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

12 In the Matter of the Accusation Against:

Case No. 800-2023-095237

13 **GREGORY ADAM BARME, M.D.**  
14 **2999 Regent Street, Suite 612**  
**Berkeley, CA 94705-2121**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 79030,**

Respondent.

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18  
19 **PARTIES**

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

23 2. On or about May 8, 2002, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 79030 to Gregory Adam Barme, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on May 31, 2026, unless renewed.

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**JURISDICTION**

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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 2004 of the Code states:

6           The board shall have the responsibility for the following:

7           (a) The enforcement of the disciplinary and criminal provisions of the Medical  
8 Practice Act.

9           (b) The administration and hearing of disciplinary actions.

10          (c) Carrying out disciplinary actions appropriate to findings made by a panel or  
an administrative law judge.

11          (d) Suspending, revoking, or otherwise limiting certificates after the conclusion  
12 of disciplinary actions.

13          (e) Reviewing the quality of medical practice carried out by physician and  
surgeon certificate holders under the jurisdiction of the board.

14          (f) Approving undergraduate and graduate medical education programs.

15          (g) Approving clinical clerkship and special programs and hospitals for the  
16 programs in subdivision (f).

17          (h) Issuing licenses and certificates under the board's jurisdiction.

18          (i) Administering the board's continuing medical education program.

19       5.    Section 2227 of the Code states:

20           (a) A licensee whose matter has been heard by an administrative law judge of  
21 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
22 Code, or whose default has been entered, and who is found guilty, or who has entered  
into a stipulation for disciplinary action with the board, may, in accordance with the  
provisions of this chapter:

23           (1) Have his or her license revoked upon order of the board.

24           (2) Have his or her right to practice suspended for a period not to exceed one  
year upon order of the board.

25           (3) Be placed on probation and be required to pay the costs of probation  
26 monitoring upon order of the board.

27           (4) Be publicly reprimanded by the board. The public reprimand may include a  
28 requirement that the licensee complete relevant educational courses approved by the  
board.

1 (5) Have any other action taken in relation to discipline as part of an order of  
probation, as the board or an administrative law judge may deem proper.

2 (b) Any matter heard pursuant to subdivision (a), except for warning letters,  
3 medical review or advisory conferences, professional competency examinations,  
4 continuing education activities, and cost reimbursement associated therewith that are  
5 agreed to with the board and successfully completed by the licensee, or other matters  
6 made confidential or privileged by existing law, is deemed public, and shall be made  
7 available to the public by the board pursuant to Section 803.1.

## 8 STATUTORY PROVISIONS

9 6. Section 2234 of the Code, states:

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

13 (a) Violating or attempting to violate, directly or indirectly, assisting in or  
14 abetting the 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  
17 negligent acts or omissions. An initial negligent act or omission followed by a  
18 separate and distinct departure from the applicable standard of care shall constitute  
19 repeated negligent acts.

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

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

28 (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.

1 (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.

2 7. Section 2239 of the Code states:

3 (a) The use or prescribing for or administering to himself or herself, of any  
4 controlled substance; or the use of any of the dangerous drugs specified in Section  
5 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous  
6 or injurious to the licensee, or to any other person or to the public, or to the extent that  
7 such use impairs the ability of the licensee to practice medicine safely or more than  
one misdemeanor or any felony involving the use, consumption, or  
self-administration of any of the substances referred to in this section, or any  
combination thereof, constitutes unprofessional conduct. The record of the  
conviction is conclusive evidence of such unprofessional conduct.

8 (b) A plea or verdict of guilty or a conviction following a plea of nolo  
9 contendere is deemed to be a conviction within the meaning of this section. The  
10 Medical Board may order discipline of the licensee in accordance with Section 2227  
11 or the Medical Board may order the denial of the license when the time for appeal has  
12 elapsed or the judgment of conviction has been affirmed on appeal or when an order  
13 granting probation is made suspending imposition of sentence, irrespective of a  
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing  
such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or  
setting aside the verdict of guilty, or dismissing the accusation, complaint,  
information, or indictment.

14 8. Section 2242 of the Code states:

15 (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section  
16 4022 without an appropriate prior examination and a medical indication, constitutes  
17 unprofessional conduct. An appropriate prior examination does not require a  
18 synchronous interaction between the patient and the licensee and can be achieved  
through the use of telehealth, including, but not limited to, a self-screening tool or a  
questionnaire, provided that the licensee complies with the appropriate standard of  
care.

19 (b) No licensee shall be found to have committed unprofessional conduct within  
20 the meaning of this section if, at the time the drugs were prescribed, dispensed, or  
furnished, any of the following applies:

21 (1) The licensee was a designated physician and surgeon or podiatrist serving in  
22 the absence of the patient's physician and surgeon or podiatrist, as the case may be,  
23 and if the drugs were prescribed, dispensed, or furnished only as necessary to  
maintain the patient until the return of the patient's practitioner, but in any case no  
longer than 72 hours.

24 (2) The licensee transmitted the order for the drugs to a registered nurse or to a  
25 licensed vocational nurse in an inpatient facility, and if both of the following  
conditions exist:

26 (A) The practitioner had consulted with the registered nurse or licensed  
27 vocational nurse who had reviewed the patient's records.

28 (B) The practitioner was designated as the practitioner to serve in the absence  
of the patient's physician and surgeon or podiatrist, as the case may be.

1 (3) The licensee was a designated practitioner serving in the absence of the  
2 patient's physician and surgeon or podiatrist, as the case may be, and was in  
3 possession of or had utilized the patient's records and ordered the renewal of a  
4 medically indicated prescription for an amount not exceeding the original prescription  
5 in strength or amount or for more than one refill.

6 (4) The licensee was acting in accordance with Section 120582 of the Health  
7 and Safety Code.

8 9. Section 822 of the Code states:

9 If a licensing agency determines that its licentiate's ability to practice his or her  
10 profession safely is impaired because the licentiate is mentally ill, or physically ill  
11 affecting competency, the licensing agency may take action by any one of the  
12 following methods:

13 (a) Revoking the licentiate's certificate or license.

14 (b) Suspending the licentiate's right to practice.

15 (c) Placing the licentiate on probation.

16 (d) Taking such other action in relation to the licentiate as the licensing agency  
17 in its discretion deems proper.

18 The licensing section shall not reinstate a revoked or suspended certificate or  
19 license until it has received competent evidence of the absence or control of the  
20 condition which caused its action and until it is satisfied that with due regard for the  
21 public health and safety the person's right to practice his or her profession may be  
22 safely reinstated.

23 10. Health and Safety Code § 11152 states: No person shall write, issue, fill, compound,  
24 or dispense a prescription that does not conform to this division.

25 11. Health and Safety Code § 11153 states:

26 (a) A prescription for a controlled substance shall only be issued for a  
27 legitimate medical purpose by an individual practitioner acting in the usual course of  
28 his or her professional practice. The responsibility for the proper prescribing and  
dispensing of controlled substances is upon the prescribing practitioner, but a  
corresponding responsibility rests with the pharmacist who fills the prescription.  
Except as authorized by this division, the following are not legal prescriptions: (1) an  
order purporting to be a prescription which is issued not in the usual course of  
professional treatment or in legitimate and authorized research; or (2) an order for an  
addict or habitual user of controlled substances, which is issued not in the course of  
professional treatment or as part of an authorized narcotic treatment program, for the  
purpose of providing the user with controlled substances, sufficient to keep him or her  
comfortable by maintaining customary use.

(b) Any person who knowingly violates this section shall be punished by  
imprisonment pursuant to subdivision(h) of Section 1170 of the Penal Code, or in a  
county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars  
(\$20,000), or by both that fine and imprisonment.

(c) No provision of the amendments to this section enacted during the second

1 year of the 1981-82 Regular Session shall be construed as expanding the scope of  
2 practice of a pharmacist.

### 3 COST RECOVERY

4 12. Section 125.3 of the Code states:

5 (a) Except as otherwise provided by law, in any order issued in resolution of a  
6 disciplinary proceeding before any board within the department or before the  
7 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the  
8 administrative law judge may direct a licensee found to have committed a violation or  
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
10 investigation and enforcement of the case.

11 (b) In the case of a disciplined licensee that is a corporation or a partnership, the  
12 order may be made against the licensed corporate entity or licensed partnership.

13 (c) A certified copy of the actual costs, or a good faith estimate of costs where  
14 actual costs are not available, signed by the entity bringing the proceeding or its  
15 designated representative shall be prima facie evidence of reasonable costs of  
16 investigation and prosecution of the case. The costs shall include the amount of  
17 investigative and enforcement costs up to the date of the hearing, including, but not  
18 limited to, charges imposed by the Attorney General.

19 (d) The administrative law judge shall make a proposed finding of the amount  
20 of reasonable costs of investigation and prosecution of the case when requested  
21 pursuant to subdivision (a). The finding of the administrative law judge with regard  
22 to costs shall not be reviewable by the board to increase the cost award. The board  
23 may reduce or eliminate the cost award, or remand to the administrative law judge if  
24 the proposed decision fails to make a finding on costs requested pursuant to  
25 subdivision (a).

26 (e) If an order for recovery of costs is made and timely payment is not made as  
27 directed in the board's decision, the board may enforce the order for repayment in any  
28 appropriate court. This right of enforcement shall be in addition to any other rights  
the board may have as to any licensee to pay costs.

(f) In any action for 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.

(g) (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 the unpaid  
costs.

(h) All costs recovered under this section shall be considered a reimbursement  
for costs incurred and shall be deposited in the fund of the board recovering the costs  
to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of  
the costs of investigation and enforcement of a case in any stipulated settlement.

1 (j) This section does not apply to any board if a specific statutory provision in  
2 that board's licensing act provides for recovery of costs in an administrative  
3 disciplinary proceeding.

3 **FACTUAL ALLEGATIONS**

4 13. Respondent is a board-certified urologist who practices at Golden Gate Urology, Inc.  
5 (Golden Gate) in Berkeley, California. Respondent previously worked at The Surgery Center of  
6 Alta Bates Summit Medical Center (The Surgery Center) in Oakland, California.

7 14. On or about November 14, 2022, the Surgery Center received a patient complaint  
8 about Respondent. According to the complaint, a patient was scheduled for surgery with  
9 Respondent on or about November 14, 2022. The night before surgery, on or about November  
10 13, 2022, Respondent requested that the patient bring in all of his medications, including the  
11 hydrocodone prescribed by Respondent, to the Surgery Center for medication reconciliation.

12 15. While waiting in the pre-operative waiting room, Respondent presented and took all  
13 of the patient's medications, indicating that he needed to input the medications into the system.  
14 Respondent later returned and gave the patient his medications back.

15 16. Upon returning home, the patient counted his hydrocodone pills and noticed that only  
16 29 of the 40 prescribed pills were still in the bottle. The patient immediately contacted the  
17 pharmacy and the Surgery Center to discuss the discrepancy.

18 17. Respondent stated that the 11 missing pills were found in the facility, and were  
19 strewn all over the pre-operative waiting room floor. Respondent indicated that he would dispose  
20 of the pills. However, a picture of the missing pills was requested and provided before disposal.

21 18. It was determined that the 11 missing pills were not from the patient's prescribed  
22 bottle, and were from a different lot.

23 19. On or about December 14, 2022, the Surgery Center initiated an investigation into the  
24 matter. On or about January 22, 2023, Respondent requested a medical leave of absence from the  
25 Surgery Center.

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1           32. According to Respondent's Controlled Substance Utilization Review and Evaluation  
2 System (CURES) prescriber history report, Respondent prescribed hydrocodone-acetaminophen  
3 to C.T., for his personal use, on about 33 occasions between July 2021 and January 2023.

4           33. Respondent did not document any justification for prescribing C.T. the substances,  
5 and retrieved each prescription from C.T. after she picked them up from the pharmacy.

6 **S.W.**

7           34. S.W. previously worked at Golden Gate. S.W. and Respondent had a working  
8 relationship and S.W. was never a patient of Respondent's.

9           35. According to Respondent's CURES prescriber history report, Respondent prescribed  
10 hydrocodone-acetaminophen to S.W., for his personal use, on about 15 occasions between  
11 February 2022 and January 2023.

12           36. Respondent did not document any justification for prescribing S.W. the substances,  
13 and retrieved each prescription from S.W. after she picked them up from the pharmacy.

14           37. Respondent's actions as detailed in paragraphs 29 through 36, above, whether proven  
15 individually, jointly, or in any combination thereof, constitute violations of Code section 2242,  
16 subdivision (a), and Health and Safety Code sections 11152 and 11153, subdivision (a).  
17 Therefore, cause for discipline exists.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20           38. Respondent Gregory Adam Barne, M.D. is subject to disciplinary action under Code  
21 section 2234 in that Respondent engaged in unprofessional conduct. The circumstances are as  
22 follows:

23           39. The allegations in the Second and Third Causes for Discipline are incorporated herein  
24 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 Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 79030, issued to Respondent Gregory Adam Barne, M.D.;
2. Revoking, suspending or denying approval of Respondent Gregory Adam Barne, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Gregory Adam Barne, 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:                     JUN 03 2024                    

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

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