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7 **BEFORE THE**
8 **PODIATRIC MEDICAL BOARD**

9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 500-2018-000751

12 **PAUL J. BRODY, D.P.M.**
13 **3831 Hughes Avenue, Suite 700**
Culver City, CA 90232

OAH No.

FIRST AMENDED ACCUSATION

14 **Podiatrist License No. DPM 2963,**

15 Respondent.

16
17 **PARTIES**

18 1. Brian Naslund (Complainant) brings this First Amended Accusation solely in his
19 official capacity as the Executive Officer of the Podiatric Medical Board, Department of
20 Consumer Affairs.

21 2. On or about June 11, 1982, Podiatric Medical Board issued Podiatrist License
22 Number DPM 2963 to Paul J. Brody, D.P.M. (Respondent). The Podiatrist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on December
24 31, 2025, unless renewed.

25 **JURISDICTION**

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

1 4. Section 2222 of the Code states:

2 The California Board of Podiatric Medicine shall enforce and administer this
3 article as to doctors of podiatric medicine. Any acts of unprofessional conduct or
4 other violations proscribed by this chapter are applicable to licensed doctors of
5 podiatric medicine and wherever the Medical Quality Hearing Panel established
6 under Section 11371 of the Government Code is vested with the authority to enforce
7 and carry out this chapter as to licensed physicians and surgeons, the Medical Quality
8 Hearing Panel also possesses that same authority as to licensed doctors of podiatric
9 medicine.

10 The California Board of Podiatric Medicine may order the denial of an application or
11 issue a certificate subject to conditions as set forth in Section 2221, or order the
12 revocation, suspension, or other restriction of, or the modification of that penalty, and
13 the reinstatement of any certificate of a doctor of podiatric medicine within its
14 authority as granted by this chapter and in conjunction with the administrative hearing
15 procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the
16 Government Code. For these purposes, the California Board of Podiatric Medicine
17 shall exercise the powers granted and be governed by the procedures set forth in this
18 chapter.

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

23 6. Section 2228.1 of the Code states.

24 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
25 the board and the Podiatric Medical Board of California shall require a licensee to
26 provide a separate disclosure that includes the licensee's probation status, the length
27 of the probation, the probation end date, all practice restrictions placed on the licensee
28 by the board, the board's telephone number, and an explanation of how the patient
can find further information on the licensee's probation on the licensee's profile page
on the board's online license information internet web site, to a patient or the
patient's guardian or health care surrogate before the patient's first visit following the
probationary order while the licensee is on probation pursuant to a probationary order
made on and after July 1, 2019, in any of the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Section 2305 of the Code provides that the revocation, suspension, or other discipline,
restriction or limitation imposed by another state upon a license to practice medicine issued by

1 that state, that would have been grounds for discipline in California under the Medical Practice
2 Act, constitutes grounds for discipline for unprofessional conduct.

3 8. Section 141 of the Code states:

4 (a) For any licensee holding a license issued by a board under the jurisdiction of
5 the department, a disciplinary action taken by another state, by any agency of the
6 federal government, or by another country for any act substantially related to the
7 practice regulated by the California license, may be a ground for disciplinary action
8 by the respective state licensing board. A certified copy of the record of the
9 disciplinary action taken against the licensee by another state, an agency of the
10 federal government, or another country shall be conclusive evidence of the events
11 related therein.

12 (b) Nothing in this section shall preclude a board from applying a specific
13 statutory provision in the licensing act administered by that board that provides for
14 discipline based upon a disciplinary action taken against the licensee by another state,
15 an agency of the federal government, or another country.

16 9. Section 2497 of the Code states:

17 (a) The board may order the denial of an application for, or the suspension of,
18 or the revocation of, or the imposition of probationary conditions upon, a certificate
19 to practice podiatric medicine for any of the causes set forth in Article 12
20 (commencing with Section 2220) in accordance with Section 2222.

21 (b) The board may hear all matters, including but not limited to, any contested
22 case or may assign any such matters to an administrative law judge. The proceedings
23 shall be held in accordance with Section 2230. If a contested case is heard by the
24 board itself, the administrative law judge who presided at the hearing shall be present
25 during the board's consideration of the case and shall assist and advise the board.

26 STATUTORY PROVISIONS

27 10. Section 2234 of the Code states:

28 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.

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

6 (d) Incompetence.

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

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

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

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

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

21 11. Section 2236 of the Code states:

22 (a) The conviction of any offense substantially related to the qualifications,
23 functions, or duties of a physician and surgeon constitutes unprofessional conduct
24 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
25 of conviction shall be conclusive evidence only of the fact that the conviction
26 occurred.

27 (b) The district attorney, city attorney, or other prosecuting agency shall notify
28 the Medical Board of the pendency of an action against a licensee charging a felony
or misdemeanor immediately upon obtaining information that the defendant is a
licensee. The notice shall identify the licensee and describe the crimes charged and
the facts alleged. The prosecuting agency shall also notify the clerk of the court in
which the action is pending that the defendant is a licensee, and the clerk shall record
prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall,
within 48 hours after the conviction, transmit a certified copy of the record of
conviction to the board. The division may inquire into the circumstances surrounding
the commission of a crime in order to fix the degree of discipline or to determine if
the conviction is of an offense substantially related to the qualifications, functions, or
duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
deemed to be a conviction within the meaning of this section and Section 2236.1.
The record of conviction shall be conclusive evidence of the fact that the conviction
occurred.

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12. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

13. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

COST RECOVERY

14. Section 2497.5 of the Code states:

(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

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

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

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

(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

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1 FACTUAL ALLEGATIONS

2 15. On or about September 12, 2018, Respondent caused a Criminal Action Reporting
3 Form to be filed with the Board. That form advised the Board that an Information had been filed
4 against Respondent in the United States District Court, Central District of California. Respondent
5 was charged with violating 18 United States Code section 1341 (mail fraud), and 18 United States
6 Code section 2, subdivision (h) (causing an act to be done); no arrest had been made.

7 16. Following an investigation, the Board learned that the Information was filed on April
8 6, 2018, in the case of *United States of America v. Paul J. Brody*, United States District Court for
9 the Central District of California, case number 2:18-cr-00188 CAS.¹ Respondent was charged
10 with violating 18 United States Code section 1341 and 18 United States Code section 2,
11 subdivision (h), a felony.

12 17. The facts alleged in the Information state that Respondent, the owner of Culver City
13 Surgical, and other defendants, knowingly and with intent to defraud, devised, executed and
14 participated in a plan to obtain money and property from a health care benefit plan established by
15 The International Longshoremen's and Warehousemen's Union-Pacific Maritime Association
16 Welfare Plan (ILWU-PMA Plan). That health care plan was established for the benefit of eligible
17 active and retired ILWU members, their qualified dependents and survivors.

18 18. Respondent paid kickbacks to the owners and operators of Port Medical Clinics
19 located in Long Beach and San Pedro, California, for ILWU-PMA Plan member referrals.
20 Respondent paid and caused others at Port Medical Clinics to pay cash to ILWU-PMA Plan
21 members² to receive medical procedures at Culver City Surgical. Respondent submitted claims
22 for reimbursement for services that were provided at Culver City Surgical to the ILWU-PMA
23 Plan.

24 19. Respondent knowingly concealed from the ILWU-PMA Plan material facts, including
25 that he paid kickbacks to the owners and operators of Port Medical Clinics for the ILWU-PMA

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27 ¹ On April 24, 2018, the case was transferred from Judge Christina A. Snyder (CAS) to
28 Judge John A. Kronstadt (JAK), the new case number reflected the transfer: 2:18-cr-00188 JAK.

² The Information included a specific plan member identified in this Accusation as Patient
1.

1 Plan member referrals, including Patient 1, and Respondent caused others to pay remuneration to
2 ILWU-PMA Plan members to induce them to receive medical procedures at his surgery center,
3 Culver City Surgical.

4 20. On or about April 5, 2013, Respondent, along with other defendants, in furtherance of
5 the fraudulent scheme, willfully caused a check drawn on a bank account with Coastwise Claims,
6 to be placed in an authorized United States Postal Service depository for mail, to be sent and
7 delivered by the United States Postal Service to Culver City Surgical. The check was payable to
8 Culver City Surgical in the sum of \$50,982.92, for services including those provided to Patient 1
9 on or about November 8, 2012.

10 21. On or about August 14, 2018, Respondent waived reading of the indictment and was
11 arraigned.

12 22. On or about September 27, 2018, Respondent was convicted, by way of a plea of
13 guilty, of Count 1 as charged in the Information.

14 23. On information and belief, Respondent was sentenced on or about August 25, 2021.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Discipline, Restriction, or Limitation Imposed by an Agency of the Federal**
17 **Government)**

18 24. Respondent, Paul J. Brody, D.P.M. is subject to disciplinary action under sections
19 2305 and 141, subdivision (a), of the Code in that he was subjected to discipline, restriction, or
20 limitation imposed by an agency of the federal government. The circumstances are as follows:

21 25. In its January 27, 2021, Decision, the Centers for Medicare & Medicaid Services
22 (CMS) upheld the determination of its administrative contractor, Noridian Healthcare Solutions
23 (Noridian), to revoke the Medicare enrollment and billing privileges of Respondent. (See
24 *Department of Health and Human Services, Departmental Appeals Board, Civil Remedies*
25 *Division, Paul Brody, DPM (NPI: 1376578351; PTANS: E2963, CB232420) v. Centers for*
26 *Medicare & Medicaid Services*, Docket No. C-20-654, Decision No. CR 5799 (Decision).)

27 26. On or about January 8, 2020, Noridian revoked Respondent's Medicare enrollment
28 and billing privileges pursuant to 42 Code of Federal Regulations section 424.535, subdivisions

1 (a)(3), (4), and (9). Noridian explained that revocation was warranted based on Respondent's
2 September 27, 2018, felony conviction for mail fraud in violation of 18 United States Code
3 sections 1341 and 2, in the United States District Court, Central District of California. Noridian
4 also informed Respondent that he would be placed on CMS's preclusion list, effective July 1,
5 2020. Respondent was informed by Noridian that it was establishing a bar to his re-enrollment
6 and that he *may* be able to re-enroll in or around September 28, 2028.

7 27. Respondent sought reconsideration of the revocation order arguing that he had not
8 been convicted of a felony pursuant to 42 Code of Federal Regulations section 1001.2. He did
9 not dispute his inclusion on the CMS preclusion list.

10 28. In a reconsidered determination, dated May 12, 2020, Respondent was advised that
11 Noridian correctly revoked his enrollment and billing privileges, pursuant to 42 Code of Federal
12 Regulations section 424.535, subdivision (a)(3).

13 29. CMS considered Respondent's guilty plea in *United States of America v. Paul J.*
14 *Brody*, United States District Court for the Central District of California, case number 2:18-cr-
15 00188 CAS, to be a felony conviction, as defined under 42 Code of Federal Regulations section
16 1001.2, for purposes of revocation under 42 Code of Federal Regulations section 424.535,
17 subdivision (a)(3).

18 30. In upholding Respondent's placement on the preclusion list, CMS took into
19 consideration that Respondent engaged in a fraudulent scheme by paying kickbacks to the owners
20 and operators of [a clinic] in exchange for referrals of Plan Members to his own provider
21 group....In order to pay the kickbacks to the owners and operators....[Respondent] wrote checks
22 to individuals and entities associated with [the clinic], disguising the nature of the checks by
23 falsely characterizing the check as payment for expenses. CMS found [Respondent's] conduct to
24 be severe in nature because it called into question his integrity and trustworthiness.

25 31. At hearing, Respondent did not dispute the revocation of his billing privileges
26 pursuant to 42 Code of Federal Regulations section 424.535, subdivision (a)(3), nor his placement
27 on the preclusion list. The sole issue on review was whether Noridian and CMS had a legitimate
28 basis to revoke Respondent's enrollment and billing privileges, effective September 27, 2018, the

1 date Respondent entered his guilty plea to the Information. Notably, Respondent was not
2 "challenging the fact that he plead guilty or the facts regarding the underlying conduct that led to
3 his plea," and he concedes that "CMS will still have grounds to terminate [his] privileges under
4 42 Code of Federal Regulations section 424.535, subdivision (a)(3)." It was also determined that
5 the proper effective date of the revocation of Respondent's enrollment and billing privileges is
6 September 27, 2018, as set by regulation, 42 42 Code of Federal Regulations section 424.535,
7 subdivision (g).

8 32. Respondent's conduct and the action taken in the January 27, 2021 Decision of CMS,
9 a federal agency, upholding Noridian's revocation of Respondent's Medicare enrollment and
10 billing privileges, as set forth paragraphs 25 through 31, above, constitute unprofessional conduct
11 and cause for discipline pursuant to sections 2305 and 141, subdivision (a) of the Code.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Conviction of a Substantially Related Crime)

14 33. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under sections 490
15 and 2236 of the Code in that he was convicted of a crime substantially related to the
16 qualifications, functions, or duties of a podiatrist. The circumstances are as follows:

17 34. The facts and allegations set forth in paragraphs 15 through 23, above, are
18 incorporated herein by reference as if fully set forth.

19 **THIRD CAUSE FOR DISCIPLINE**

20 (Dishonest and Corrupt Acts)

21 35. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under section
22 2234, subdivision (e), of the Code in that he engaged in dishonest and corrupt acts. The
23 circumstances are as follows:

24 36. The facts and allegations set forth in paragraphs 15 through 32, above, are
25 incorporated herein by reference as if fully set forth.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (False Representations - Unprofessional Conduct)

3 37. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under section 2234
4 as defined by section 2261 of the Code in that he knowingly made or signed documents directly
5 or indirectly related to the practice of podiatry which falsely represented the existence or
6 nonexistence of a state of facts, thereby constituting unprofessional conduct.

7 38. The facts and allegations set forth in paragraphs 15 through 32, above, are
8 incorporated herein by reference as if fully set forth.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct)

11 39. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under Code section
12 2234, in that he committed unprofessional conduct.

13 40. The facts and allegations set forth in paragraphs 15 through 32, above, are
14 incorporated herein by reference as if fully set forth.

15 **PRAYER**

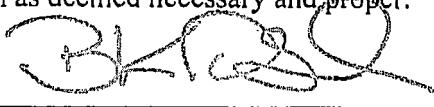
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Podiatric Medical Board issue a decision:

18 1. Revoking or suspending Podiatrist License Number DPM 2963, issued to PAUL J.
19 BRODY, D.P.M.;

20 2. Ordering Paul J. Brody, D.P.M. to pay the Podiatric Medical Board the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 2497.5 and if placed on probation, the costs of probation monitoring; and,

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: MAY 29 2025

25 
26 BRIAN NASLUND
27 Executive Officer
28 Podiatric Medical Board
Department of Consumer Affairs
State of California
Complainant

LA2019504274