

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

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**BOARD OF MEDICINE**

**In Re: Dr. David Vargas Lowy, MD**

Docket No.: 25-MED-019

**NARRATIVE ORDER ON EMERGENCY  
SUSPENSION HEARING**

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**I. PARTICIPANTS:**

Board Members and Support Staff and Counsel:

Jonathan Eddinger, Board President and Member  
Marc Bertrand, Board Vice President and Member (remote)  
Daniel Frazee, Board Member  
Courtney Jones, Board Member  
Jonathan Ballard, Board Member (remote)  
Beatrice Engstrand, Board Member (remote)  
Nina Gardner, Board Member  
Linda Tatarczuch, Board Member

Alex Fisher, OPLC Board Administrator  
Cynthia Capodestria, OPLC Board Administrator  
Lindsay Britton, Esq., OPLC Board Counsel  
Elizabeth Eaton, Esq., OPLC Board Counsel

Presiding Officer:

Shane D. Goulet, Esq., OPLC Administrative Law Judge

Parties:

Michele Battaglia, Esq., OPLC Chief Administrative Prosecutor and Hearing Counsel  
Dr. David Vargas Lowy, Respondent/ Licensee

## **II. CASE SUMMARY/PROCEDURAL HISTORY:**

On 11/25/2025, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”) filed a “Verified Petition for Emergency Temporary Suspension of Licensure Pursuant to RSA 310:12, IV and N.H. Code Admin. R. Title Plc 206.07” (“Petition”) pertaining to David Vargas Lowy, MD (“Respondent/Licensee”). On 11/25/2025, the Presiding Officer and the New Hampshire Board of Medicine (“Board”) reviewed the Petition at an emergency meeting held pursuant to RSA 91-A:2, II, and subsequently suspended the Respondent’s license on an emergency basis pursuant to RSA 310:12, IV and N.H. Code Admin. R., Title Plc 206.07 (“Plc”) (“Rules”).

The Board held an adjudicative hearing on 12/03/25 to determine whether the Licensee presented an imminent threat to public health, safety, or welfare such that his license should remain suspended pending a full investigation and final adjudicative hearing. A Marginal Order issued on 12/04/2025 lifting the suspension of Respondent’s license. This full narrative order follows.

## **III. SUMMARY OF THE EVIDENCE AND EVIDENTIARY RULINGS:**

The Board received the following evidence pursuant to RSA 541-A:33 and Plc Rules 206.22 and 206.18(d):

A. Exhibits were submitted by Hearing Counsel, numbered as follows:

1. 2020-11-13 COMPLAINT-M.D.\_Redacted (HC0001-4)
2. 2020-11-25 COMPLAINT-Dr. Brownell (HC0005)
3. 2020-11-30 Vargas Lowy David M.D.- Order of Emergency License Suspension NOH (HC0006-11)
4. 2020-12-14 Vargas Lowy David M.D.- Order Lifting Suspension of License (HC0012-13)
5. 2021-05-18 Vargas Lowy LOC (HC0014)
6. 2025-05-07 Vargas Lowy Note-SS\_Redacted-F (HC0015-20) (SEALED)
7. 2025-06-16 Vargas Lowy Note-SS\_Redacted (HC0021-27) (SEALED)
8. 2025-07-21 Vargas Lowy Note-SS\_Redacted (HC0028-31) (SEALED)
9. 2025-09-19 COMPLAINT-MPD (HC0032-33)
10. 2025-09-21 Truebe Note-SS\_Redacted (HC0034-36) (SEALED)
11. 2025-11-13 COMPLAINT-Dr. Truebe (HC0037-39)
12. 2025-11-17 NPDB Vargas Lowy-2510\_Redacted (HC0040-49)

13. 2025-11-21 Vargas Lowy website (HC0050-60)
14. 2025-11-25 2025-BDMED-1048 David Vargas Lowy VP-Emerg (HC0061-69)
15. Interview of Dr. Truebe imo 2025-BDMED-1048-20251120\_130257 (video file) (SEALED)
16. 2025-12-01 Angela S Int 12 1 2025\_Redacted (HC0070-71)
17. 2025-11-20 Interview Summary of Dr. Truebe of (HC0072-75)
18. 2020-12-14 Pages HC0195-HC0199 from Transcript Emergency Hearing (HC00195-199)
19. Interview of Jennifer Waranowski, RN (Vargas-Lowy)-20251202\_100525-Meeting Recording (Video file) (SEALED)
20. Telephone notes (3)\_Redacted (HC0220-223) (SEALED)
21. 2025-07-21 VL note-missing pages\_Redacted (HC0224-229) (SEALED)

B. Exhibits were submitted by the Licensee and labeled as follows:

None.

C. Sworn testimony was received from:

1. Jennifer Waranowski, RN Elliot Pediatrics (appeared remotely)
2. Michael Porter, OPLC Investigations Bureau Chief
3. Dr. Sandra Truebe, MD, Elliot Pediatrics (appeared remotely)
4. Dr. David Vargas Lowy, MD, Respondent

#### **IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:**

The Respondent appeared in person for the emergency hearing in this matter. The hearing was held pursuant to RSA 310:12, IV with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). The Presiding Officer fully admitted Exhibits 1-21 by agreement of the parties. Exhibits were SEALED by the Presiding Officer in accordance with RSA 91-A:5, IV. Witness testimony was sworn to under oath.

The Board then heard evidence related to these inquiries as summarized below.

#### **HEARING COUNSEL'S CASE-IN-CHIEF:**

##### **Jennifer Waranowski, RN:**

Jennifer Waranowski was sworn in under oath and testified that she currently works for Elliot Pediatrics as a triage nurse. She has been a registered nurse for 20 years. Part of her responsibilities at

Elliot Pediatrics include fielding incoming calls from patients or their guardians for the purpose of providing an initial assessment of their needs. She documents every incoming call in real time and places those notes in the patient's records.

Ms. Waranowski testified that on 09/12/2025, Elliot Pediatrics received a call from patient S.S. that was ultimately sent to the triage pool with instruction to reach out to the patient regarding a medication question and a concern relative to a male provider. S.S. is a patient of Dr. Sandra Truebe, one of the physician providers at Elliot Pediatrics. Ms. Waranowski called S.S.'s family on 09/12/2025 and left a message. Ms. Waranowski ultimately made telephone contact with S.S.'s mother on 09/15/2025 and testified as to the contents of that phone call.

During the 09/15/2025 phone call, S.S.'s mother revealed that S.S. had attended an appointment with the Respondent (S.S.'s neurologist) in July of 2025. S.S.'s mother revealed that, during the July 2025 appointment, the Respondent indicated he wanted to listen to S.S.'s heart and he asked her to pull her shirt up. Upon learning this information, Ms. Waranowski requested that S.S. join the call so that Ms. Waranowski could learn from her what happened during the visit. S.S. joined the call and reiterated that the Respondent was listening to her heart when he requested that she pull her shirt up. S.S. then reported that the Respondent asked her to "pull her bra over." Ms. Waranoski inquired if "pull her bra over" meant that she pulled her bra over to the side or if it meant that she took her breast out of her bra. S.S. reported that the Respondent took her left breast out of her bra. Ms. Waranowski asked if her breast was touched by anything other than a stethoscope, to which S.S. replied that the Respondent touched her breast with his hand. S.S. denied being touched anywhere other than her breast. S.S. also reported that the Respondent kept telling her she was pretty and that he was getting distracted because she was pretty. S.S. stated she was uncomfortable. Ms. Waranowski noted the 09/15/2025 phone call with S.S. and her mother in the patient's medical notes. *See Exhibit 20.*

Ms. Waranowski explained that after the phone call with S.S. and her mother, she spoke to Dr. Sandra Truebe regarding S.S.'s disclosures. Ms. Waranowski testified that she and Dr. Truebe consulted Dr. Ulal who works for the child protective agency. She stated that Dr. Ulal informed them that they needed to contact DCYF and the Manchester Police Department. Ms. Waranowski explained that she and Dr. Truebe ultimately made reports to DCYF and the Manchester Police Department on 09/15/2025. Ms. Waranowski testified that she and Dr. Truebe called S.S. and her mother to inform them that they were mandated reporters who were required to report S.S.'s disclosure to DCYF and the Manchester Police Department. *See Exhibit 10.*

Upon cross-examination, Ms. Waranowski confirmed it was her understanding that S.S. did not want to make a formal case.

**Michael Porter, OPLC Investigations Bureau Chief:**

Investigator Porter was sworn under oath and testified in his capacity as the OPLC Division of Enforcement Investigations Bureau Chief. Investigator Porter testified that he has over 25 years' experience in conducting investigations. He testified that the OPLC Division of Enforcement received complaints involving the Respondent on 09/19/2025 and 11/13/2025. The 09/19/2025 complaint was filed by Detective Davenport of the Manchester Police Department. That complaint did not identify a specific patient, but it essentially mirrored the disclosure that was made to Ms. Waranowski by S.S. Investigator Porter testified that the 11/13/2025 complaint was filed by Dr. Truebe. Both complaints involved the alleged incident between Respondent and S.S in July of 2025.

In response to the complaints identified above, Investigator Porter and OPLC Investigator Eric Goulet initiated an investigation and reviewed the Respondent's prior disciplinary history. That review revealed that the Respondent had previously had his license suspended by the N.H. Board of Medicine on an emergency basis back in 2020. The allegations which gave rise to the 2020 emergency suspension

were similar to the conduct alleged by S.S. Investigator Porter acknowledged the 2020 emergency suspension was ultimately lifted after an adjudicative hearing and the disciplinary matter was subsequently dismissed. Investigator Porter testified that the Respondent was also issued a single letter of concern by the N.H. Board of Medicine in 2021 as a result of the Respondent's decision to resign from Dartmouth Hitchcock Medical Center while under investigation for alleged misconduct, separately for an incident where there was "perceived invasion of [a patient's mother's] personal space" by the Respondent. *See Exhibit 5.*

Investigator Porter testified that OPLC investigators interviewed Dr. Sandra Truebe and RN Jennifer Waranowski as part of OPLC's investigation into the alleged conduct by the Respondent. Investigator Porter stated that he conducted a brief telephone interview with S.S.'s mother (A.S.). Investigator Porter stated that A.S. relayed to him that S.S. attended her July 2025 appointment with the Respondent alone in an attempt to become more independent and that S.S. had never attended a medical appointment independently until the July 2025 appointment with the Respondent.

Investigator Porter testified that the OPLC Division of Enforcement subpoenaed the medical records from Elliot Pediatrics with respect to S.S.'s visits with the Respondent. The records indicated S.S. had previous appointments with the Respondent in May and June of 2025 which she attended with her mother. The records further revealed that the alleged incident occurred on 07/21/2025. Investigator Porter confirmed that the Respondent holds licensure in New Hampshire, New York, Maine, and Massachusetts.

Upon Board questioning, Investigator Porter clarified that the medical records subpoenaed from Elliot Pediatrics are in fact the medical records from the Respondent's practice that were then extracted into S.S.'s patient portal at Elliot Pediatrics.

**Dr. Sandra Truebe, Elliot Pediatrics:**

Dr. Truebe was sworn in under oath and testified. Dr. Truebe has been a pediatric physician at Elliot Pediatrics in Manchester, N.H. for the last 22 years. She reviewed her background, education, experience, and training associated with her expertise in the practice of medicine. Dr. Truebe testified that S.S. has been a patient of hers since S.S. was around 5 to 8 years of age. S.S. is now 17 years old. Dr. Truebe is very familiar with patient S.S.'s diagnoses and medications. Dr. Truebe testified that, regardless of S.S.'s diagnoses or prescribed medications, she has no concerns for S.S.'s ability to observe, narrate, remember, or report accurately. Dr. Truebe stated that she was aware that S.S. was seeing the Respondent as a neurology provider and confirmed that her office has the medical records from S.S.'s May, June, and July visits with the Respondent.

On 09/12/2025, Dr. Truebe was notified that S.S.'s mother wished to speak with her about an encounter that S.S. had with a male provider. Dr. Truebe forwarded the request to her triage nurses. She stated that Ms. Waranowski called the mother. Dr. Truebe testified that, after speaking with Ms. Waranowski, she and Ms. Waranowski called S.S.'s mother and notified her that, as mandated reporters, they needed to make reports regarding S.S.'s disclosures to DCYF and the police. Dr. Truebe documented her phone call with S.S.'s mother in the patient's profile. *See Exhibit 10.*

Dr. Truebe confirmed that she made reports to DCYF and the Manchester Police Department in September and subsequently filed a complaint with OPLC in November. *See Exhibit 11.* The substance of the November 2025 complaint to OPLC was generated by S.S.'s disclosure to Ms. Waranowski, as documented in the patient's medical records. *See Exhibit 20.* Dr. Truebe testified that she would never remove a patient's breast from a bra in order to listen to their heart. She stated that there is no clinical reason to remove a patient's breast from the bra.<sup>1</sup>

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<sup>1</sup> Upon cross-examination, Dr. Truebe was posed a question relative to the basis for S.S.'s referral to the Respondent. Hearing Counsel interjected that the answer would likely illicit privileged medical information from the witness. Respondent

## **NON-PUBLIC SESSION**

### **Dr. Sandra Truebe, Elliot Pediatrics:**

Dr. Truebe was subject to cross-examination and Board questions in non-public testimony relevant to patient S.S.'s medical history, diagnoses, prescribed medications, and the basis for her referrals to different providers, including the Respondent.<sup>2</sup>

## **PUBLIC SESSION**

### **RESPONDENT'S CASE-IN-CHIEF:**

#### **Dr. David Vargas Lowy:**

The Respondent was sworn in under oath and testified that this is his second time being before the N.H. Board of Medicine. The two occasions are substantially similar. He characterized the experience of being before the Board a second time as concerning and distressful.

The Respondent testified that he is extremely sorry for making patient S.S. feel uncomfortable. He stated that his approach to patient S.S. was not sexual, nor did it convey any sexual innuendo. The Respondent testified that patient S.S. required "this" type of examination. The Respondent testified that in order to perform a proper examination, some parts of the human anatomy need to be accessed. He described the examination as innocuous and appropriate. He reiterated that none of his explanation takes away from the fact that patient S.S. felt treated inappropriately during her first independent visit with a provider.

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agreed his line of questioning will illicit testimony relative to S.S.'s medical history, diagnoses, and prescribed medication. Based upon that representation, the Presiding Officer rendered the legal opinion that further questioning of Dr. Truebe, relative to the above referenced proffer, should be conducted in non-public session pursuant to RSA 91-A:5, IV. Subsequently, a quorum of the Board voted to enter non-public session consistent with the Presiding Officer's recommendation.

<sup>2</sup> The parties and the Board notified the Presiding Officer that they had no further questions related to patient S.S.'s privileged medical history, diagnoses, and prescribed medications for Dr. Truebe. A quorum of the Board voted to return to public session for the remainder of their questioning.



The Respondent testified that the cardiac examination he performed on patient S.S. was not simply just listening to the heart. He described it as a point “EKG examination” during which he used an “echo” stethoscope. The Respondent showed the Board his “echo” stethoscope and described the 3 electrodes contained on it. The Respondent stated that these electrodes require direct contact with a patient’s skin. He testified that this type of exam is a “rough” way to get an EKG reading. The exam required access to “cardinal” points, including the “apex.” Prior to performing this exam, the Respondent testified that he explains to patients what “we are doing.” He reiterated that S.S.’s diagnoses required this type of examination.

The Respondent adamantly denied taking patient S.S.’s breast out of her bra. He stated that he never puts his hand on a patient’s breast. The Respondent testified that when he performs the point EKG examination on patients, he asks the patient to move wire under the bra, without exposing the patient’s breast, so he can access the necessary area for examination with his stethoscope. He stated that in some instances, such as when a patient has large breasts, he asks the patient to move their breast to the side so that he can access the needed “point.”

The Respondent testified in response the allegations that he referred to patient S.S. as “pretty.” The Respondent does not recall saying anything like that to the patient. However, the Respondent did not outright deny calling her pretty. He clarified that if he did refer to her as pretty, it was most likely in the context of offering praise to the patient, in an attempt to boost self-confidence. The Respondent followed up by stating that if he did say something like that to the patient, it would never have been done during a physical or cardiac exam.<sup>3</sup>

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<sup>3</sup> The Respondent requested the remainder of his direct testimony be received in non-public because it involved patient S.S.’s medical history, diagnoses, and prescribed medication. In the interest of the time and efficiency, the Presiding Officer instructed Hearing Counsel and the Board to conduct their public session questioning of the Respondent prior to the conclusion of his full testimony.

Upon cross-examination, the Respondent testified that he has one employee at his office. The Respondent confirmed there was no third party in the exam room during the appointment with S.S. on 07/21/2024, despite his medical notes referencing that the patient S.S.'s mother was in the room. He further confirmed that in 2020 the NH Board of Medicine recommended that he utilize a chaperone when performing physical exams on minor children.

The Board questioned why there was an "assessment and plan" provision within the medical notes from patient S.S.'s May and June visits but not from her July visit with the Respondent. The Respondent testified that he does not know the reason that it was not included, but stated assessments and plan provisions are generally available in his clinical notes. In response to further Board questioning, the Respondent stated that he normally has his employee Valentina Ramirez act as a chaperone for physical exams. He acknowledged that it is not always feasible to have a chaperone present given that he is a sole practitioner.<sup>4</sup>

**NON-PUBLIC SESSION:**

**Dr. David Vargas Lowy:**

The Respondent testified to patient S.S.'s medical history, diagnoses, prescribed medications that led to the referral of S.S. as a patient to his practice.<sup>5</sup> He was subject to cross-examination and Board questioning. At the conclusion of his non-public testimony, a quorum of the Board voted to resume public session for the remainder of the Respondent's testimony.

**PUBLIC SESSION:**

**Dr. David Vargas Lowy:**

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<sup>4</sup> At the conclusion of the Respondent's public testimony, a quorum of the Board voted to enter non-public session to hear testimony from the Respondent relative to patient S.S.'s medical history, diagnoses, and prescribed medication.

<sup>5</sup> The Board requested to view the assessment plan provisions within Dr. Vargas Lowy's medical notes from patient S.S.'s 07/21/2025 visit. The Respondent was able to produce these documents and Hearing Counsel agreed to their admission as an exhibit. They were admitted by the Presiding Officer as a full Exhibit for the Board's consideration as an addendum to Exhibit 8; but officially marked for the purposes of the record as Exhibit 21.

The Respondent testified in response to Board questioning with respect to the newly admitted Exhibit 21. The Respondent testified that he did not recall doing an EKG during the May visit with patient S.S. He testified that the May visit mostly centered around other diagnoses. The Respondent acknowledged that the June visit with patient S.S. actually occurred via telehealth, despite his medical records reflecting that it occurred in person with S.S.'s mother present.

**V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:**

Based upon the evidence that was presented to the Board at the hearing, and considering the presentation and demeanor of all the witnesses, the Board makes the following findings of facts:

1. On September 15, 2025, the patient S.S. reported to Jennifer Waranowski, RN that the Respondent took her left breast out of her bra and touched her breast with his hand. The Respondent denies any contact with the patient's breast. Contact with the breast would not be entirely unexpected during a cardiac exam.
2. The Respondent performed a cardiopulmonary examination during the July 21, 2025, appointment on the minor patient S.S. with no chaperone or parent present during which part of the patient's chest was exposed to provide access to the apex of the heart.
3. It is appropriate to conduct a cardiopulmonary examination for the Respondent's diagnostic purposes for this patient's diagnoses.
4. A digital stethoscope with EKG capability was used for the cardiopulmonary examination during the July 21, 2025 visit requiring contact with bare skin. The Respondent could not recall whether he had done that at a prior appointment when the patient's mother was present.
5. The Respondent displays lack of insight into his interaction with minors.
6. The Respondent's records do not corroborate his testimony.

Based upon the findings of fact made by the Board, the Presiding Officer makes the following conclusions of law and renders the following legal opinions:

1. Hearing Counsel has not proved, by preponderance of the evidence, that allowing the Respondent to remain in practice pending a full adjudication of the matter poses a threat to public health, safety, or welfare.

The Board's findings make clear that the Respondent performed a "cardiopulmonary examination" using a digital stethoscope with EKG capabilities on patient S.S. during her 07/21/2025 visit. Their findings, as subject matter experts, reflect that it was appropriate for the Respondent to perform a cardiopulmonary examination on patient S.S. at the 07/21/2025 visit, given her diagnoses. *See Appeal of Dell*, 140 N.H. 484, 496 (1995). While the Board's findings state that patient S.S.'s "chest was exposed" to provide access to S.S.'s "apex" for the purposes of the examination, the findings are wholly absent on whether the Respondent actually touched S.S.'s left breast in any manner.

While the findings made by paragraphs 5 and 6 indicate the Board's generic disapproval of the Respondent's "...insight into his interaction[s] with minor patients..." and his medical record keeping, they are not specific factual findings regarding misconduct with patient S.S., and they fail to establish a causal connection between patient S.S. and the alleged conduct of the Respondent during the 07/21/2025 visit. Factual findings 1 and 2 above mention the alleged misconduct by the Respondent, but are not concrete factual findings, instead operating as mere recitations of testimony given at the hearing.

Based upon the factual findings of the Board, as subject matter experts, and for the reasons detailed above, the Presiding Officer has no choice but to conclude that Hearing Counsel has not demonstrated by a preponderance of the evidence that the Respondent poses a threat to public health, safety, or welfare.

## **VI. CONCLUSION AND DECISION:**

Pursuant to RSA 310:12, IV, RSA 541-A:30, III, and Rule 206.07, the Presiding Officer and the Board hereby lift its emergency suspension of Dr. David Vargas Lowy's license to practice as a physician in the State of New Hampshire.

DATED: 12/8/2025

\_\_\_\_\_/s/ Shane D. Goulet, Presiding Officer\_\_\_\_\_  
Administrative Law Judge  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301