State of Rhode Island
Department of Health
Board of Medical Licensure and Discipline

IN THE MATTER OF:
Mark Brody, MD
License No.: MD 08028
Case No.: 201841

CONSENT ORDER

Mark Brody, MD ("Respondent") is licensed as a physician in Rhode Island. The Rhode Island Board of Medical Licensure and Discipline ("Board") has reviewed and investigated the above-referenced complaint pertaining to Respondent through its Investigative Committee. The Board makes the following

FINDINGS OF FACT

1. On December 30, 2020, the Board received complaint C201841 from a physician ("Complainant") who was concerned about a letter, purportedly written by Respondent and sent to Respondent's patients, which letter the Complainant worried posed a public health risk.

2. Board staff emergently reviewed the complaint and a subpoena was issued for Respondent to appear before the Investigative Committee on January 7, 2021.

3. Respondent's apparently unsolicited letter to his patients, which was included with Complainant's complaint and is attached hereto as Exhibit A, addresses the then forthcoming "release of the COVID-19 vaccination," presumably referring to the Moderna and Pfizer-BioNTech vaccines, and communicates that Respondent "will not be administering this

vaccination to anyone" and advises "all [Respondent's] patients not to accept the coronavirus vaccine at the time, regardless of who the manufacturer is, and what you may be told by those who may want to persuade you to take it." The balance of the letter sets forth Respondent's justification for his position.

4. On January 7, 2021, Respondent appeared before the Investigative Committee, as required, at which time he acknowledged sending the letter to his patients and stood by the assertions and justification contained therein.

5. Mindful of Respondent's First Amendment Rights, the Investigative Committee noted that Respondent's letter to his patients communicated advise to his patients and constituted the practice of medicine and that multiple assertions contained within the letter and repeated to the Investigative Committee were, on the whole, misinformed, revealing a general lack of expertise in the field, and, in several instances, were patently false.

6. For example, Respondent advised his patients, "*Given the news and previously untested RNA technologies being employed with this vaccination, and preliminary scientific evidence, there exists the possibility of sterilizing all females in the population who receive the vaccination, disrupting recipient's DNA, which controls and regulates who and what we are, and other unpredictable long term health consequences.*"

7. The Investigative Committee asked Respondent for the basis of this assertion, specifically inquiring whether support for the assertion was obtained from peer reviewed literature or another trustworthy source. Respondent, in his reply, referenced a media report linked to a British physician named Michael Yeadon, which report had been deemed fake. Moreover, Dr. Yeadon has a history of spreading disinformation, and claims of his have been widely discredited. Further, the Investigative Committee determined that Respondent assertion revealed

Respondent's lack of a basic understanding of molecular biology, which is a core subject for any medical student.

8. Another example of a patently false statement, Respondent stated, "*Whether coming from greed, politics or ignorance, authorities within government and the media have become untethered from science in promoting a poorly and inadequately tested product, which they wish to inject into you without having verified what it is their responsibility to verify that the vaccine is safe and effective.*" The Investigative Committee determined that these two vaccines, manufactured by Pfizer-BioNTech and Moderna, went through the same Phase 1, 2 and 3 clinical trials as all other vaccines. The phase 3 clinical trials had 30,000 patients in each trial. Each vaccine was determined to be safe and effective. Each vaccine was also recommended by the Advisory Committee on Immunization Practices ("ACIP").

9. Another statement presented as opinion is dangerously misleading because it based upon the unsupported and objectively false premise that the development approval process for the vaccines is deficient. Respondent opined, "*In all honesty, I doubt this vaccine will pass scientific muster during the experiment that is presently being conducted on the people of the world, and even if it did, science would still need to demonstrate the vaccine is superior in safety and efficacy to other well established and widely employed treatments which are clinically demonstrated safety and efficacy. I foresee serious troubles ahead with this vaccination, or at least the possibility of them for the health of our species, and feel it is well-nigh an on to alert the population about the risks of this ill-considered experiment.*"

10. Tellingly, when asked to explain this statement Respondent said, among other things, that Vitamin C and Vitamin D are safer and more effective than the vaccine. Respondent did not and could provide support for this assertion as it is absolutely false; Vitamin C and Vitamin D will

not prevent and are not treatments for COVID-19. The Investigative Committee again noted Respondent's lack of expertise in the field.

11. Further evidence of Respondent's having formed his opinions on insufficient or incorrect information was revealed in Respondent's statements to the Investigative Committee to the effect that the parties administering the COVID-19 vaccines are doing so without informed patient consent. Again, Respondent's assertion is predicated upon the false premise that the development and approval process for the vaccines is deficient. The Investigative Committee noted that, prior to vaccination, patients are given an Emergency Use Fact Sheet approved by the Food and Drug Administration ("FDA") and that patients are fee to decide whether to be vaccinated.

12. Similarly, Respondent remarked to the Investigative Committee that "several people have died from the vaccine," which assertion is patently false; though a small number of individuals have had allergic reactions to the vaccines, no one has died as a result of the vaccines.

13. Similarly, Respondent repeated multiple times the unsupported assertion that there is a lack of adequate scientific data relative to the vaccines and dismissed as a government conspiracy the recommendations of the Centers for Disease Control and Prevention ("CDC") and the Emergency Use Authorization ("EUA") of FDA.

14. Respondent stated that he trained in child and adult psychiatry at Brown, which he practiced for approximately nine years, but that he has practiced integrated medicine for the approximately the last 21 years. Respondent was unable to reference any peer reviewed studies to support his claims and was unaware of common peer reviewed studies performed relative to the two vaccines. Respondent stated multiple times that he gets his information from various media sources, though not mainstream media. He admitted that he did not attend RIDOH's

Pandemic Update for Provider calls, which occur every other week and are accredited for Continuing Medical Education ("CME") by the Brown School of Medicine.

15. The Board obtained an opinion from an expert in infectious diseases about Respondent's letter. The expert opined, "*It is unreasonable to say that there is no science and no data on the safety of the vaccine. Tens of thousands of people have now been vaccinated with the Moderna and Pfizer vaccines with very few serious reactions (i.e. anaphylaxis). It is typical to continue to monitor vaccines post-marketing in case any additional reactions arise (which we have not observed to date, evaluation is ongoing and is normal and typical of any medical device/medication/vaccine). What is most concerning to me is this statement: 'Given the new and previously untested RNA technologies being employed with this vaccination, and preliminary scientific evidence, there exists the possibility of sterilizing all females in the population who receive the vaccination, disrupting recipients' DNA, which controls and regulates who and what we are, and other unpredictable long term health consequences.' This is propagation of misinformation which is generally used by anti-vaccination campaigns (i.e., sterilization). In my opinion, it is incredibly damaging to undermine the public's trust in these vaccines using these approaches. It's one thing to say that more data may be needed, and another to propagate misinformation. It is also sad that this is being compared to 'Nazi experiments in World War II' and 'Tuskegeee.' This is going to undermine trust in populations that are most at-risk of COVID-19.*"

16. The Investigative Committee noted Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV2) which causes Coronavirus disease 2019 ("COVID-19") is a global pandemic. The first patient in Rhode Island was identified on February 28, 2020 and as of February 15, 2021 Rhode Island has had 121,787 positive cases, with 2,334 deaths attributed to COVID-19.

Currently there are 305 people in Rhode Island hospitalized with COVID-19. It is widely asserted in Rhode Island, the United States, and the world that the only way to recover from the pandemic is a safe and effective vaccine.

17. The Investigative Committee noted that the FDA granted an EUA for both vaccines. Per the FDA, an EUA "*is a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the current COVID-19 pandemic. Under an EUA, FDA may allow the use of unapproved medical products, or unapproved uses of approved medical products in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions when certain statutory criteria have been met, including that there are no adequate, approved, and available alternatives. Taking into consideration input from the FDA, manufacturers decide whether and when to submit an EUA request to FDA. Once submitted, FDA will evaluate an EUA request and determine whether the relevant statutory criteria are met, taking into account the totality of the scientific evidence about the vaccine that is available to FDA.*"

18. Both vaccines have undergone traditional Phase 1, 2 and 3 clinical trials that were deemed successful after testing in tens of thousands of individuals. The FDA does continue to evaluate vaccines approved by an EUA.

19. There are surveillance systems in the United States to assess vaccine safety. One such system is the Vaccine Adverse Event Reporting System ("VAERS"). This system allows health care providers and others to submit reports about vaccine safety or concerns. Additionally, the CDC also established a mobile phone-based system called V-Safe which allows recipients to report concerns regarding receiving a medical countermeasure, such as a COVID-19 vaccine, and offers reminders for the need for a second dose and other helpful information.

20. Based on the foregoing, the Investigative Committee determined that Respondent violated R.I. Gen. Laws § 5-37.5.1(19), which defines "unprofessional conduct" as including, "*[i]ncompetent, negligent, or willful misconduct in the practice of medicine, which includes the rendering of medically unnecessary services, and any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing medical practice in his or her area of expertise as is determined by the board.*" Respondent's letter to his patients constitutes the practice of medicine and that letter was predicated upon misleading and false information. Further, the letter revealed Respondent's concerning lack of knowledge of basic medicine. Furthermore, the Investigative Committee determined that Respondent's confident and deliberate adherence to and repetition of the false claims, despite lack of expertise in the field, is likely to harm his patients to whom he has decidedly not presented to his patients a balanced discussion of the risks and benefits of the vaccines.

Based on the foregoing, the parties agree as follows:

1. Respondent admits to and agrees to remain under the jurisdiction of the Board.

2. Respondent has agreed to this Consent Order and understands that it is subject to final approval of the Board and is not binding on Respondent until final ratification by the Board.

3. If ratified by the Board, Respondent hereby acknowledges and waives:

a. The right to appear personally or by counsel or both before the Board;

b. The right to produce witnesses and evidence on his behalf at a hearing;

c. The right to cross examine witnesses;

d. The right to have subpoenas issued by the Board;

e. The right to further procedural steps except for those specifically contained herein;

f. Any and all rights of appeal of this Consent Order;

g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review; and

h. Any objection to the fact that this Consent Order will be reported to the National Practitioner Data Bank and Federation of State Medical Boards and posted to the RIDOH public website.

4. Respondent agrees to pay, within 5 days of the ratification of this Consent Order, an administrative fee of $1100.00 for costs associated with investigating the above-referenced complaint. Such payment shall be made by certified check, made payable to "**Rhode Island General Treasurer**," and sent to Rhode Island Department of Health, 3 Capitol Hill, Room 205, Providence, RI 02908, Attn: Lauren Lasso. Respondent will send notice of compliance with this condition to within 30 days of submitting the above-referenced payment.

5. Respondent hereby agrees to a formal reprimand being made against his physician license, with such reprimand constituting a disciplinary action.

6. Respondent agrees to successfully pass the CPEP Probe course, as described here:

7. Respondent's failure to successfully pass the CPEP Probe course by the end of 2021 (or by the scheduled completion time of the first-available course, if the first-available course is not scheduled to complete within 2021) shall result in the suspension of Respondent's license effective January 1, 2022, and Respondent shall not approach the Board for reinstatement until providing satisfactory evidence of successfully passing said course.

8. If Respondent violates any term of this Consent Order after it is signed and accepted, the Director of RIDOH ("Director") shall have the discretion to impose further disciplinary action,

including immediate suspension of Respondent's medical license. If the Director imposes further disciplinary action, Respondent shall be given notice and shall have the right to request within 20 days of the suspension and/or further discipline an administrative hearing. The Director shall also have the discretion to request an administrative hearing after notice to Respondent of a violation of any term of this Consent Order. The Administrative Hearing Officer may suspend Respondent's license, or impose further discipline, for the remainder of Respondent's licensing period if the alleged violation is proven by a preponderance of evidence.

[SIGNATURE PAGE FOLLOWS]

Signed this 11th day of March, 2021.

Mark Brody, MD

Ratified by the Board of Medical Licensure and Discipline on the 14th day of April, 2021.

Nicole Alexander-Scott, MD, MPH
Director
Rhode Island Department of Health
3 Capitol Hill, Room 401
Providence, RI 02908

Acting Director