NEW YORK
STATE OF
OPPORTUNITY.

Department
of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

September 21, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Christine Radman, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Bruce Brady, Esq.
Koster, Brady & Nagler, LLP
One Whitehall Street, 10th Floor
New York, New York 10007

Arnold Mandelstam, M.D.
[redacted]

RE: In the Matter of Arnold Mandelstam, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-203) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

Jean T. Carney, Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Ms. Carney at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

[redacted]

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

STATE OF NEW YORK: DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

COPY

IN THE MATTER

OF

ARNOLD MANDELSTAM, M.D.

DETERMINATION

AND

ORDER

BPMC-22-203

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("Department"). A Notice of Hearing ("NOH") and Statement of Charges, and an Amended Statement of Charges, were served on Arnold Mandelstam, M.D. ("Respondent").[1] Hearings were held pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401. The hearing was held via WebEx videoconference. Jonathan Ecker, M.D. – *Chair* (Chair), Amit Shelat, D.O., and Heidi Miller, PA-C, MPH duly designated members of the State Board for Professional Medical Conduct ("OPMC" or Board), served as the Hearing Committee (Committee) in this matter. Kimberly A. O'Brien, Administrative Law Judge (ALJ), served as the Administrative Officer. The Department appeared by Christine Radman, Associate Counsel. The Respondent appeared by Bruce Brady, Esq. Evidence was received, including witnesses who were sworn or affirmed, and a transcript of this proceeding was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

PROCEDURAL HISTORY

Notice of Hearing & Statement of Charges	October 18, 2021
Amended Statement of Charges	January 25, 2022

[1] The Department's Amended Statement of Charges and Respondent's Answer to the Amended Statement of Charges were admitted into evidence on January 25, 2022 [Ex. 1A, Ex A1, *See* 1/26/2022 Intra-hearing Transcript].

Amended Answer	January 25, 2022
Pre-Hearing Conference:	December 16, 2021
Intra-Hearing Conference:	January 12, 2022; January 26, 2022; March 21, 2022
Hearing Dates:	January 12, 2022[2] January 26, 2022 February 16, 2022 February 18, 2022 March 14, 2022 March 21, 2022 April 27, 2022
Department Exhibits	Ex. 1, 1A, 2, 3, 4, 5, 6, 7 & 8
Respondent Exhibits	Ex. A, A1, B, C, D, G, H, I, J, K, L, M, N, O & P
Submission of Briefs	June 13, 2022
Deliberations Date:	July 19, 2022 & September 19, 2022

STATEMENT OF THE CASE

The Department charged the Respondent with five charges of professional misconduct relating to the care and treatment he provided to two patients Patient A and Patient B. Pursuant to N.Y. Educ. Law §6530, Respondent was charged with negligence on more than one occasion §6530(3), gross negligence §6530(4), moral unfitness §6530(20), willfully harassing, abusing, or intimidating a patient §6530(31), and failing to maintain a record that accurately reflects the care and treatment of a patient §6530(32) [Ex. 1A].

The Respondent denies all the factual allegations and specifications of charges and asserted one affirmative defense [Ex. A 1]. Respondent asserted that the Administrative

[2] Respondent's counsel requested an adjournment of the first day of hearing December 1, 2022. The Hearing Committee granted the adjournment based on his actual engagement. The November 19, 2021 prehearing conference was rescheduled and held on December 16, 2022.

Warning issued to him on May 30, 2012 addressed the allegations regarding Patient B and should not be the subject of this proceeding [Ex. K; *See* Ex. A1].

The Administrative Warning is confidential and not made public or considered a finding of professional misconduct. However, "*in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened, and further proceedings instituted as provided in this section*," PHL §230 (m)(ii) [Ex. K; *See* Ex. 1A]. Allegations of similar misconduct were made against Respondent regarding Patient A [Ex.1 & Ex. 1A].

The Department presented six witnesses including an expert witness, Michael Mahelsky, M.D.; Patient A; Amy Korn, LCSW (Patient A's Therapist); Patient B; Sharon Goldblum, ACSW, PhD (Patient B's Therapist); G.B. (Patient B's Husband). Respondent testified on his own behalf and presented an expert witness Frank Dowling, M.D.; character witnesses Marci Zaslav, LCSW; Mari Halem, LCSW; Ross Tabisel, LCSW; and Ronnie Rabinowitz, LCSW (therapists); and four patient witnesses.

Pursuant to PHL §230(10)(f), the Hearing Committee (Committee) based its conclusions on whether the Department met its burden of establishing that based on the preponderance of the evidence the allegations contained in the Statement of Charges were more probable than not. When the evidence was equally balanced or left the Committee in such doubt as to be unable to decide a controversy either way, then the judgment went against the Department (*See* Prince, Richardson on Evidence § 3-206 [Farrell 11th ed]).

FINDINGS OF FACT

The following Findings of Fact (FOF) were made after a review of the entire record in this matter. Citations in brackets, which refer to transcript page numbers (Tr.) and exhibits (Ex.) that were accepted into evidence, and represent evidence found persuasive by the Committee in

arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Committee findings are unanimous unless otherwise stated. [3]

1. Respondent, 69 years old, is a psychiatrist and was authorized to practice medicine in New York State on February 5, 1982, by the issuance of license number 149158, by the New York State Education Department. [Ex. 2].

2. The charges against Respondent pertain to the outpatient psychiatric treatment he provided to two patients, Patient A and Patient B, through his solo private practice located in Woodbury, New York (office). [Ex. 1A].

3. The office has a sitting area with chairs set up opposite each other, and during a session Respondent sat across from the patient with nothing between them (sitting area). The office also has a desk with a chair on each side of the desk, and often toward the end of the session he and the patient moved to the desk where Respondent wrote prescriptions and scheduled future appointments. Just outside the office is a waiting room. There is no receptionist. [Tr. 226-227, 267, 274-275, 332, 377].

4. Psychiatrists often prescribe medication for among other things anxiety and depression, and treatment is primarily focused on how the patient is doing on a medication including its side effects (medication management). The medication management sessions tend to be shorter in length and are scheduled anywhere from a few weeks apart to three months apart. Psychiatrists often provide supportive therapy along with medication management. Supportive therapy involves providing limited "*support*" "*to help them move forward,*" and it is an "*issue here and issue there*" and "*not delving into deep psychological matters*" such as "*sexual functioning with one's husband.*" Psychiatrists will encourage their patients to

[3] Quoted language in *italics* indicates verbatim language from the transcript or from an exhibit.

talk with their therapist when significant issues come up during supportive therapy. [Tr. 161-164].

5. Therapists treat patients with ongoing psychological issues and often see patients on at least a weekly basis to provide intensive support and psychotherapy. Therapists are often not licensed to prescribe medication and their patients' often see psychiatrists for medication management. [Tr. 161-164, 180, 424].

6. The American Medical Association (AMA) Code of Medical Ethics provides that:

"Disrespectful or derogatory language or conduct on the part of the part of physicians or patients can undermine the trust and compromise the integrity of the patient-physician relationship"

"The relationship between a patient and a physician is based on trust, which gives rise to physicians' ethical responsibility to place patients' welfare above the physician's own self-interest..."

"The practice of medicine, and its embodiment in the clinical encounter between a patient and a physician, is fundamentally a moral activity that arises from the imperative to care for the patients and to alleviate suffering."

"Romantic or sexual interactions between physicians and patients that occur concurrently with the patient-physician relationship are unethical."

"Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment in the practice of medicine is unethical. Sexual harassment exploits inequalities in status and power; abuses the rights and trust of those who are subjected to such conduct." [Tr. 25-30, 38-39; Ex. N at p.3-4, *See* Ex. O].

Patient B[4]

7. Respondent treated Patient B, then 42 years old, from on or about October 12, 2000 through June 18, 2009 (treatment period). During the nine-year treatment period

[4] Respondent offered Patient B's medical record into evidence after the first day of hearing. The Department did not have the record in preparation for the hearing. The Department provided Dr. Mahelsky with a copy of the record and called him back to testify about the record and whether it impacted his opinion about the care and treatment Respondent provided to the patients [Ex. C; Tr. 385-396].

Respondent provided medication management to Patient B regarding anxiety and insomnia, and he saw her about once every other month. [Tr. 224, 385-389; Ex. C].

8. Patient B chose Respondent because her previous psychiatrist kept changing her medication, Respondent's office was close to her home and Respondent was on her insurance plan. Patient B was seeing Respondent "*strictly*" for medication management and he "*helped*" her with that. [Tr. 224-226].

9. Respondent failed to document in Patient B's medical record "*a mental status exam, rationale for diagnosis, treatment plan & response to medications.*" [Ex. C, Ex. J, Ex. K; Tr. 389-404].

10. Patient B saw her therapist, Dr. Goldblum (therapist, Dr. Goldblum or Sharon), for about twenty years, including during the treatment period. [Ex. C, Ex. H, Ex. I; Tr. 221-226, 424-426].

11. Patient B told Respondent about her history of sexual abuse and that she had intimacy issues. She made it clear to Respondent that she was working on these issues with her therapist. Patient B "*did not feel comfortable with him* (Respondent*) because he's a man and I did not want to talk in detail with him. It is a very, very hard subject for me to talk about, even with Sharon.*" [Ex. 6, Ex. C, Ex. H, Ex. I; Tr. 221-226].

12. Patient B gradually began to feel more uncomfortable with Respondent. Initially she and Respondent would sit across from each other at the desk and "*then he slowly he changed it to us sitting across from each other with nothing in between and then he started to talk more personal.*" Respondent would talk with Patient B about where he lived, his children, and how he "*biked almost constantly.*" Respondent told her "*that he wasn't attracted to his wife. He wasn't having sex with her. He alluded to having affairs.*" Respondent talked about his

appearance and "*he would say how good-looking he was.*" "*At one point he* (Respondent) *asked me to move closer to him so he can show me a picture. He would talk about sports and one of his hobbies is riding bicycles on the weekends, I guess racing them I'm not sure. But he went out of his way to show me the picture of him in his bike outfit with his tight black shorts and he would point and say. 'Didn't I look good'.*" [Tr. 226-228, 246-252; *See* Ex. G].

13. Gradually Respondent started asking more questions about Patient B's husband. Respondent would ask her whether she was having sex with her husband. Respondent asked her: " '*Are you fucking with him? You like to fuck, don't you?* ' *and I was like in shock. And then he would say things like 'You like a good fuck you want a good fuck.' And I basically didn't say anything.*" Respondent asked Patient B if she masturbates and when she answered "*No*" Respondent said " '*Well you should masturbate. You should want to be touched all over.*" Respondent then said "*Women like you who are sexually repressed are wild. You're a wild woman, aren't you? I bet you are wild. You probably like wild sex'.* " [Tr. 227-229, 246-252].

14. Respondent's behavior gradually "*got worse overtime and then it was getting worse and more uncomfortable.*" Patient B was "*ashamed of continuing*" treatment with him, but "*I had no experience with psychiatrists so I didn't know how often (sic) or what happened. I started to feel very uncomfortable with what he was talking about and I would talk to my husband and Sharon.*" [Tr. 229 -230, 234 -235].

15. In June 2009, Patient B decided to end treatment with Respondent. Patient B and her husband (husband or GB) were together in their car. GB called Respondent on his cell phone and left a voicemail telling Respondent that Patient B was "*not coming back, she can*

no longer see you" and he asked Respondent to mail her prescriptions. Later Respondent called Patient B on her cell phone, but she did not answer. [Tr. 233, 294].

16. Patient B was *very upset* and felt *traumatized.* She and her husband went to see Dr. Goldblum to talk about it and she decided to file a complaint with OPMC against Respondent. [Tr. 229-234, 293- 295, 305-311, 425-426, 442; Ex. H, Ex I].

Patient A

17. Respondent treated Patient A, then 32 years old, from on or about February 6, 2014 through on or about May 25, 2017. Patient A was referred to Respondent by her therapist Marci Zazlav for medication to address "*severe depression, with suicidal ideation and possible psychosis*" [Ex. 3 at p. 2; Tr. 743].

18. At the initial visit February 6, 2014, Respondent failed to document in Patient A's medical record a mental status exam and important history including that Patient A's brother had recently died of a drug overdose, and that she had two children, an infant and a toddler, at home [Ex. 3 at p. 2; Tr. 35-38, 50-52].

19. Respondent discussed his personal life with Patient A including that he talked about his sex life, and his own appearance and his wife's appearance. Respondent told Patient A that "*when he was in college he slept with multiple women,"* and he described a specific incident where he had sex with a woman in a school library closet. Respondent told Patient A he wasn't that attracted to his wife even though "*he could bounce a quarter off her ass,*" and he told Patient A that he and his wife had a "*mundane*" sex life. [Tr. 328-330, 367-368; Ex. 4, Ex. 8].

20. Patient A spoke with Respondent about family and marital issues. He was aware that she and her husband began weekly marital therapy in the fall of 2016. At Respondent's

request Patient A brought her husband (husband or P) to two sessions [Ex. 3; Tr. 326-327, 358-359].

21. In or about the fall of 2016, Respondent started talking more with Patient A about things *"of a sexual nature and he would ask a lot of questions about my sex life and just—he would ask what I like about sex, do I like having sex with my husband"* [Tr. 327-328; Ex. 4, Ex. 8].

22. Respondent compared his physical stature with her husband's and said *"he's* (P) *is about the same heat* [sic] *and weight you know, if I find my muscle attractive* [sic]." In the following sessions *"there was kind of a buildup there where in every session"* Respondent would again compare his physical stature to P's. [Tr. 327-328; Ex. 4, Ex. 6].

23. There was *"one session in particular where he* (Respondent) *made a comment after asking me* (Patient A) *several questions..."* Respondent said *"So you're the type of girl that likes to fuck as opposed to make love"* [Tr. 327-328, 353-354, 359-360; Ex. 4, Ex. 8].

24. Patient A would tell her husband when the sessions with Respondent were a *"little off"* and about the *"stories"* Respondent would tell *"about him and his wife or about him having sex in the broom closet in the library..."* Patient A also told her husband about *"comments he* (Respondent) *would make about my body or the questions he would ask me about his body."* [Tr. 326-330, 361, 365-368].

25. Patient A told Mrs. Korn that Respondent made comments that made her feel uncomfortable, but she did not want to provide *"details because I didn't want to end my patient/doctor relationship with Dr. Mandelstam at that time because I was so dependent on him."* She gave Mrs. Korn permission to talk with Respondent. [Tr. 182-184, 189, 203-208, 328-329, 334-335, 358-362, 368-369; Ex. 3 at p.14-15, Ex. 8, Ex. 4, Ex. P].

26. Respondent inaccurately documented in Patient A's medical record the one conversation he had with Mrs. Korn. [Ex. 3 at p.16; Tr. 203-208].

27. Patient A viewed Respondent as her "*lifeline and he knew that*" and she "*let him get away with a lot more than the average person.*" [Tr. 328-329, 368-369, 381].

28. May 25, 2017 was the last session Patient A had with Respondent it "*started off normal*" and "*pretty quickly at this point went into* (Respondent) *asking me questions of a much more sexual nature.*" "*So it went into I guess what would be a typical conversation at that point*" and "*asking about my sex life and whether I still sleep with my husband.*" When she told Respondent they did sleep together he "*was kind of surprised.*" Respondent then made "*comments*" that " *'I liked to fuck as opposed to make love,' so it would make sense that I would still have sex with him--- my husband. And then it just went further than it normally would, asking me ' if we do anything weird or anything kinky or if I like to dress up at all or what do I like about it, do I have orgasms.' '* " Respondent said instead of sleeping with P why don't "*I take matters into my own hands*" (masturbate). Patient A and Respondent were in the sitting area, seated opposite each other. Respondent was "*kind of slumped down in his chair* " *with his hand in his pocket and he obviously – he had an obvious erection and was rubbing his penis through his pants while he asked me these questions.*" Patient A concluded the session "*I guess like I normally would, like everything was okay.* " "*I went out to my car and was just like hysterical because at that point I knew it had gone too far.*" [Tr. 330-335].

29. Patient A was "*traumatized,*" and she did not show up for the June 12 appointment she had scheduled with Respondent. She struggled with terminating her treatment with Respondent describing it "*as such a huge loss. I already had so much loss and I trusted him*

(Respondent) *so much and I told him several times, like, 'You saved my life, like I don't know what I would do without having you as a support system.'"* In June Patient A shared with Mrs. Korn among other things that Respondent "*masturbated*" during the last session, and sometime after that she filed a complaint with OPMC [Tr. 334-335, 368-370; Ex. 3, Ex. 4, Ex. 8, Ex. N at p. 3-4, Ex. O].

DISCUSSION

The Hearing Committee (Committee) found both Patient A and Patient B (the patients) to be credible and courageous to appear and testify about intimate details of their life, health and their relationship with Respondent including how they trusted him and how devastating it was to have the Respondent violate that trust. Their testimony is credited in the Findings of Fact.

The Committee found the two expert witnesses, Dr. Mahelsky and Dr. Dowling, qualified by training and experience to provide opinions about whether Respondent met minimum acceptable standards of care expected of a psychiatrist working in a similar setting and with a similar patient population, during the period the care and treatment was provided. However, the Committee found Dr. Dowling's testimony was often wide-ranging and his opinion about Respondent's care and treatment of the patients was not focused on the facts and evidence presented in this case. In contrast, Dr. Mahelsky's testimony and his opinion about Respondent's care and treatment of the patients was focused on the facts and evidence presented in this case and the applicable standards of care. Dr. Mahelsky's testimony is referenced and credited in the Findings of Fact.

The Committee found much of Respondent's testimony about the allegations against him was not credible. At the hearing Respondent had a convenient memory about the details of the treatment he provided to Patient A and Patient B (the patients) including what he said to the

patients and their alleged "*distortions.*" The Committee also noted that many of the details that Respondent testified about are not reflected in his interviews with OPMC or in his own medical records for the patients and are often contradicted by the credible testimony of Patient A and Patient B, the patients' therapists, and Patient B's husband.

TESTIMONY REGARDING PATIENT B

Sharon Goldblum ACSW, PhD - Patient B's Therapist

Dr. Goldblum is a therapist and trauma specialist who works with adults suffering from depression, anxiety, and trauma including trauma from sexual abuse and has been practicing for about 37 years [Tr. 422-423]. Approximately "*three quarters*" of the patients in her practice see psychiatrists for medication management [Tr. 424]. The Hearing Committee found Dr. Goldblum to be credible.

Dr. Goldblum had been Patient B's therapist for approximately twenty years and saw her on a weekly basis from in or about 1991 through at least 2011. Dr. Goldblum no longer has a copy of her medical record for Patient B, and she was not provided with a copy of her September 2011 Report of Interview (ROI) in advance of her testimony [Tr. 424-426, 434]. Dr. Goldblum testified that Patient B was seeing Respondent for medication management and that she had been seeing him for "*quite some time*" without any issues [Tr. 424-426]. Even though more than ten years have passed since Patient A reported Respondent's conduct to her, Dr. Goldberg distinctly recalls that Respondent's "*detailed questioning and explanations had nothing to do with giving medication*" and was "*sexual in nature*" and "*not something a psychiatrist would ask about at all unless he was seeing the person for private therapy, which he wasn't*" [Tr. 426, 442]. Dr. Goldblum also distinctly recalls that it "*set off for me as a therapist every red flag*" and "*I still have the absolute feeling it was inappropriate and really off base*"

[Tr. 425-426, 442]. Dr. Goldberg testified that she knew Patient B *"for many years. She was always honest and introspective and willing to do the work necessary in our therapeutic relationship. I had no doubt that she would tell the truth about any matter she was talking about"* [Tr. 431].

Dr. Goldblum testified that at the time Patient B made the report, she herself had a "*significant reaction,*" and she told Patient B that what Respondent did was "*absolutely*" "*not appropriate*" and she "*might have even gone so far as telling her* (Patient B) *she should not go back*" to Respondent, "*which is something I can't recollect in all my years of practice having to do with a colleague*" [Tr. 427].

GB Patient B's Husband

GB has been married to Patient B (Patient B or wife) for 32 years [Tr. 289]. GB was aware that Patient B was seeing Respondent for medication management between the years 2000 and 2009, and that Dr. Goldblum was his wife's therapist during this time [Tr. 289, 291, 302, 305-311]. The Hearing Committee found GB to be credible.

GB testified that he was aware that his wife had been sexually abused when she was younger, and in or about the end of 2008 and or the beginning of 2009 his wife would come home "*a little upset*" from her sessions with Respondent because their discussions were changing and moving away from discussing her medication and how she was doing to "*probing about sexual activity*" [Tr. 291-292]. GB testified that Respondent's discussions with Patient B had a "*progressive pattern*" he discussed "*the way she dressed, the way she felt sexually"* [Tr. 301]. GB testified that Patient B told him that Respondent's " '*questions are starting to get more sexually exploitive and that she was not comfortable with it'* " and that in the " '*spring of 2009 it became progressively worse'* " [Tr. 300]. GB testified that his wife told him that Respondent

asked her " *'Do you like to fuck? Do you masturbate?'* " [Tr. 292, 301, 304 -305]. GB testified that his wife reported to him that at her last session with Respondent he said " *'Oh people like you who have been sexually assaulted usually have a wild side to them, is that you? I'm sure you like to fuck you [sic], you should masturbate'* " [Tr. 292].

GB testified that he and his wife talked and that she did not want to see Respondent anymore, but she expressed concern about finding another psychiatrist who was covered by her insurance [Tr. 293-294]. They agreed that he would call Respondent, they were together in their car when he called and left a voicemail for Respondent "*It's over. You give her the medication so she has it for the next month*" [Tr. 294]. Respondent called back on his "*Wife's phone,*" and GB said to her "*Don't answer just leave it as it is...*" and she did not answer the call [Tr. 294].

GB testified that after his wife's last session with Respondent she was really "*shooken up*" and "*upset*" [Tr. 295, 305] Together they went to see Dr. Goldblum who confirmed that Respondent's conduct was inappropriate, and Patient B decided to file a complaint with OPMC against Respondent [Tr. 305-311].

Respondent's Account-Patient B

December 2011 OPMC Interview

In December 2011 Respondent was interviewed by two OPMC investigators, in the presence of his attorney, about the allegations Patient B made against him [Ex. 6]. Respondent said he first saw Patient B on October 12, 2000 and the patient noted that she "*wanted to focus on medications*" because she "*had a problem with her previous psychiatrist because he ordered too many medications and made changes too quickly*" [Ex. 6 at p. 2]. Respondent said Patient B "*would bring up issues about her sex life and that she was dissatisfied, she would speak about it often but was vague* [Ex. 6 at p. 2]. Respondent said he was aware that Patient B was seeing

another therapist but "*would not tell him who it was*" and he said she described it as an "*on again, off again*" relationship [Ex. 6 at p. 2]. Respondent said he referred Patient B to another therapist "*J. Hott*" but "*she (Patient B) didn't follow through*" and at their last session on June 18, 2009, he referred her to "*Russ Tabisel, and Ditza Katz both PhD's who treated women with sexual issues*" ("*Tabisel & Katz*") [Ex. 6 at p. 2]. Respondent did not recall whether he said to Patient B "*You like to fuck, don't you*" but said "*that it is possible if put in the proper context*" [Ex. 6 at p. 3].

March 2022 Testimony

At the hearing in March 2022 Respondent continued to maintain that he did not talk with Patient B about himself and his appearance and did not tell her that he was not attracted to his wife or that he had an affair. Respondent said that he had pictures on his desk including two "*triathlon*" pictures of him riding a bicycle and one of him running, he said that they were a gift from a patient ("*triathlon pictures*") [Tr. 638, 735]. Respondent said that in addition to the "*triathlon pictures*" "*there was a picture of my wife and our three children*" [Tr. 639, 735-736, 863]. "*They* (pictures) *were just there on the desk. People would sometimes comment about the pictures*" [Tr. 638]. He said sometimes patients would "*inquire about the pictures. They would ask, oh you, have a very nice family, you like to exercise*" [Tr. 735]. Respondent said it was "*general chitchat conversation based on what was on the desk. I did not embellish or say anything more about myself. I never said anything about my relationship with my wife to her* (Patient B). *I don't talk about that with other people*" [Tr. 735-737].

At the hearing Respondent said he recalled using the word "*fuck*" and "*fucking*" in his sessions with Patient B "*on one or two occasions throughout the time and I would bet that she* (Patient B) *used that word as much, if not more than I did during those deliberation (sic).*" [Tr.

714-715, 903-908]. Yet when the Chair referred Respondent to Patient B's testimony about his alleged use of the word "*fuck*" he denied ever using "*curse words* (fuck)". [Tr. 735-736]. Respondent professed "*As far as curse words* (fuck) *[sic] that you* (Chair) *referred to, I think –I don't talk that way with people. I don't speak that way with patients. I don't speak that way with anybody*" [Tr. 736].

At the hearing Respondent continued to maintain that he was aware that Patient B had a therapist, that it was Patient B that requested referrals from him and that during what would be their last session he referred her to "*Tabisel & Katz.*" He explained that he knew Patient B has a "*history of sexual abuse*" and he was "*preparing*" her for the type of therapy they do and what it might involve [Tr. 698-702, 734]. Respondent professed that people who are sexually abused are "*very easily triggered*"... "*instead of hearing the words I was saying she was so emotionally overwhelmed in hearing certain things, her mind went elsewhere. Different words came in and flooded her, and that is what flooded her...*" [Tr. 702]. The discussion "*triggered her*" and Respondent alleged that "*Patient B distorted certain things. I don't think she (patient B) is lying, I think she really on some level felt and believed those things, but they did not come out of my mouth*" [Tr. 736-737]. Respondent said he believes that Patient B's husband (GB) called him and left a voicemail "*referencing unprofessional and inappropriate in your behavior (sic)*" [Tr. 703]. Respondent said he called Patient B to follow up "*I got through someone picked up the phone. I heard two people talking and a male voice which I assume was her husband says it's him. 'He's scared.' Referred to me as a scumbag. I did not leave a message I hung up the phone*" [Tr. 703].

When the Chair asked Respondent to explain why he thought Patient B abruptly ended a nine-year relationship with him, Respondent said "*we had a conversation, she was triggered by*

certain subject matter, she misheard what I was saying. After mishearing it and distorting it, she went running to her therapist" [Tr. 905]. Respondent proclaimed that if Patient B, Patient B and her husband, Patient B and her therapist, or Patient B's therapist had contacted him "*that situation would have been squared away and straightened out it in five to ten minutes*" [Tr. 905].

TESTIMONY REGARDING PATIENT A

Amy Korn LCSW- Patient A's Therapist

Mrs. Korn is a licensed clinical social worker and trauma specialist who works with adults suffering from depression, anxiety, and post-traumatic stress syndrome [Tr. 177-180]. She "*frequently works with psychiatrists*" and refers her patients to psychiatrists for evaluations [Tr. 180]. The Hearing Committee found Mrs. Korn to be credible.

Mrs. Korn testified that on September 28, 2016 she began seeing Patient A's husband (husband or P) individually, and on November 3, 2016 she began seeing both Patient A and her husband for weekly marital therapy [Tr. 194-195, 203]. Mrs. Korn was aware that Patient A was seeing Respondent [Tr. 180]. During a marital session on February 6, 2017, it was P that first brought to Mrs. Korn's attention that Respondent had said something inappropriate to Patient A [Tr. 200; Ex. 4]. "*I* (Mrs. Korn) *believe the first thing that he* (P) *mentioned was 'he* (Respondent) *said you* (Patient A) *are the type of girl that likes to get fucked hard'* " [Tr. 182-183]. Mrs. Korn felt she needed "*to reach out to Dr. Mandelstam* (Respondent) *because I wanted him to know that there was another mental health professional who was aware of his treatment with Patient A because I was very concerned about the inappropriate behavior that I was hearing about from Patient A and P*" [Tr. 183-184].

On March 8, 2017 Mrs. Korn sent Respondent a "*release authorization,*" signed by Patient A, allowing her to confer with Respondent [Tr. 204; Ex. 3 at p. 14-15]. Mrs. Korn testified that Respondent called her when she was in a session and she stepped into her waiting room to take the call, stating that she did so because psychiatrists don't often call back [Tr. 205]. It was the only conversation she had with Respondent, and it was a "*very short conversation*" that lasted "*maybe 60 seconds*" [Tr. 203-206]. Mrs. Korn testified that Respondent "*didn't have much to say*" and she "*let him (Respondent) know another mental health professional was in the picture*" [Tr. 206-208]. Mrs. Korn was asked by the Chair whether she would be surprised to learn that Respondent wrote a long "*detailed*" note titled *"20 minute conversation with Amy Korn"* allegedly "*about his conversation with you"* and Mrs. Korn replied *"Yeah, that completely surprises me. It is not true"* [Tr. 208; *See* Ex 3. at p.16].

Mrs. Korn became aware that Respondent's *"inappropriate behavior*" continued, and that Patient A had her last session with Respondent on May 25, 2017 (last session) and that she did not go to the session scheduled on June 12, 2017 [Tr. 188]. Soon after Patient A's last session with Respondent Mrs. Korn had three sessions alone with Patient A that were focused on her interactions with Respondent. The sessions were held on June 20, 2017 (first session), June 28, 2017 (second session), and July 20, 2017 (third session) [Tr. 184-192; *See* Ex. 4]. Ms. Korn described Patient A as "*quiet, very polite,*" and "*an intelligent person*"[Tr. 191]. During these sessions Patient A "*teared up*" but she wasn't out of control and based on Mrs. Korn's clinical experience with trauma patients she did not doubt what Patient A was telling her [Tr. 191-192].

During the first session Mrs. Korn took detailed "*verbatim*" notes of what Patient A was reporting to her including that Respondent said to her "*you like a good fuck,*" asked her did sex with P feel good and asked if "*she took matters into your[sic] own hand,"* and Respondent told

Patient A that he found P attractive and compared himself to P, and it was about this time "*he* (Respondent) *put his hands in his pants I* (Patient A) *saw that he had an erection.*" "*He was masturbating, smooth and consistent motion.*" [Tr. 185-188; *See* Ex. 4]. Patient A reported that before her last session with Respondent he talked about his sex life, one night stands he had, and having sex with a woman in a school library closet and he said " '*What the hell it was, it was five minutes it was pretty steamy. They were all women in their 30s'* " [Tr.165-166; *See* Ex. 4]. During the second session Mrs. Korn recalled that Patient A was repeating what she had said during the first session so she "*focused entirely on supporting her*" and "*letting her know that what had happened to her was horrible, that it was a betrayal of trust, that it was unprofessional conduct and completely unacceptable for a psychiatrist*" [Tr. 189; *See* Ex. 4]. Patient A expressed "*confusion, shock, dismay*" and it was clear to Mrs. Korn that initially Respondent helped Patient A and had established a "*very trusting relationship,*" and that she was devastated by Respondent's betrayal [Tr. 189]. During the third session Mrs. Korn helped Patient A find a new psychiatrist [Tr. 189-190; *See* Ex. 4].

Respondent's Account Regarding Patient A

October 2019 OPMC Interview

In October 2019 Respondent was interviewed by two OPMC investigators, in the presence of his attorney, about the allegations Patient A made against him [Ex. 7]. Respondent stated Patient A was referred to him "*by a social worker colleague who thought the patient had depression with possible psychosis and wanted her* (Patient A) *to see him as soon as possible*" [Ex. 7 at p. 2]. Respondent among other things denied discussing his wife, her appearance and their marriage, his history of one-night stands/affairs, saying to Patient A "*you like to fuck instead of making love,*" talking about his appearance/physique and comparing himself to Patient

A's husband, and masturbating in front of Patient A [Ex. 7 at p. 3]. Respondent said that *"he spoke with Korn only once after she had seen Patient A a couple of times* and alleged that *"Korn thought Patient A was very fragile and unable to handle basis [sic] household responsibilities. She thought the husband was stronger and described him as* [redacted] and that she (Mrs. Korn) also thought Patient A was " '*overreacting to his (husband's) actions'*" [Ex. 7 at p. 2]. Respondent expressed to the interviewers that his last session with Patient A "*seemed to be a positive or neutral session and he was not really sure why treatment ended and was unaware that anything had gone wrong*" [Ex. 7 at p. 3]

March 2022 Testimony

In March 2022 Respondent testified about the treatment he provided to Patient A. He said he was providing medication management and supportive therapy to Patient A and she *"would always bring up issues with other parties, whether it be her mother, her father, her husband..."* [Tr. 781]. Respondent testified that he told Patient A "*I am here to do the medicines but if there is anything she wants to talk about, please do*" and that he encouraged her to get weekly therapy [Tr. 781].

At the hearing Respondent continued to maintain that he did not talk with Patient A about his wife, her physical appearance or their sex life, adding that Patient A saw *"a picture of our family on the desk. My wife is an attractive woman. Patient A could see it. It would be acknowledged"* [Tr. 863].

At the hearing Respondent continued to maintain that he did not talk with Patient A about one night stands he had, or that he had sex with a woman in a closet in the school library. Respondent said *"I was Mr. Goodie-two-shoes. I would be afraid to do something like that* [Tr. 640-641]. Respondent recalled telling Patient A "*a little story of something that happened back*

when I [Respondent] was in medical school, I hung out with my peers who were young single men, 21, 22 years old that were in the class, some of those people were known to hookup or whatever the term was in 19, you know 77 (1977) *with women in certain areas of the library. I said I would never did that [sic]. I never did it. I was maybe guilty by association because I knew of people who did it, but I never did it myself*" ("*little story*") [Tr. 863-865]. Respondent repeatedly professed Patient A's suspicions about infidelity were "*overreactions*" and he continued to allege Mrs. Korn thought so too, and he explained that he shared the "*little story*" because he wanted her to consider that maybe her "*husband is not guilty of what you* (Patient A) *think he is, maybe he is associating with people who are doing some nasty things, but that doesn't necessarily mean that he, himself is doing it* [Tr. 863-867]. Respondent said he wanted to meet P and had Patient A bring him to two sessions [Tr. 811-813].

At the hearing Respondent continued to maintain Patient A was "*overreacting*" to P's "*actions*," yet throughout his testimony he insinuated that there was reason for concern [Tr. 771, 808-819; 825-826, 894]. Respondent purportedly recalled an incident that occurred at the second session he had with Patient A and P on December 1, 2017 (second session). Respondent said a patient of his left the office and "*went into the waiting room and literally two seconds later bangs on the door and runs in,*" allegedly the patient observed P had a gun [Tr. 813, 894]. Respondent also alleged that he observed that he (P) had a "*gun at his ankle. I pointed I said look, he's got the gun now. He (P) said, I'm sorry, pulled his pants down and covered it up. I mentioned it was a little scary to the person before and we just moved on, but the gun was there*" ("*gun incident*") [Tr. 813-815, 894]. Respondent did not record the "*gun incident*" in his notes but professed that by the second session he could see that Patient A accurately described how P

presented and that it could be *"frightening"* and that *"I was actually a little frightened by him (P)"* and *"was seeing him (P) as being a sociopathic character"* [Tr. 825-826].

At the hearing Respondent was asked by his counsel *"Is it possible you ever asked her (Patient A) in words or substance do you like to fuck as opposed to make love?"* [Tr. 867]. Respondent continued to maintain that he never asked Patient A that question. Respondent professed that he asked Patient A if she thought her husband would like that. *"The way that came out I* (Respondent) *said when we were talking about your husband [sic], I said you and your husband, you make love, you have relations; is it possible that your husband would prefer a different type of interaction sexually with either yourself or someone else, and she says what do you mean, so I said it a little differently well, maybe your husband would rather fuck as opposed to making love in certain circumstances, that's how that line was said to Patient A (emphasis added)* [Tr. 867].

At the hearing Respondent continued to maintain that he did not talk about his own appearance or compare himself to P. Respondent said Patient A could see the *"triathlon"* pictures on his desk [Tr. 735, 863]. He said that he recalled it was Patient A that compared her husband and his physical appearance with someone she had a *"crush"* on [Tr. 840-841].

At the hearing Respondent continued to maintain that it was he who wanted to speak with Patient A's *"marital therapist"* (Mrs. Korn) to get clarity about the marriage and that he spoke with her only once and that it was a *"20-minute conversation,"* which he documented *"as soon as it was over"* [Tr. 850-851, 860-861]. Respondent alleged that the undated note in Patient A's medical record titled *"20-minute conversation with Amy Korn,"* describes what Mrs. Korn told him about Patient A and her husband including that she *"confirmed"* Patient A is *"overreacting"* to her husband's actions [Tr. 845-851, 907; Ex. 3 at p. 16, Ex. 7 at p. 2]. At the hearing

Respondent insinuated that Mrs. Korn was difficult to work with in that she required Patient A to sign a release before she would talk with him and that their "*20-minute conversation*" was "*somewhat strained*" because she (Mrs. Korn) did not want to "*give me more information about the husband* (P)*"* [Tr. 846-847, 851].

At the hearing Respondent continued to maintain that he did not masturbate in front of Patient A and that he was unaware there was an issue with his treatment of Patient A until OPMC contacted him [Tr. 752-753, 860]. He said he was "*totally shocked*" about "*the accusations of profanity and masturbation*" [Tr. 753]. Respondent confirmed that May 25, 2017 was his last session with Patient A, and he said that he recalled that "*at the beginning of the session*" he had scheduled another appointment, June 12, 2017, but she did not return to the office (last session) [Tr. 857-858]. He explained that the day of the last session he was exhausted as it was his first day back in the office after recently returning from a trip to Israel and only the night before attending a dinner where his son was being honored [Tr. 855-856; *See* Ex. L, Ex. M]. Respondent said that he recalls that immediately after the session he went "*to the desk*" to write the session note and as he was writing "*it dawned*" on him that he "*dozed off*" [Tr. 858-859]. Respondent said he did not write this down but "*made a mental note that she* (Patient A) *had something with the phone [sic] and I knew that next time we met we would have to discuss both those things"* [Tr. 859]. Respondent said "*we had a very good relationship. Things were progressing very well. She was overreacting to certain things her husband did.*" "*[H]owever, it was clear after a while it was an overreaction on her part where she was unable to get past something*" (*"overreaction"*) [Tr. 906]. Respondent alleged that in or about February 2017 "*I was doing I would say weekly psychotherapy in addition to the medication*" and he told Patient A "*I can do this for a while, but I really didn't have the time to see her every single*

week" [Tr. 752: *But see* Ex. 3]. Respondent said he tried not to send an "*abandonment message*" and he assured her he was not trying to get "*rid*" of her and would continue working with her regarding her medication [Tr. 752-753, 841-843, 853].

At the hearing the Chair asked Respondent to explain why Patient A abruptly ended a three-year relationship with him. Respondent claimed that once he started challenging Patient A's "*overreaction*" and he made it clear he could not provide her with weekly therapy "*She seemed to cool off, she seemed to feel maybe I betrayed her in some way, maybe I was taking her husband's side in this dispute, and she* (Patient A) *went and spoke once again, to her marital therapist*" (Mrs. Korn) [Tr. 907]. Respondent said the "*marital therapist*" "*assumed I was grooming her* (Patient A) *even before I ever spoke to her* (Mrs. Korn) *who was very difficult to speak (sic), who could have called me.*" [Tr. 907]. Respondent proclaimed that "*professionals*" know that you cannot take the patients' word "*at face value*" and accused "*the therapists*" (Mrs. Korn and Dr. Goldblum) of being "*very unprofessional in not contacting me and telling them* (the patients) *oh, go make a complaint instead of whoa, let's find out what really happened here.*" [Tr. 908].

CONCLUSIONS

The Committee found that Patient A and Patient B had nothing to gain by appearing and testifying about intimate details of their lives. The Hearing Committee noted that the patients do not know each other, and the incidents reported by the patients took place many years apart. The Committee found that what the patients reported had striking similarities including that Respondent: talked about himself, his appearance and his sex life, his wife and her appearance, and asked each patient for intimate details about their sex life and talked about how the patients' liked to "*fuck.*" The Committee took note that the patients clearly acknowledged Respondent

helped them, but that they each recognized that Respondent gradually tested boundaries by using derogatory language and making unwelcome sexually provocative comments and asked probing questions about their sex lives that was not for a medical purpose. The Committee noted that the patients abruptly ended treatment with Respondent even though the patients each had a long-term relationship with Respondent, he was prescribing medication and they each had to find another psychiatrist. The Committee also noted that the patients' each made contemporaneous reports to their husband and their therapist.

The Committee found that the patients' therapists and Patient B's husband provided consistent and credible testimony about what was reported to them, why they believed what was reported to them and what actions they took to provide support and validation to the patients. The Committee also found that Mrs. Korn provided an accurate account of the one conversation she had with Respondent about Patient A.

The Committee found Respondent's character witnesses credible and notes that the therapists he called to testify on his behalf have worked with him and think highly of him and refer their patients to him, and that the patients that Respondent called to testify on his behalf trust him and believe he has helped them. The Committee gave the character testimony limited weight as it was not central to the charges involving Respondent's care and treatment of Patient A and Patient B.

Clearly Respondent has a great deal at stake in the outcome of these proceedings. The Committee found that Respondent compromised the integrity of the physician-patient relationship, and he knowingly and willfully exploited the vulnerability of the patients and violated their trust in him for his own self-interest by talking about himself including his

appearance and his sex life, using derogatory language, making explicit sexual comments, asking sexually provocative questions, and by masturbating in front of Patient A.

The Committee found that Respondent conflated the medication management and supportive therapy he was providing to the patients with intense psychotherapy to justify his actions. Respondent's testimony about his reasons for using the word "*fuck*" in treating the patients, and why he asked intrusive questions about the patients' sex lives thoroughly unconvincing and not supported by the evidence. The Committee found Respondent's testimony about why he believed Patient A was "*overreacting*" to her husband's actions and that regaling her with "*a little story*" would have a therapeutic benefit, and that the pictures on his desk significantly contributed to the patients' alleged distortions was truly preposterous. The Committee found Respondent showed no remorse and displayed his arrogance by claiming that because Patient A and B were receiving psychiatric treatment their reports of his misconduct are distorted, and by proclaiming that the patients and their therapists should have come to him and not filed a complaint.

After due and careful consideration of the entire record the Committee determined that the Department has proven by a preponderance of the evidence that Respondent is guilty of professional misconduct having violated minimal acceptable standards of care in the physician-patient relationship and unanimously sustained all the factual allegations and the Department's charges of professional misconduct.

First Specification

The Department alleged in its first specification of misconduct that Respondent committed professional misconduct by willfully harassing, abusing or intimidating a patient either physically or verbally as it relates to Patient A and Patient B [Ex. 1A]. The Committee

found that Respondent repeatedly and willfully deviated from acceptable standards of care in the treatment of these two patients. Accordingly, the Committee sustained the first specification of misconduct.

Second Specification

The Department alleged in its second specification of misconduct that Respondent practiced the profession of medicine with negligence on more than one occasion as it relates to Patient A and Patient B [Ex. 1A]. Negligence is defined as "*the failure to exercise the care that would be exercised by another physician*" and a "*deviation from acceptable medical standards in the treatment of a patient*" [ALJ Ex. 2– *Definitions of Professional Misconduct Memorandum*]. The Committee found that Respondent repeatedly deviated from acceptable standards of care in the treatment of these two patients. Accordingly, the Committee sustained the second specification of misconduct.

Third Specification

The Department alleged in its third specification of misconduct that the Respondent practiced the profession of medicine with gross negligence as it relates to Patient A [Ex. 1A]. Gross negligence is defined as "*negligence which involves a serious or significant deviation from acceptable medical standards that creates the risk of potentially grave consequences to the patient*" [ALJ Ex. 2]. The Committee found that Respondent's serious deviations from acceptable standards of care in his treatment of Patient A constitutes gross negligence. Accordingly, the Committee sustained the third specification of misconduct.

Fourth Specification

The Department alleged in its fourth specification of misconduct that Respondent failed to "*maintain a record for each patient that accurately reflects the evaluation and treatment*" for

Patient A and Patient B [Ex. 1A]. The Committee found that Respondent failed to maintain a record that accurately reflects the treatment he provided to these two patients. Accordingly, the Committee sustained the fourth specification of misconduct.

Fifth Specification

The Department alleged in its fifth specification of misconduct that Respondent engaged in conduct in the practice of medicine that evidences moral unfitness as it relates to Patient A and Patient B [Ex. 1A]. The Committee found that Respondent is guilty of serious acts of professional misconduct exploiting the psychotherapeutic relationship for his own gratification and to satisfy his own prurient interests. Accordingly, the Committee sustained the fifth specification of misconduct.

PENALTY

The Department requested that Respondent's medical license be revoked. The Hearing Committee carefully considered the gravity of the sanction. While it is clear to the Committee that Respondent has helped many patients in his practice including at one time Patient A and Patient B, he is guilty of serious acts of misconduct and violating the sanctity of the physician patient relationship. The Committee has determined that to protect the people of the State of New York Respondent's license to practice medicine must be revoked.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The first through fifth specifications of professional misconduct set forth in the Amended Statement of Charges are SUSTAINED.

2. The Respondent's medical license is REVOKED; and

3. This Determination and Order shall be effective upon service on the Respondent pursuant to Public Health Law Section 230(10)(h).

DATED: DeWitt, New York
September 20, 2022

[redacted]

JONATHAN ECKER, M.D. (CHAIR)
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NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

ARNOLD MANDELSTAM, M.D.

AMENDED

STATEMENT

OF

CHARGES

ARNOLD MANDELSTAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 5, 1982, by the issuance of license number 149158 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, a psychiatrist, treated Patient A from on or about February 6, 2014 through on or about May 25, 2017. Patient A sought treatment with Respondent after her brother's sudden death from a heroin overdose and reported a history of a traumatic childhood and worsening depression. Respondent deviated from accepted medical standards in that he:

1. Made inappropriate sexual remarks to Patient A not for a legitimate medical purpose.
2. Asked Patient A inappropriate sexual questions not for a legitimate medical purpose.
3. Told Patient A intimate details of his personal life with his wife not for a legitimate medical purpose.
4. Made references to his own body and physical condition to Patient not for a legitimate medical purpose.

5. On or about May 25, 2017, continued to probe Patient A about her sex life not for a legitimate medical purpose, as during which time he put his hand in his pocket and began rubbing his penis. Patient A saw that he had an erection. This was the last session Patient A attended with Respondent.
6. Failed to maintain a record that adequately and accurately reflects the evaluation and treatment of Patient A and/or failed to adequately evaluate and treat her.

B. Respondent treated Patient B from on or about October 12, 2000 through on or about June 18, 2009. Patient B sought treatment with Respondent for her reported anxiety which she attributed to her significant history of childhood sexual abuse. Respondent deviated from accepted medical standards in that he:

1. Made inappropriate sexual remarks to Patient B not for a legitimate medical purpose.
2. Asked Patient B inappropriate sexual questions not for a legitimate medical purpose.
3. Told Patient B intimate details of his personal life with his wife not for a legitimate medical purpose.
4. Made references to his own body and physical condition to Patient B not for a legitimate medical purpose.
5. Failed to maintain a record that adequately and accurately reflects the evaluation and treatment of Patient B and/or failed to adequately evaluate and treat her.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

WILLFULLY HARASSING, ABUSING, OR INTIMIDATING A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by willfully harassing, abusing, or intimidating a patient either physically or verbally as alleged in the facts of:

1. Paragraph A and each of its subparagraphs, except A.6..
2. Paragraph B and each of its subparagraphs, except B.5..

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

2. Paragraph A and each of its subparagraphs and Paragraph B and each of its subparagraphs.

THIRD SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

3. Paragraph A and each of its subparagraphs.

FOURTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

4. Paragraph A.6..

5. Paragraph B.5..

FIFITH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

4. Paragraph A and each of its subparagraphs, except A.6., and Paragraph B and each of its subparagraphs, except B.5..

DATE: January 21, 2022
New York, New York

[redacted]

Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct