

June 22, 2022

DC Board of Medicine  
899 North Capitol Street, NE  
Second Floor  
Washington, DC 20002

To Whom It May Concern:

Our law firm represents [REDACTED], an individual who visited the Washington Surgi-Clinic on January 20, 2022. Ms. [REDACTED] visited the clinic to discuss medical options for her pregnancy, including whether an abortion would be safe. During this visit, Ms. [REDACTED] learned that she could only obtain a medical consultation with Dr. Cesare Santangelo after she agreed to ingest Xanax—a popular benzodiazepine.

Live Action, a non-profit organization, recently published a report containing the details of this visit. The footage behind this report is located here: [https://youtu.be/m\\_5L78arekw](https://youtu.be/m_5L78arekw). At the 09:54 mark, Ms. [REDACTED] asks the staff at Surgi-Clinic if ingestion of Xanax would “affect . . . my clarity of thinking” to which the staff responds, “It shouldn’t.” And at the 10:13 mark, when Ms. [REDACTED] asks to speak with the doctor before any procedure, she is informed that Xanax must be “in your system before you talk to the doctor.”

Because the mandatory ingestion of benzodiazepines prior to medical consultation raises important questions about informed consent and cognitive impairment, we write asking that you conduct an investigation into the practices of Dr. Santangelo and Surgi-Clinic.

### **Relevant Legal and Ethical Considerations**

D.C. Administrative Code § 4612.7 provides that licensed physicians shall not “willfully or carelessly disregard the health, welfare, or safety of a patient.” Similarly, DC Administrative Code § 4612.8 provides that licensed physicians must abide by the “prevailing standards of acceptable medical practice as determined by the Board or a peer review panel appointed by the Board.”

The American Medical Association describes informed consent as “fundamental in both ethics and law.”<sup>1</sup> This includes the “right to receive information and ask questions about recommended treatments so [patients] can make well- considered decisions about care.”<sup>2</sup> In Washington, D.C.,

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<sup>1</sup> American Medical Association, Code of Ethics, Chapter 2, available at: <https://www.ama-assn.org/system/files/2019-06/code-of-medical-ethics-chapter-2.pdf>.

<sup>2</sup> *Id.*

[REDACTED]  
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informed consent is a duty owed by every physician to patients.<sup>3</sup> That includes the requirement that physicians inform patients about the consequences of treatment. It also includes the acknowledgement that every competent person has the right to “determine what shall be done with his own body.”<sup>4</sup> In Washington D.C., lack of informed consent may form the basis for legal actions sounding in medical malpractice or negligence.<sup>5</sup>

With these standards in mind, we believe there is probable cause for this Board to find a violation of governing ethical standards due a potential policy of administering a benzodiazepine prior to medical consultation.

### **Scientific Literature Suggests Xanax Administration Impairs Informed Consent**

Xanax or alprazolam belongs to the benzodiazepine (“BZ”) family as its “most frequently used drug.”<sup>6</sup> Often prescribed to treat panic disorder and generalized anxiety disorder, acute administration of Xanax risks “cognitive impairment<sup>7</sup>,” which includes “poor attention and anterograde amnesia<sup>8</sup>” as manifested by “difficulties learning new material.”<sup>9</sup>

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<sup>3</sup> *Miller-McGee v. Washington Hosp. Center*, 920 A.2d 430, 439 (D.C.App. 2007).

<sup>4</sup> *Id.*

<sup>5</sup> See, e.g., *Crain v. Allison*, 443 A.2d 558, 563-64 (D.C.App. 1982); *Wagner v. Georgetown Univ. Med. Ctr.*, 768 A.2d 546, 558 (D.C.App. 2001).

<sup>6</sup> Joris C. Verster, Edmund R. Volkerts & Marinus N. Verbaten, *Effects of Alprazolam on Driving Ability, Memory Functioning and Psychomotor Performance: A Randomized, Placebo-controlled Study*, 27 *Neuropsychopharmacology*, 260, 260 (2002) [hereinafter *Effects of Alprazolam on Driving Ability*].

<sup>7</sup> “Sedation, reduced alertness, drowsiness, sleepiness, confusion, and headache constitute the general side effects whereas poor attention and anterograde amnesia are thought to be [indicative of] cognitive impairment.” Zahid Sadek Chowdhury, *et al.*, *The Effect of Chronic Alprazolam Intake on Memory, Attention, and Psychomotor Performance in Healthy Human Male Volunteers*, *Behavioral Neurology*, June 2016, at 2 [hereinafter *Effect of Chronic Alprazolam Intake*].

<sup>8</sup> Anterograde amnesia is sometimes called “traveler’s amnesia” because “normal subjects ... [are] able to perform old tasks as usual (such as walking through an airport) but [are] unable to recall specific details that would have required the storage of new information.” Samantha A. Stewart, *The Effects of Benzodiazepines on Cognition*, 66 *J. CLIN. PSYCHIATRY* 9, 9 (2005).

<sup>9</sup> *Effect of Chronic Alprazolam Intake at 1*; Samantha A. Stewart, *The Effects of Benzodiazepines on Cognition*, 66 *J. Clin. Psychiatry* 9, 9 (2005) [hereinafter *Effects of Benzodiazepines on Cognition*].

Anterograde amnesia is an especially problematic side effect because patients “are relatively unaware of these memory impairments.”<sup>10</sup> Moreover, a few studies have demonstrated that BZs impair the ability of recipients to recall items from a list, as measured against placebo groups.<sup>11</sup> Similarly, “participants [dosed with BZs] show impaired ability to remember the details of a story, relative to the placebo.”<sup>12</sup>

Succinctly, the available data on Xanax bears relevance to medical consultation, as informed consent necessarily requires that patients acquire, store, and process new information concerning a proposed treatment. As the scholarly literature demonstrates, Xanax can limit the ability to process new information—such as the relative risks and benefits of a medical procedure—thereby likely vitiating norms of informed consent.<sup>13</sup>

### **Expert Medical Testimony**

Included with this complaint is declaration from Dr. C. Ben Mitchell, a Senior Fellow with the Center for Bioethics & Human Dignity. Dr. Mitchell also holds the Graves Chair of Moral Philosophy at Union University in Tennessee. Also included is a declaration from Dr. Christina Francis, a board-certified obstetrician/gynecologist who has performed thousands of procedures on women in her career. Both Dr. Mitchell and Dr. Francis have viewed the footage in question

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<sup>10</sup> *Cognitive and Sedative Effects of Benzodiazepine Use*, S.E. Buffett-Jerrott & S.H. Stewart, 8 CURRENT PHARMACEUTICAL DESIGN 45, 52 (2002) [hereinafter *Sedative Effects of Benzodiazepine*] (“it is the acquisition of new information, rather than storage or retrieval, that is affected by BZs”); see also *Effects of Alprazolam on Driving Ability* at 267 (“it is of concern that these patients were unable to judge their performance quality accurately, since this presumably leads to engagement in potentially dangerous activities such as driving”).

<sup>11</sup> See, e.g., F. Legrand, et al., *Time Course of the Effects of Diazepam and Lorazepam on Perceptual Priming and Explicit Memory*, 118 PSYCHOPHARMACOLOGY 475-79 (1995) [hereinafter *Time Course*]; see also Herbert J. Weingartner, et al., *Triazolam-induced Changes in Alcoholic Thought Processes*, 138 PSYCHOPHARMACOLOGY 311-17 (1998).

<sup>12</sup> *Sedative Effects of Benzodiazepine*; see, e.g., M.E.E. Gorissen, H.V. Curran & P.A.T.M. Eling, *Proactive Interference and Temporal Context Encoding after Diazepam Intake*, 138 PSYCHOPHARMACOLOGY 334-43 (1998) [hereinafter *Proactive Interference*].

<sup>13</sup> Because it is abnormal to require use of benzodiazepines prior to consultation, caselaw on the subject is sparse. One Florida court, however, allowed the testimony of Dr. Garrod, which noted that “typically if a patient was administered any narcotic or has any alcohol level or any other elicit drug, it is not appropriate to get informed consent from that person because, for obvious reasons, his judgment is impaired.” *Gouveia v. Phillips*, 823 So.2d 215, 220 (Fla.App.2002).

and have attested that the mandatory use of Xanax before medical consultation likely violate standards of informed consent and form the basis for an investigation here.<sup>14</sup>

**An Investigation Should Commence to Determine if Dr. Santangelo and Surgi-Clinic Violated Norms of Informed Consent**

Demanding that a patient ingest a mind-altering substance, Xanax, before proceeding to a full medical consultation with a physician raises grave concerns. As studies on Xanax demonstrate, the medicine can trigger cognitive impairment, anterograde amnesia, and severe impairment impacting the ability of a patient to acquire new information.<sup>15</sup> Based on the declarations of Dr. Mitchell and Dr. Francis, it is difficult to believe that use of benzodiazepines prior to medical consultation constitutes the responsible practice of medicine.

Licensed physicians in Washington, D.C. must not “willfully or carelessly disregard the health, welfare, or safety of a patient.” Similarly, licensed physicians must abide by the “prevailing standards of acceptable medical practice as determined by the Board or a peer review panel appointed by the Board.” It remains clear that Xanax triggers “poor attention and anterograde amnesia” as manifested by “difficulties learning new material” for many patients.<sup>16</sup> Willfully administering Xanax *prior to a full medical consultation* appears to be a negligent, if not reckless, practice of medicine. It also appears highly unlikely that introducing benzodiazepines before said consultation is a prevailing standard of acceptable medical practice. At a bare minimum, physicians licensed to practice medicine in Washington, D.C. should ensure that patients are competent to acquire, store, and process new information concerning a proposed treatment. Demanding that patients ingest mind-altering medicine before weighing benefits and drawbacks of a given procedure directly contradicts the practice of responsible, ethical medicine. Because of this, we ask that the Board begin an investigation into Dr. Santangelo and Surgi-Clinic and whether the practice of requiring use of benzodiazepines prior to medical consultation warrants the imposition of sanctions or disciplinary action here.

The D.C. Health Occupations Revision Act of 1985, codified at D.C. Code § 2–3301.1 *et seq.*, was designed to “address modern advances and community needs with the paramount consideration of protecting the public interest.”<sup>17</sup> This paramount public interest is manifest here in the complaint before this Board in light of a licensed physician willfully administering Xanax

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<sup>14</sup> These are attached as exhibits A and B following this supplemental letter.

<sup>15</sup> *See, supra*, nn. 5-11.

<sup>16</sup> *See* n. 9.

<sup>17</sup> *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1088 (D.C.App. 1991) (quoting REPORT OF THE D.C. COUNCIL ON CONSUMER AND REGULATORY AFFAIRS ON BILL 6–317, at 7 (November 26, 1985)).

before informed consent may be obtained. We ask that you take this investigation seriously to protect other patients against this practice.

Should you have any questions or concerns, please feel free to be in contact with us. We appreciate your consideration of this request.

Sincerely,

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Benjamin Barr  
BARR & KLEIN PLLC

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[REDACTED]  
[REDACTED]

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Stephen Klein  
BARR & KLEIN PLLC

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