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

11 In the Matter of the Accusation Against:

Case No. 500-2018-000751

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

ACCUSATION

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

15 Respondent.

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18 **PARTIES**

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

21 2. On or about June 11, 1982, the 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, 2021, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Podiatric Medical Board (Board), Department
27 of Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and 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 doctors of podiatric medicine.

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

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

21 6. Section 2228.5 of the Code states:

22 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
23 the board shall require a licensee to provide a separate disclosure that includes the
24 licensee's probation status, the length of the probation, the probation end date, all
25 practice restrictions placed on the licensee by the board, the board's telephone
26 number, and an explanation of how the patient can find further information on the
27 licensee's probation on the licensee's profile page on the board's online license
28 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.

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

[¶] . . . [¶]

25 7. Section 2497 of the Code states:

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

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

6 **STATUTORY PROVISIONS**

7 8. Section 2234 of the Code, states:

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

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

14 [¶] . . . [¶]

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

18 [¶] . . . [¶]

19 9. Section 2236 of the Code states:

20 (a) The conviction of any offense substantially related to the qualifications,
21 functions, or duties of a physician and surgeon constitutes unprofessional conduct
22 within the meaning of this chapter. The record of conviction shall be conclusive
23 evidence only of the fact that the conviction occurred.

24 (b) The district attorney, city attorney, or other prosecuting agency shall notify
25 the Division of Medical Quality of the pendency of an action against a licensee
26 charging a felony or misdemeanor immediately upon obtaining information that the
27 defendant is a licensee. The notice shall identify the licensee and describe the crimes
28 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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1 10. Section 2261 of the Code states:

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

4 11. Section 490 of the Code states:

5 (a) In addition to any other action that a board is permitted to take against a
6 licensee, a board may suspend or revoke a license on the ground that the licensee has
7 been convicted of a crime, if the crime is substantially related to the qualifications,
8 functions, or duties of the business or profession for which the license was issued.

8 (b) Notwithstanding any other provision of law, a board may exercise any
9 authority to discipline a licensee for conviction of a crime that is independent of the
10 authority granted under subdivision (a) only if the crime is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the
12 licensee's license was issued.

11 (c) A conviction within the meaning of this section means a plea or verdict of
12 guilty or a conviction following a plea of nolo contendere. Any action that a board is
13 permitted to take following the establishment of a conviction may be taken when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on
15 appeal, or when an order granting probation is made suspending the imposition of
16 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
17 the Penal Code.

15 (d) The Legislature hereby finds and declares that the application of this section
16 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
17 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
18 number of statutes and regulations in question, resulting in potential harm to the
19 consumers of California from licensees who have been convicted of crimes.
20 Therefore, the Legislature finds and declares that this section establishes an
21 independent basis for a board to impose discipline upon a licensee, and that the
22 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
23 constitute a change to, but rather are declaratory of, existing law.

20 **COST RECOVERY**

21 12. Section 2497.5 of the Code states:

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

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

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

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

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

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

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

18 FACTUAL ALLEGATIONS

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

24 14. Following an investigation, the Board learned that the Information was filed on April
25 6, 2018, in the case of *United States of America v. Paul J. Brody*, United States District Court for
26 the Central District of California, case number 2:18-cr-00188 CAS.¹ Respondent was charged
27 with violating 18 United States Code section 1341 and 18 United States Code section 2,
28 subdivision (h), a felony.

15 15. The facts alleged in the Information state that Respondent, the owner of Culver City
16 Surgical, and other defendants, knowingly and with intent to defraud, devised, executed and
17 participated in a plan to obtain money and property from a health care benefit plan established by
18 The International Longshoremen's and Warehousemen's Union-Pacific Maritime Association

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

1 Welfare Plan (ILWU-PMA Plan). That health care plan was established for the benefit of eligible
2 active and retired ILWU members, their qualified dependents and survivors.

3 16. Respondent paid kickbacks to the owners and operators of Port Medical Clinics
4 located in Long Beach and San Pedro, California, for ILWU-PMA Plan member referrals.
5 Respondent paid and caused others at Port Medical Clinics to pay cash to ILWU-PMA Plan
6 members² to receive medical procedures at Culver City Surgical. Respondent submitted claims
7 for reimbursement for services that were provided at Culver City Surgical to the ILWU-PMA
8 Plan.

9 17. Respondent knowingly concealed from the ILWU-PMA Plan material facts, including
10 that he paid kickbacks to the owners and operators of Port Medical Clinics for the ILWU-PMA
11 Plan member referrals, including Patient 1, and Respondent caused others to pay remuneration to
12 ILWU-PMA Plan members to induce them to receive medical procedures at his surgery center,
13 Culver City Surgical.

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

20 19. On or about August 14, 2018, Respondent waived indictment.

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

23 21. On or about August 25, 2021, Respondent was sentenced.

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of a Substantially Related Crime)

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

6 23. The facts and allegations set forth in paragraphs 13 through 21 above, are
7 incorporated herein by reference as if fully set forth.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Dishonest and Corrupt Acts)

10 24. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under Code section
11 2234, subdivision (e), in that he engaged in dishonest and corrupt acts. The circumstances are as
12 follows:

13 25. The facts and allegations set forth in paragraphs 13 through 21 above, are
14 incorporated herein by reference as if fully set forth.

15 **THIRD CAUSE FOR DISCIPLINE**

16 (False Representations-Unprofessional Conduct)

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

21 27. The facts and allegations set forth in paragraphs 13 through 21 above, are
22 incorporated herein by reference as if fully set forth.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 28. Respondent Paul J. Brody, D.P.M. is subject to disciplinary action under Code section
26 2234, in that he committed unprofessional conduct.

27 29. The facts and allegations set forth in paragraphs 13 through 21 above, are
28 incorporated herein by reference as if fully set forth.

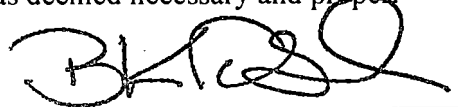
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PRAYER

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

1. Revoking or suspending Podiatrist License Number DPM 2963, issued to Paul J. Brody, D.P.M.;
2. Ordering Paul J. Brody, D.P.M. to pay the Podiatric Medical Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5;
3. Ordering Paul J. Brody, D.P.M., if placed on probation, to pay the Podiatric Medical Board the costs of probation monitoring; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: SEP 10 2021



BRIAN NASLUND
Executive Officer
Podiatric Medical Board
Department of Consumer Affairs
State of California
Complainant

LA2019504274