pants and penetrated her vagina with his
20 finger. Patient B pulled his hand out of her pants, said no, and pushed Respondent's hand away.
21 She left the office, and quit her job soon thereafter. In subsequent communications, Patient B told
22 Respondent his behavior was inappropriate and unacceptable. Respondent apologized and
23 eventually offered to pay severance pay "under the table" because she had to quit her job so
24 suddenly. Patient B never accepted any money from Respondent; however, she refused to pay a
25

26
27 ⁴ Ketamine is a controlled substance which is commonly used as an anesthesia, but in
28 smaller doses, can be administered intravenously to treat depression and anxiety. Patient B's
medical records show she was treated with Ketamine infusions on five occasions between
September 6, 2017 and October 18, 2017.

1 bill he sent her in February 2018 for a ketamine treatment. Respondent told her he “would take
2 care of it.”

3 30. Patient B, who was in graduate school and wanted to become a therapist, continued to
4 reflect on and feel discomfort over the incident. An ethics course triggered feelings of guilt that
5 she had not reported Respondent’s conduct. On March 15, 2019, Patient B filed a police report.
6 She also told Respondent’s wife and made a report to the Board.

7 31. Respondent is subject to disciplinary action under Business and Professions Code
8 sections 2234(unprofessional conduct) and/or 2234 (b) (gross negligence) and/or 2234 (c)
9 (repeated negligent acts) and/or section 726 (sexual misconduct) and/or a violation of ethical
10 standards, including but not limited to:

11 A. Respondent violated ethical and professional boundaries by changing the relationship
12 with Patient B from a physician/patient relationship to an employer/employee relationship.

13 B. Respondent exhibited poor judgment and lack of awareness of ethical and boundary
14 issues by treating Patient B as a current patient while she was also an employee;

15 C. Respondent made unwanted sexual advances to Patient B who was also his employee
16 and patient;

17 D. Respondent engaged in sexual misconduct when he kissed Patient B, made sexual
18 advances, and sexually assaulted her.

19 **THIRD CAUSE FOR DISCIPLINARY ACTION**

20 **(Unprofessional Conduct/Gross Negligence/Negligence/Incompetence/Sexual Misconduct)**

21 **Patient C**

22 32. Patient C came under Respondent’s treatment in May 2017. Patient C had a
23 significant history of depression and had experienced a recent major depressive episode with a
24 suicide attempt that required hospitalization. Respondent diagnosed Patient C with generalized
25 anxiety disorder, panic disorder, premenstrual dysphoria disorder and unspecified depressive
26 disorder. The patient also reported a history of sexual trauma and assault. Respondent provided
27 psychiatric treatment, including referral to a therapist, and adjustment of her medications.
28

1 33. In September 2017, Respondent hired Patient C to work in his office. Soon
2 thereafter, Respondent spoke to Patient C about the benefits of Ketamine infusion treatment.
3 Respondent thereafter provided Patient C Ketamine treatment from December 2017 through April
4 2019. During her first treatment in December 2017, Patient C was alone in the room with
5 Respondent when he gave her an intramuscular injection of Ketamine. She began to feel
6 “woozy” and Respondent asked questions about her sexual partners and if she had ever been with
7 any women. Respondent then asked her to remove her top. Patient removed her shirt and bra,
8 and noticed Respondent getting closer to her. She felt uncomfortable, put her top back on,
9 grabbed a blanket and put her knees up to prevent Respondent from getting too close to her, but
10 then felt unable to control her hands and could not speak, due to the effects she began
11 experiencing from the Ketamine injection. Respondent then sexually assaulted and raped Patient
12 C.

13 34. Respondent’s medical record for Patient C contains an “Addendum” dated August 1,
14 2019, stating that he conducted some form of assessment or visualization of Patient C’s breasts,
15 because, he noted, the patient asked his medical opinion about her dissatisfaction with implant
16 repair. However, Respondent’s medical record before that date reflects no assessment or
17 visualization of the patient’s breast. His record for the December 6, 2017 treatment does not
18 document any assessment of Patient C’s breasts, or that the patient expressed any concern for her
19 breasts. The first reference to any issue pertaining to breast implant surgery was documented
20 April 17, 2018, and notes depression related to a perceived nipple inversion and insecurity and
21 anxiety relating to body image

22 35. Respondent is subject to disciplinary action under Business and Professions Code
23 sections 2234(unprofessional conduct) and/or 2234(b) (gross negligence) and/or 2234 (c)
24 (repeated negligent acts) and/or 726 (sexual misconduct) and/or a violation of ethical standards,
25 including but not limited to:

26 A. Respondent, who was Patient C’s treating psychiatrist, conducted a breast
27 examination or assessment of his patient/employee without the presence of a preferred-gender
28

1 observer, and in the absence of any medical necessity or urgent reason to conduct an intimate
2 examination of the patient.

3 B. Respondent failed to properly or contemporaneously document any form of a breast
4 examination or assessment of Patient C on the examination date;

5 C. Respondent violated ethical and professional boundaries by hiring his patient or
6 former patient as an employee;

7 D. Respondent made unwanted sexual advances, sexually assaulted and raped Patient C,
8 a woman who he knew had a history of sexual assault and trauma, and asked inappropriate and
9 intrusive questions, which violated ethical and professional boundaries

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct: Sexual Exploitation)**

12 **Patients B and C**

13 36. Respondent is subject to disciplinary action under Business and Professions Code
14 sections 2234 (unprofessional conduct) and 729 (sexual exploitation) in that he engaged in sexual
15 contact with Patient B and Patient C, in a manner that was outside the scope of medical treatment
16 or examination, and/or done for the purpose of Respondent's sexual gratification.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)**

19 **Sister and Patient C**

20 37. Respondent is subject to disciplinary action under Business and Professions Code
21 section 2234 (unprofessional conduct) and/or 2266 (inadequate records) in that Respondent failed
22 to maintain adequate and accurate medical records for Patient C and Patient A's Sister, including
23 but not limited to:

24 A. Respondent failed to document any medical treatment or prescription to Patient A's
25 sister;

26 B. Respondent failed to adequately and contemporaneously document his breast
27 examination or assessment, or the medical necessity of such an examination or assessment, of
28 Patient C.

1 **PRAYER**

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

- 4 1. Revoking or suspending Osteopathic Physician's and Surgeon's Certificate No.
5 Number 20A 13049, issued to Cuyler Burns Goodwin, D.O.;
- 6 2. Revoking Respondent's Osteopathic Physician's and Surgeon's Certificate based on
7 findings that he sexually exploited two patients;
- 8 3. Ordering Cuyler Burns Goodwin, D.O. to notify his patients, should he be placed on
9 probation, of his probationary status pursuant to Business and Professions Code section 2459.4;
- 10 4. Ordering Cuyler Burns Goodwin, D.O. to pay the Osteopathic Medical Board of
11 California the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3; and,
- 13 5. Taking such other and further action as deemed necessary and proper.

14
15 DATED: November 30, 2021

Mark M. Ito

16 MARK M. ITO
17 Executive Director
18 Osteopathic Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

22 SF2020401436
23 Cuyler Goodwin, D.O. Second Amended Accusation
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DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

**In the Matter of the Second Amended Accusation Against:
Cuyler Burns Goodwin, D.O.
Case No: 900-2019-000047**

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1300 National Drive, Suite 150, Sacramento, CA 95834.

On **November 30, 2021**, I served the attached **Second Amended Accusation, Statement to Respondent**, by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Second Amended Accusation**, as enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Osteopathic Medical Board of California addressed as follows:

NAME AND ADDRESS

(certified and regular mail)

Cuyler Burns Goodwin, D.O.
P.O. Box 695
Cotati, CA 94931-0695

Certified Mail No.

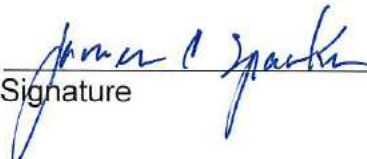
9489 0090 0027 6244 3717 97

Cuyler Burns Goodwin, D.O.

9489 0090 0027 6244 3718 03

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 30, 2021, at Sacramento, California.

James C. Sparks
Declarant


Signature

cc: Mary Cain-Simon, Sup Deputy Attorney General
Jane Zack Simon, Sup Deputy Attorney General
Marvin Firestone, Esq