



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

November 1, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael Repik, D.O.
Whittier Medical Weight Control
11127 1st Avenue
Whittier, California 90603

Michael Repik, D.O.


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

RE: In the Matter of Michael Repik, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-231) 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.

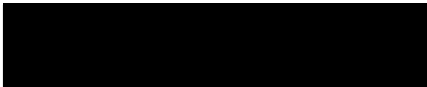
The notice of review served on the Administrative Review Board should be forwarded to:

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,


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

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IN THE MATTER
OF
MICHAEL REPIK, D.O.
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BPMC-22-231

DETERMINATION

AND

ORDER

A Notice of Referral Proceeding and Statement of Charges dated July 26, 2022, were duly served upon Michael Repik, D.O. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1, 2, 5.) A hearing was held on October 19, 2022, via WebEx videoconference. Pursuant to PHL § 230(10)(e), STEVEN M. LAPIDUS, M.D., Chairperson, ELISA J. WU, M.D., and JOAN MARTINEZ MCNICHOLAS, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. NATALIE BORDEAUX served as the administrative officer.

The Department appeared by John Thomas Viti, Associate Counsel. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-5). A transcript of the proceeding was made. After consideration of the entire hearing record, the Hearing Committee hereby issues this Determination and Order. All findings, conclusions, and determinations are unanimous.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Education Law § 6530(9)(d), having surrendered

his license to practice medicine in California after a disciplinary action was instituted by a duly authorized professional agency of that state, where the conduct resulting in the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in New York on May 2, 2019 under license number 298952. (Exhibit 1.)

2. On November 4, 2021, the Osteopathic Medical Board of California (California Board) issued a Decision and Order adopting the Respondent's Stipulated Surrender of License to resolve multiple charges regarding his treatment of one patient (Patient 1) with weight management and hormone replacement therapy. The charges included: (a) aiding and abetting the unlicensed practice of medicine; (b) gross negligence; (c) repeated acts of negligence; and (d) failure to maintain adequate and accurate medical records. (Exhibit 4.)

DISCUSSION

Although the Respondent was duly served with notice of the hearing, he failed to respond or appear at the hearing to present any evidence to contest the stated charge. The Department having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

The California Board charged, and the Respondent waived his right to dispute, that as the supervising osteopathic physician and medical director at a health and wellness center, he permitted

the unsupervised practice of medicine. On February 22, 2021, the Respondent permitted a certified technologist who lacked the background, training, education, certification and license for preparing pharmacy compound mixtures, to prepare an intravenous vitamin infusion. That same day, he also permitted a certified nuclear technician to administer the intravenous vitamin infusion to Patient 1 in the patient's home and outside of his supervision, ultimately resulting in that patient's admission to the intensive care unit following the development of acute encephalopathy, respiratory distress, and hemochezia. Diagnostic and laboratory testing revealed that the patient was in septic shock with multi-organ failure due to pseudomonas flourescens. She was hospitalized for 11 days.

The California Board additionally charged that the Respondent's omissions constituted gross negligence as an extreme departure from the standard of care and aiding and abetting the unlicensed practice of medicine. Patient 1 received care and treatment at the Respondent's medical practice from 2019 through February 22, 2021, but the Respondent himself did not render hands-on care and treatment to the patient, despite signing chart entries stating that he had provided such care, and prescribing multiple medications, including controlled substances on more than ten dates of service.

The Respondent's records for Patient 1 were also incomplete, as they did not contain the patient's family history, social history, review of systems, past medical history, past surgical history or past hospitalization history. The record for the patient's initial visit failed to include records of repeat vital signs, despite noting that the patient was "stressed," nor did the records contain lean body mass, body fat mass, percent body fat or body mass index, despite the patient's purported receipt of weight management and hormone replacement therapy. The California Board charged that all of these omissions constituted negligence as repeated departures from the standard of care.

(Exhibit 4.)

The Hearing Committee agreed that the Respondent's actions resulting in the California Board's disciplinary action would, if committed in New York, constitute misconduct pursuant to: Education Law § 6530(3), practicing the profession with negligence on more than one occasion; Education Law § 6530(4), practicing the profession with gross negligence on a particular occasion; Education Law § 6530(11), permitting, aiding or abetting an unlicensed person to perform activities requiring a license; and Education Law § 6530(32), failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. The Hearing Committee thus determined that the Respondent violated Education Law § 6530(9)(d).

After determining to sustain the charge, the Committee considered all possible penalties authorized by PHL § 230-a. The Respondent's repeated acts and omissions regarding the treatment of Patient 1 over the course of 2 ½ years posed serious and potentially life-threatening risks to the patient. His actions reflect complete disregard for his obligations to the public as a medical professional, and a willingness to abuse the privileges that his license affords, including the prescribing of controlled substances. Therefore, the Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's license was the only appropriate penalty.

ORDER

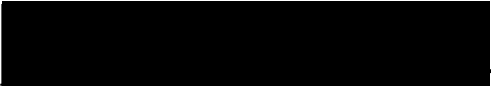
IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained.
2. The Respondent's license to practice medicine in the state of New York is hereby revoked pursuant to PHL § 230-a(4).


3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: Oct 29th, 2022

Carmel, New York


Steven M. Lapidus, M.D., Chairperson
Elisa J. Wu, M.D.
Joan Martinez McNicholas

To: Michael Repik, D.O.
Whittier Medical Weight Control
11127 1st Avenue
Whittier, CA 90603

Michael Repik, D.O.


John Thomas Viti, Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007

IN THE MATTER
OF
MICHAEL REPIK, D.O.

STATEMENT
OF
CHARGES

MICHAEL REPIK, D.O. was authorized to practice medicine in New York State on or about May 2, 2019, by the issuance of license number 298952 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 4, 2021, the Osteopathic Medical Board of California (“Board”) issued a Decision and Order (“Order”) based on a Stipulated Surrender of License and Order with the Respondent, whereby Respondent surrendered his Osteopathic Physician’s and Surgeon’s License. The Order was based on a September 13, 2021, Interim Suspension Order, which was based on an Accusation alleging that the Respondent was negligent on more than one occasion, grossly negligent, incompetent on more than one occasion, aided and abetted the unlicensed practice of medicine, and failed to keep adequate and accurate medical records, in violation of California Code of Regulation §1360, §2234(b) and (c) and §2266.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to:
 - a) New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion.);
 - b) New York Education Law Section 6530(4) (Practicing the profession with gross negligence on a particular occasion.);

c) New York Education Law Section 6530(5) (Practicing the profession with incompetence on more than one occasion.);

d) New York Education Law Section 6530(11) (Permitting, aiding or abetting an unlicensed person to perform activities requiring a license.);

e) New York Education Law Section 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state, namely N.Y. Educ. Laws §6530(3),(4), (5) (11) and (32) as alleged in the facts of the following:

1. The facts in Paragraph A, A1 and its subparagraphs.

DATE: July 26, 2022
New York, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct