NEW YORK
STATE OF
OPPORTUNITY.

Department
of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

November 27, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Leslie A. Eisenberg, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007

J. Benjamin Greene, Esq.
30 Wall Street, 8th Floor
New York, New York 10005

David Israel, M.D.
[redacted]

RE: In the Matter of David Israel, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-241) 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: nm
Enclosure

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

COPY

IN THE MATTER OF DAVID ISRAEL, M.D.	DETERMINATION AND ORDER BPMC-23-241

On August 24, 2023, the New York State Department of Health, Bureau of Professional Medical Conduct (Department) duly served David Israel, M.D. (Respondent), pursuant to Public Health Law (PHL) § 230(10)(d)(i), with an August 22, 2023 Commissioner's Order and Notice of Hearing, and August 21, 2023 Statement of Charges. (Exhibit 1.) The Respondent did not file an answer.

The Department charged the Respondent with 31 specifications of professional misconduct under New York Education Law (Educ. Law) § 6530, specifically: conduct in the practice of medicine which evidences moral unfitness to practice (Educ. Law § 6530(20)); practicing the profession of medicine with negligence on more than one occasion (Educ. Law § 6530(3); practicing the profession with incompetence on more than one occasion (Educ. Law § 6530(5); and failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient (Educ. Law § 6530(32)).

The hearing was held on August 31, September 5, September 18, September 27, and October 3, 2023 via Cisco WebEx videoconference. Pursuant to PHL § 230(10)(e), **WILLIAM A. TEDESCO, M.D.**, Chairperson, **ANTHONY MARINELLO, M.D., Ph.D.**, and **SUSAN KSIAZEK, B.S. PHARM.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **NATALIE J. BORDEAUX** served as the

administrative officer. The Department appeared by Leslie A. Eisenberg, Esq. The Respondent was represented by Benjamin Greene, Esq.

After considering the entire hearing record, the Hearing Committee hereby issues this Determination and Order, sustaining the charges and revoking the Respondent's medical license. All findings, conclusions, and determinations are unanimous.

HEARING RECORD

This hearing was held on August 31, September 5, September 18, September 27, and October 3, 2023. A transcript of the hearing was made. (T 1 – 707.) The record closed November 7, 2023, after affording the parties the opportunity to submit post-hearing briefs. Only the Department provided a post-hearing brief for consideration. The Hearing Committee deliberated on November 13, 2023.

Department witnesses:

[redacted] Respondent's neighbor
[redacted] Respondent's neighbor
[redacted] Respondent's neighbor
[redacted], Respondent's neighbor
[redacted] property manager of the Respondent's apartment building
Jennifer Barnello, former Office of Professional Medical Conduct (OPMC) investigator
[redacted] Emergency Medical Technician (EMT), Mount Sinai Hospital (Mount Sinai)
[redacted]EMT, Mount Sinai
[redacted] EMT, Mount Sinai
[redacted] Paramedic, Mount Sinai
[redacted] Paramedic, Mount Sinai
[redacted], Paramedic, Mount Sinai
[redacted]Paramedic, Mount Sinai
[redacted] Paramedic, Mount Sinai
[redacted]EMT, Fire Department of New York (FDNY)
[redacted], EMT, FDNY
[redacted] Paramedic, FDNY
[redacted] Paramedic, FDNY
Robert Bramante, M.D.

Department exhibits:	1-23, 24a, 24b, 24c, 24d, 25a, 25b, 25c, 26a, 26b, 26c, 26d, 27, 28, 29a, 29b, 29c, 29d, 29e, 29g, 30-35, 36a, 36b, 37a, 37b, 38-50
Respondent witnesses:	None
Respondent exhibits:	None

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in the State of New York on July 8, 2003, by the issuance of license number 229166. (Exhibit 2.)

2. The Respondent has resided at [redacted] since May 2021, where he has used his apartment as a medical office. (Exhibit 20; T 42, 72-73, 292.)

3. The Respondent has allowed patients, including Patients D, E, F, G and H, to reside in his apartment. (Exhibits 13, 26a, 26b, 26c, 30, 31, 33-35, 36a-36b, 39, 40, 47; T 73-84, 94-95, 166-67, 169-71, 209-10, 240-41.)

4. On May 28, 2022, in response to a 911 phone call made by [redacted] the Respondent's neighbor [redacted] Emergency Medical Service (EMS) personnel were dispatched to the Respondent's apartment to assist Patient D, who had sustained a gunshot wound to the left upper arm. (Exhibits 3-5; T 88-94, 411-20.)

5. The Respondent sells illegal prescriptions at his residence/medical office. (Exhibit 28; T 236-38.)

6. In addition to prescribing controlled substances, including opioid medications and stimulants such as amphetamines, the Respondent has used and supervised the use of illegal drugs in his residence, including phencyclidine (Angel Dust), gamma hydroxybutyrate (GHB), heroin, and stimulants. (Exhibits 6, 9, 10, 11, 13, 14, 15, 18, 19, 22; T 201-02, 647-48.)

7. On September 19, 2022, in response to a 911 phone call, EMS personnel were dispatched to tend to the Respondent in his apartment, where he was found naked and unconscious, with pinpoint pupils (an indication that he ingested narcotics). The EMS crew administered 1 mg of naloxone in each of the Respondent's nostrils. The Respondent was revived and became combative with the EMS crew. (Exhibits 6-7; T 96-98, 423-31.)

8. On January 26, 2023, using a hole in the floor caused by structural damage, an air sampling inspection was conducted in the bathroom of the Respondent's building neighbor [redacted] evaluate smoke emanating from the Respondent's apartment. The inspection detected the presence of methamphetamine in the air. (Exhibit 9; T 46-47, 55-56.)

9. On February 21, 2023, EMTs were dispatched to the Respondent's apartment for a 911 emergency call for assistance with a 23-year-old woman who had overdosed on fentanyl and heroin. After the EMTs resuscitated the patient with naloxone, the Respondent presented himself to the EMTs and advised them that he was a physician. He rode in the ambulance with the patient. Upon arriving at the hospital, the Respondent and the patient left before the patient was examined in the emergency room. (Exhibits 10-12; T 99-100, 661-65, 668-75.)

10. On March 5, 2023, in response to a 911 call, two paramedics and an EMT were dispatched to the Respondent's apartment to tend to Patient E, described as a roommate in the Respondent's apartment, who had "taken too much" GHB and was "going crazy." After she was sedated, Patient E was transported to the hospital for medical treatment. (Exhibit 13; T 653-58.)

11. On April 5, 2023, paramedics were dispatched to the Respondent's apartment in response to the Respondent's 911 call for complaints of difficulty breathing. After the paramedics experienced difficulties with entering the apartment building, the Respondent met them at the ambulance, advised them that he was a physician and requested an electrocardiogram (ECG or

EKG). After the ECG, the Respondent declined further medical treatment and left the ambulance. Given the Respondent's behavior, and his reported symptoms despite normal vital signs, the paramedics suspected that he had ingested stimulants. (Exhibit 14; T 640-48.)

12. On April 16, 2023, EMTs responded to a 911 call seeking emergency assistance at the Respondent's apartment because Patient D was experiencing a psychotic episode after taking angel dust. Upon their arrival, the EMTs found Patient D already handcuffed by police. They escorted him to the hospital for further evaluation. (Exhibits 15-17; T 109-14, 454-60.)

13. On June 10, 2023 at 2:43 am, EMS personnel responded to a 911 call from the Respondent's apartment seeking help for a drug overdose. When they arrived, they found a 40-year-old male unconscious with pinpoint pupils. The patient was revived after naloxone was administered, and admitted to snorting heroin. The Respondent attempted to interfere with the dosage of naloxone being given to the patient, advised the EMS personnel that he was a physician, and refused to allow the transport of the patient to the hospital, stating that he would take care of him. Eventually, the patient was loaded onto an ambulance and transported to Mount Sinai with police assistance to prevent the Respondent's further interference. (Exhibits 18, 19; T 345-71, 443-46.)

14. On July 7, 2023, paramedics arrived at the Respondent's apartment in response to a 911 call initiated by the Respondent for a bloody nose. On arrival, they found a 25-year-old female unresponsive in the back bedroom of the apartment. After the paramedics administered naloxone, the female was revived and transported to the hospital for further evaluation. (Exhibits 21, 22; T 395-403, 617-20, 626-27.)

15. EMS personnel responding to 911 calls from the Respondent's apartment have observed used syringes, sex toys, garbage, and discarded boxes of naloxone strewn all over the apartment

floor, and occupants in the apartment with pinpoint pupils who appeared dirty and lethargic or under the influence of stimulants and unconcerned with the emergency situations that prompted law enforcement and EMS presence. (Exhibit 22; T 354-61, 368-69, 374-75, 400-01, 429, 443, 446-48, 621-24, 657-58, 683-85.)

The OPMC's Request for Medical Records from the Respondent

16. In March 2023, OPMC Investigator Jennifer Barnello sent the Respondent a request via certified mail for medical records of several patients, but received no response. (T 287-88, 328.)

17. In April 2023, Ms. Barnello sent the Respondent a second request via certified mail for patients' medical records, but again received no response. (T 288, 328.)

18. Also in April 2023, by separate certified mailing, Ms. Barnello offered the Respondent an opportunity for an interview with the OPMC. The letter was returned to Ms. Barnello unanswered. (T 289, 328.)

19. In May 2023, Ms. Barnello emailed the Respondent the OPMC's request for patients' medical records, but received no response. She then sent him a text message requesting a return phone call. (T 289-91, 328.)

20. On May 12, 2023, the Respondent called Ms. Barnello and stated that he wanted an interview with the OPMC. Ms. Barnello emailed the Respondent the medical records request to an email address given by the Respondent, but the Respondent never provided the requested records. (T 291-96, 299, 328.)

21. The Respondent had submitted records for patients A, B, C, I and J to the OPMC in August 2020 for a prior investigation. During that investigation, he stated that he had maintained medical records on an encrypted flash drive in his home, and that his wife disposed of the flash drive after he left his home in December 2019. The Respondent's 2020 communications with

the OPMC, combined with data from the Bureau of Narcotics Enforcement (BNE) and results of I-STOP/Prescription Monitoring Program queries, were then reviewed by the OPMC for the 2023 investigation. (Exhibits 38-45, 47, 49, 50; T 286, 304-29.)

Standards of Care

22. A reasonably prudent physician first evaluates a patient by taking the patient's history, including past medical treatment, prior surgeries, family medical history, medications, and alcohol or substance abuse (social history). (T 480-81, 483.)

23. After obtaining a patient's history, a reasonably prudent physician physically examines the patient and performs testing, if needed, based upon the history and examination. (T 483, 486.)

24. A reasonably prudent physician uses the patient's history and physical examination to create a differential diagnosis, assessment, and treatment plan for the patient. (T 483-84.)

25. A reasonably prudent physician documents a patient's history, assessments, clinical findings, and treatment plans to inform other providers about the patient's treatment and medical conditions and maintains those documents in the patient's medical record. (T 479-81, 484.)

26. Maintaining medical records on a flash drive without preserving those records on a backup device is a deviation from the standard of care. (T 497-98.)

27. On August 27, 2013, the State of New York implemented the I-STOP/Physician Monitoring Program – Internet System for Tracking Over-Prescribing (I-STOP), requiring physicians to consult the Physician Monitoring Program (PMP) Registry when writing prescriptions for Schedule II, III, and IV controlled substances. (T 499-500.)

28. Before prescribing Schedule II, III, and IV controlled substances, a reasonably prudent physician consults I-STOP and documents that I-STOP was reviewed. (T 500-01.)

29. When prescribing controlled substances for patients for a prolonged duration, a reasonably prudent physician documents the basis for the continued prescribing of those medications and plans for tapering off the medication or an explanation as to why discontinuing the prescription is not feasible. (T 501-02.)

30. When prescribing opioids on a long-term basis for a patient, a reasonably prudent physician discusses the risks of opioid dependence with that patient at least annually. (T563.)

Medical Care Rendered by the Respondent to Patients A-J

31. The Respondent failed to perform an adequate evaluation and detail an assessment or plan for Patients A-J, nor did he document justification for initially prescribing, prescribing increased dosages, continued prescribing or plans to taper off controlled substance prescriptions. (T 503-04, 540-42, 561-62, 565-66, 570-71, 575-77, 579-81, 591, 608.)

32. The Respondent failed to review I-STOP before prescribing controlled substances for Patients A-J. (Exhibits 41-45; T 505, 541, 554, 571, 575-76.)

33. The Respondent has not queried I-STOP since August 30, 2022, despite issuing at least 240 prescriptions for controlled substances since that date. (T 526-27.)

34. The Respondent failed to maintain records which accurately reflect the evaluation and treatment rendered to Patients A-J. (T 504-06, 539-42, 547, 579-81, 589-91; Exhibits 41-45.)

PATIENT A

35. The Respondent issued prescriptions to Patient A from at least September 2007 through January 2023, but only provided the OPMC with documentation of visits in March and June 2020, and a record of prescriptions from September 2007 through July 2020. (Exhibits 38 and 41.)

36. In June 2015, the Respondent began prescribing Patient A 120 tablets of oxycodone 30 mg (an opioid) every six hours, a high starting dose, in combination with continued prescriptions for lorazepam and amphetamine-dextroamphetamine. The Respondent did not document medical justification for these prescriptions. (Exhibit 38; T 509-12.)

37. The combined prescribing of oxycodone, lorazepam and amphetamine-dextroamphetamine placed Patient A at risk for respiratory depression and psychomotor impairment. (T 512-13.)

38. The Respondent did not document justification for prescribing lorazepam in combination with alprazolam and amphetamine-dextroamphetamine. (Exhibit 38; T 522-23.)

39. On June 27, 2018, the Respondent increased the total number of pills and dosing frequency of oxycodone for Patient A to 480 tablets of oxycodone 30 mg (two tablets to be taken every four hours), and also increased the dosage of alprazolam from .5 mg to 1 mg twice a day, without documenting a basis for these changes. (Exhibit 41; T 514.)

40. On March 18, 2017, the Respondent prescribed promethazine-codeine, a cough suppressant, to Patient A without documenting that he considered the risks of respiratory depression, the patient's age, and previous reports of delirium. (Exhibit 41; T 519-20.)

PATIENT B

41. The Respondent issued prescriptions for oxycodone, amphetamine-dextroamphetamine, and lorazepam to Patient B (a patient with the same home address as Patients A and C) from January 2015 through January 2023. (Exhibits 38, 49.)

PATIENT C

42. The Respondent prescribed medications for Patient C, an 18-year-old male with the same last name and home address as Patients A and B, from September 2015 through January 2023. (Exhibits 38, 43, 49; T 548.)

43. In response to a prior investigation, the Respondent provided the OPMC with records of prescriptions issued to Patient C from July 2019 through June 2020 and three telemedicine visits on January 7, 2019, December 3, 2019, and February 18, 2020, despite certifying that records dated before January 2020 were destroyed by the Respondent's ex-wife. (Exhibit 43.)

44. The Respondent's records for Patient C's three telemedicine visits stated that the patient's chief complaint was a need for medication refills, without identifying the medications. (T 550.)

45. The Respondent's records for Patient C's three telemedicine visits report the patient's pulse and temperature and states that the patient has no tachycardia (rapid heartbeat), information that is difficult to obtain without a physical examination. (Exhibit 43; T 551-52.)

46. The Respondent prescribed amphetamine-dextroamphetamine (a medication that makes a patient more prone to seizures) in combination with opiates (which heightens the risk of seizures) for Patient C, despite reporting that the patient has a seizure history. No documentation is found in the patient records to demonstrate the Respondent's consideration of these risks before prescribing either medication. (Exhibit 43; T 557-58.)

47. It is unusual for three patients within the same family to need the same medications and the same doses of those medications, as was the case for Patients A-C. (T 587-88; Exhibits 41-43.)

PATIENT D

48. The Respondent issued prescriptions to Patient D for oxycodone, alprazolam, and buprenorphine-naloxone from June 2022 through July 2023, without documenting an appropriate medical justification. (Exhibits 38-40.)

PATIENT E

49. The Respondent issued prescriptions for oxycodone and amphetamine-dextroamphetamine to Patient E from March 2023 through July 2023, after EMS personnel responded to a 911 call regarding this patient experiencing a psychotic episode. He provided no medical justification for the prescriptions. (Exhibits 13, 39, 47; T 591-594.)

PATIENT F

50. The Respondent issued prescriptions to Patient F for buprenorphine, clonazepam, and oxycodone from November 2022 through January 2023. (Exhibit 38.)

51. The prescribing of buprenorphine with clonazepam or another benzodiazepine medication can precipitate opioid withdrawal syndrome, a life-threatening condition. The Respondent provided no medical justification for the prescriptions. (T 597-98.)

PATIENT G

52. The Respondent issued prescriptions to Patient G (referred to by the Respondent as his fiancée) from March 2023 through June 2023 for alprazolam, amphetamine-dextroamphetamine, and zolpidem. (Exhibit 39; T 295.)

PATIENT H

53. The Respondent issued prescriptions to Patient H from May 2023 through July 2023 for oxycodone, alprazolam, and amphetamine-dextroamphetamine. (Exhibits 39, 40, 47.)

PATIENT I

54. The Respondent issued prescriptions to Patient I from October 2016 through February 2020, mainly, Adderall, Lorazepam, and amphetamine-dextroamphetamine. (Exhibits 38, 44.)

PATIENT J

55. The Respondent issued prescriptions to Patient J, a male with the same last name as Patient I, from December 2016 through July 2018, mainly alprazolam and amphetamine-dextroamphetamine. He issued 30-day supply prescriptions for the same medications only a few days apart, a departure from the standard of care. (Exhibits 45, 49; T 577.)

The Respondent's Suspension from Medical Practice in New York

56. By Commissioner's Order dated August 22, 2023, following an investigation by the Office of Professional Medical Conduct and a recommendation by a Committee on Professional Conduct pursuant to PHL § 230(12)(a)(ii), the Respondent was prohibited from practicing medicine due to his causing, engaging in or maintaining a condition which constitutes an imminent danger to the health of the people. (Exhibit 1.)

57. By Recommendation Pursuant to Public Health Law § 230(12)(a) dated September 27, 2023, following a hearing, the Commissioner adopted the Hearing Committee's recommendation that the summary order suspending the Respondent's medical license remain in full force and effect until a final decision has been rendered. (Exhibit ALJ I.)

58. In violation of the August 22, 2023 Commissioner's Order, the Respondent issued prescriptions for controlled substances on September 7, 14, and 28, 2023. (Exhibit 50.)

DISCUSSION

As required by PHL § 230(10)(f), the Hearing Committee based its conclusions on whether the Department met its burden of establishing the charges by a preponderance of the

evidence. The Hearing Committee sustains all factual allegations and charges set forth in the Statement of Charges.

CONCLUSIONS OF LAW[1]

The Respondent is charged with 31 specifications of charges of professional misconduct under Educ. Law § 6530. The Hearing Committee drew an adverse inference from the Respondent's failure to testify. *Youssef v. State Board for Professional Medical Conduct*, 775 N.Y.S.2d 395 (App. Div. 3d Dep't 2004); *Steiner v. DeBuono*, 657 N.Y.S.2d 485 (App. Div. 3d Dep't 1997). However, even without such inference, the hearing record contains ample evidence, i.e. far more than a preponderance, that the Respondent committed professional misconduct as charged.

Moral Unfitness to Practice Medicine – Education Law § 6530(20)

The Department's first specification charges the Respondent with engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine. The Respondent maintains an unsafe and unhygienic medical office (doubling as his apartment) in which needles, used and unused, and other drug paraphernalia are strewn on the floor. Testimony consistently and unequivocally described the Respondent's apartment as unkempt, dirty, and a "shooting gallery" for drug addicts. (T 354-59, 427, 429.) An air quality test conducted earlier this year detected methamphetamine in the Respondent's apartment/medical office. (Exhibit 9.) EMS personnel testifying at the hearing expressed surprise at learning that the Respondent was a

[1] In reaching its determination, the Committee used the definitions set forth in the memorandum entitled "Definitions of Professional Misconduct under the New York State Education Law." In his opening statement on the first hearing date, Committee Chairman Dr. Tedesco advised the parties that the Committee may use the memorandum to assist them in rendering a determination and invited the parties to "comment or dispute" the explanations provided in the memorandum before the last hearing date. Neither party disputed or sought modification of the definitions. (T 4-5.)

physician and consistently remarked that, with the exception of several certificates hanging on the wall, the apartment bore no indication of being used for a medical practice. (T 427, 429.)

When emergency personnel were summoned to assist with drug overdoses in his apartment, the Respondent interfered with treatment being administered to patients by insisting that emergency personnel administer smaller amounts of naloxone and attempting to prevent the patients' transport to the hospital for further evaluation. In one instance, while emergency personnel responded to a 911 call initiated by the Respondent himself for a bloody nose, paramedics found an unconscious female who had overdosed in his apartment (Exhibits 21-22.) No emergency call had been made to assist the unconscious female.

Amidst the chaotic backdrop known as the Respondent's medical office, the Respondent allows patients to live with him intermittently and, as will be discussed in more detail below, prescribes controlled substances to those patients without any documentation or other evidence to demonstrate the basis for those prescriptions. Most patients, including three belonging to the same family and residing in the same home, received nearly identical combinations of prescriptions from the Respondent. The Respondent also continued to issue prescriptions for controlled substances during the pendency of this hearing, after this Hearing Committee recommended, and the Commissioner of the New York State Department of Health ordered, that the Respondent's license should remain suspended pending the outcome of this hearing.

The Respondent has abused the privileges of his license to the detriment of his patients and the general public, including his neighbors, and has absolutely no regard for the oversight authority of the OPMC or the Hearing Committee. The term "moral unfitness" encompasses the Respondent's conduct. This charge is sustained.

Negligence on More Than One Occasion – Educ. Law § 6530(3)

The Department's second through eleventh specifications charge the Respondent with practicing the profession of medicine with negligence on more than one occasion in his treatment and documentation of treatment of Patients A-J.

A physician is guilty of negligence on more than one occasion when he has failed to exercise the care that a reasonably prudent physician would exercise under the circumstances. *Maglione v. New York State Department of Health*, 779 N.Y.S.2d 319, 322 (App. Div. 3d Dep't 2004); *Bogdan v. New York State Bd. for Professional Medical Conduct*, 606 N.Y.S.2d 381, 382 (App. Div. 3d Dep't 1993). The Respondent deviated from the applicable standards of care in his treatment of Patients A-J. He failed to perform an adequate evaluation and detail an assessment or plan for Patients A-J, nor did he review I-Stop while prescribing controlled substances for those or other patients. He prescribed similar combinations of prescriptions for Patients A-J without adequate medical justification. The prescription combinations for all of those patients were inappropriate, as they included agonists and antagonists simultaneously, a combination largely sought by drug addicts and without medical benefit. The Respondent issued prescriptions for Patients A-C (patients having the same last name) and I-J (patients having the same last name) too frequently.

Although he claimed, in response to a prior investigation, that most of his records for Patients A, B, C, I, and J were destroyed, the Hearing Committee is not obligated to and will not assume that such records existed and that the records would have contained required information. To the extent that any such records were maintained on a flash drive, the Respondent's failure to preserve those records on a backup device was also a deviation from the standard of care. (T

497-98.) Furthermore, the Respondent did not supply any documentation for the investigation that led to this hearing.

The Respondent's notes for Patient C's three telemedicine visits contain information that would be almost impossible to obtain without an actual physical examination. The Respondent provided no justification whatsoever for prescribing Patients A-C with nearly identical medications and dosages, with the only apparent similarity between those patients being their last name. It is extremely unusual for three people in the same family, including Patients A and B as spouses with no genetic similarities, to have the same medical conditions and needs. (T 546-57, 587-88.) Despite reporting Patient C's history of seizures, the Respondent prescribed amphetamine-dextroamphetamine, a medication that heightens seizure risks, for the patient without documentation justifying his decision.

The Respondent also offered no explanation, and no reasonable explanation can be assumed, for his prescribing similar combinations of medications to Patients A-J without proper examinations and treatment plans, which he did not perform. Patients D and E are known drug abusers with documented behavioral episodes that should have prompted the Respondent to examine those patients for their need for, and risk of abuse of, any controlled substance, which the Respondent did not do.

The Respondent's treatment of Patients A-J consistently deviated from the standard of care and constituted negligence on more than one occasion. This charge is sustained.

Incompetence on More than One Occasion – Educ. Law § 6530(5)

The twelfth through twenty-first specifications charge the Respondent with committing professional misconduct as defined in Educ. Law § 6530(5) with respect to his treatment and failure to maintain adequate records of his treatment of Patients A-J.

Incompetence is a lack of the requisite skill or knowledge to practice medicine safely. *Dhabuwala v. State Board for Professional Medical Conduct*, 651 N.Y.S.2d 249 (App. Div. 3d Dep't 1996). For the same factual reasons described above in the discussion of the negligence charge, the Respondent's treatment of Patients A-J constituted incompetence. He unnecessarily placed his patients in danger without any consideration for or understanding of their safety and medical needs.

Repeated emergency calls were made for patients overdosing in the Respondent's apartment, including the Respondent himself. The Respondent consistently interfered with treatment administered by EMS personnel in response to these calls for assistance with patients who had overdosed on illegal substances in the Respondent's apartment/medical office. Although he insisted that he was the physician of the patients who had overdosed, the Respondent refused to sign for their release from emergency care. His interference only slowed down treatment and the ability of emergency personnel to transport those patients to the hospital for further evaluation. The Respondent's actions consistently placed his patients in harm's way and reflect a lack of knowledge to practice medicine safely. This charge is sustained.

Failure to Maintain Records- Educ. Law § 6530(32)

The twenty-second through thirty-first specifications charge the Respondent with committing professional misconduct as defined in Educ. Law § 6530(32) by failing to maintain a record for Patients A-J which accurately reflects the evaluation and treatment of the patient. A medical record which fails to convey objectively meaningful medical information to other physicians is inadequate. *Gant v. Novello*, 754 N.Y.S.2d 746, 750 (App. Div. 3d Dep't 2003); *Gonzalez v. New York State Dept. of Health*, 648 N.Y.S.2d 827, 831 (App. Div. 3d Dep't 1996). As already noted, the Hearing Committee is not obligated to and will not assume that a record

exists when such is not provided. The Respondent has never provided the OPMC with medical records for Patients D-G, offered incomplete records for Patients A-C and no documentation for Patients I-J, other than medication lists. This charge is sustained.

HEARING COMMITTEE'S DETERMINATION AS TO PENALTY

The Department recommended the revocation of the Respondent's medical license. (T 703.) The Respondent made no statement at all.

The Hearing Committee agreed that revocation was the only appropriate penalty in this case. The Respondent is completely unfit to continue practicing medicine and is a danger to the public. He maintains an unhygienic office, lives with patients, and has a substance abuse problem of his own. The Respondent's office/apartment acts as a "shooting gallery," a safe space for patients to use illegal substances, as multiple EMS personnel testified, ostensibly under the care of a physician. Yet, when patients overdosed in his apartment, 911 calls were made, and emergency personnel arrived. Rather than allowing EMS personnel to monitor and treat overdose patients in his apartment, the Respondent intervened and attempted to disrupt emergency personnel while they adhered to emergency protocols in administering naloxone. He also convinced multiple overdose patients transported by EMS personnel not to receive hospital treatment.

All patients identified in the Statement of Charges received similar combinations of medications – agonists and antagonists, a combination not designed to treat medical conditions. The Respondent also prescribed amphetamine-dextroamphetamine for Patients A-C and E-J, without documenting medical justification for those prescriptions. Given the lack of documentation and the Respondent's refusal to testify, the Hearing Committee is very concerned

that the amphetamine-dextroamphetamine prescriptions were used for a "rush" rather than a legitimate medical diagnosis.

The Respondent practices medicine, or at least holds himself out to the public as practicing medicine, in an apartment that is utterly unhygienic and unsafe. His failure to maintain a clean treatment space, free of filth, and failure to stow away medical supplies, particularly needles, both used and unused, reflects complete disregard for the safety of his patients and members of the public. The Respondent has shown an inability to control his own drug abuse problems and a willingness to abuse the privileges of his license while placing his patients and everyone else in his apartment building in precarious positions without any concern or understanding for the dangerous situations that he harbors and creates. For all of these reasons, the Hearing Committee has determined to revoke the Respondent's medical license.

ORDER

IT IS HEREBY ORDERED THAT:

1. The first through thirty-first specifications of charges as set forth in the Statement of Charges are sustained.

2. The Respondent's license to practice medicine is hereby revoked pursuant to PHL § 230-a(4).

3. This order shall be effective upon service of the Respondent by personal service or by certified mail as required under PHL § 230(10)(h).

DATED: November 22, 2023

Glens Falls, New York

[redacted]

WILLIAM A. TEDESCO, M.D., Chair
ANTHONY MARINELLO, M.D., Ph.D.
SUSAN KSIAZEK, B.S. Pharm.

To: Leslie A. Eisenberg, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
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New York, New York 10005

David Israel, M.D.
[redacted]

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

AMENDED
STATEMENT
OF
CHARGES

IN THE MATTER

OF

DAVID ISRAEL, M.D.

David Israel, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 8, 2003, by the issuance of license number 229166 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent is engaging in the following conduct and/or permitting the following conduct to occur in his home, which Respondent also uses as a medical office:

1. Since May 2021, Respondent has lived at [redacted] a walk-up apartment building with 4 units. Respondent uses his apartment as a medical office.

2. On numerous occasions, including but not limited to 5/28/22, 9/19/22, 1/26/23, 2/21/23, 3/5/23, 4/05/23, 4/16/23, 6/10/23, and 7/7/23, Emergency Medical Services (EMS) and/or the Fire Department of the City of New York (FDNY) and/or the New York City Police Department (NYPD) have responded to 911 calls at Respondent's apartment/medical office for calls of gunshots, overdoses, fighting, emotionally disturbed persons (EDP), and noise complaints. EMS have repeatedly observed multiple people, who do not appear to know each other, living in Respondent's apartment/medical office, and have found the apartment/medical

office to be in total disarray with bags, trash, needles, Narcan pods, and sex toys, strewn about everywhere.

3. Respondent allows patients and/or other individuals to live with him in his apartment/medical office. Patients and/or other individuals have been seen sleeping in the hallway outside Respondent's apartment/medical office, and Respondent has been heard yelling profanities and threats to patients and/or other individuals in his apartment/medical office, at all hours of the day and night.

4. Respondent provides keys to his apartment/medical office and/or entry to the locked building, to patients and/or other individuals. Visitors yell to Respondent from the street, at all hours of the day and night, and ring the bell of other tenants, to be allowed into the building.

5. On May 28, 2022, EMS responded to a call at Respondent's apartment/medical office for a gunshot wound. A male, (Patient D), who was living with Respondent, had suffered a self-inflicted gunshot wound, with his own gun, and fell down the stairs. EMS encountered the individual, completely naked, at the base of the stairs. EMS wrapped the individual in a blanket and transported him to Mt. Sinai West Hospital.

6. On September 19, 2022, EMS responded to a call at Respondent's apartment/medical office, for an overdose. Respondent was the patient. When EMS arrived, at least two people were present, and one reported to EMS that Respondent uses drugs recreationally. Respondent was unresponsive. EMS administered Narcan. Respondent awoke, was initially uncooperative, and then agreed to go to the hospital. EMS transported Respondent to Mt. Sinai West Hospital.

7. On January 26, 2023, EMS was called to Respondent's apartment/medical office, for a cardiac condition. Respondent was the patient. At least two people were present when EMS arrived. Respondent stated that he was yelling at a person who

had since left, and the yelling caused his chest pain. Respondent wanted an EKG, which was performed. Respondent reported he was in the medical field, and he refused to be transported to the hospital.

8. Due to an odor emanating from a hole in the ceiling of Respondent's apartment/medical office, a New York State licensed property inspector was engaged on January 26, 2023, to inspect the air coming from Respondent's apartment/medical office. The inspector obtained and tested an air sample. The results were positive for Methamphetamine.

9. On February 21, 2023, EMS was called to Respondent's apartment/medical office, for an overdose. A 23-year-old female was found unconscious on a bed in a back room. EMS administered Narcan and the individual became fully conscious. Respondent reported that he was a doctor and tried to have the individual refuse medical attention. EMS transported the individual to Mt. Sinai West Hospital. Upon arrival at the Emergency Room, the individual refused medical care and left with Respondent.

10. On March 5, 2023, EMS was called to Respondent's apartment/medical office for an individual with an altered mental status. At least two people were present when EMS arrived. A female, (Patient [redacted]E), was found screaming and kicking and was held down by her roommate who reported that she took Gamma Butyrolactone (GBL). EMS transported this individual to Mt. Sinai West Hospital. *Amended 11-3-23*

11. On April 5, 2023, EMS was called to Respondent's apartment/medical office for complaints of a person having difficulty breathing. Respondent was the patient. Upon arrival, EMS rang the bell but no one answered. Respondent then came down the stairs and informed EMS that he had chest pain, he is an Emergency medicine physician, and he had taken 4 baby aspirin and nitroglycerine, which

helped. Respondent stated that he wanted to be checked out, but he refused transport to the hospital.

12. On April 16, 2023, EMS responded to a call at Respondent's apartment/medical office, for an EDP. Upon arrival, NYPD was present and screaming could be heard. When EMS was permitted entry to the building, a male, (Patient D), was handcuffed in the hallway, outside [redacted] EMS attended to the individual and then transported the individual to Mt. Sinai West Hospital.

13. The Office of Professional Medical Conduct (OPMC) has attempted to reach Respondent by mail, on more than one occasion. Respondent's mail was returned. Respondent acknowledged that his mailbox has been broken and he stated that his roommates steal his mail. On or about Friday May 12, 2023, Respondent was contacted by an OPMC investigator regarding the investigation and OPMC's attempts to reach him by mail. Respondent provided his email address as a means to receive communication. On Tuesday May 16, 2023, the OPMC investigator spoke again with Respondent, and informed him that the email was not going through. Respondent did not recall the conversation from May 12th and during this call his speech was slurred and jumbled.

14. On June 10, 2023, EMS was called to Respondent's apartment/medical office, for an overdose. At least three people were present when EMS arrived. EMS found a male on the floor of a backroom, unconscious, wet, and without a shirt. EMS administered Narcan and the individual became responsive. Respondent interjected that he was a physician, he would care for the individual and, he tried to persuade EMS that the male did not need to go with them to the hospital. The individual agreed to go to the hospital and EMS transported the individual to Mt. Sinai West Hospital.

15. On July 7, 2023, EMS was called to Respondent's apartment/medical office regarding a man with a head injury. Respondent was the patient. Upon arrival, EMS had difficulty gaining entrance to the building and could hear screaming

coming from upstairs. When EMS entered [redacted] there were at least two other people present. Respondent reported that he fought with a roommate, trying to get her to leave. The roommate hit him in the nose. While EMS was in the apartment attending to Respondent, NYPD observed an unconscious female on the floor in the back bedroom. EMS administered Narcan to the female and she responded. As EMS was loading the female into the ambulance, Respondent came downstairs and stated he wanted to get checked out. EMS transported the female and Respondent to Mt. Sinai West Hospital.

B. Respondent issued prescriptions to Patient A, a 51-year-old female, for medications including but not limited to Oxycodone, Adderall, Lorazepam, Alprazolam, Hydrocodone, and Promethazine/Codeine, from in or about September 2007 through in or about January 2023. This patient's address is the same as Patients B and C. OPMC requested medical records from Respondent in June 2020, in the form of a Director's Order of Comprehensive Review of Records. Respondent responded that he kept his patient records on a flash drive which was destroyed by his wife, in or about December 2019. Respondent did provide documentation reflecting visits in March and June 2020, and a prescription record demonstrating prescriptions between September 2007 and July 2020, including overlapping controlled substance prescriptions. (Patient names are listed in the Appendix.) Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
    a. perform an adequate evaluation and/or detail an assessment or plan,
    b. review I-Stop while prescribing controlled substances for the patient,
    c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient, excluding March 7, 2020 - June 25, 2021 per New York State Executive Order #220.10.
2. inappropriately prescribed medications:
    a. without adequate medical justification,
    b. simultaneously,

c. at too frequent intervals.

C. Respondent issued prescriptions to Patient B, a 52-year-old male, for Oxycodone, Adderall, Lorazepam, Alprazolam, Percocet, and Promethazine/Codeine, from in or about January 2015 through in or about January 2023. This patient's address is the same as Patients A and C. OPMC requested medical records from Respondent in June 2020, in the form of a Director's Order of Comprehensive Review of Records. Respondent responded that he kept his patient records on a flash drive which was destroyed by his wife, in or about December 2019. Respondent did provide a prescription record demonstrating prescriptions between August 2019 and July 2020, including overlapping controlled substance prescriptions. Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
    a. perform an adequate evaluation and/or detail an assessment or plan,
    b. review I-Stop while prescribing controlled substances for the patient,
    c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient, excluding March 7, 2020 - June 25, 2021 per New York State Executive Order #220.10.
2. inappropriately prescribed medications:
    a. without adequate medical justification,
    b. simultaneously,
    c. at too frequent intervals.

D. Respondent issued prescriptions to Patient C, an 18-year-old male, for Adderall, Lorazepam, Alprazolam, and Clonazepam, from in or about September 2015 through in or about January 2023. This patient's address is the same as Patients A and B. OPMC requested medical records from Respondent in June 2020, in the form of a Director's Order of Comprehensive Review of Records. Respondent responded that he kept his

patient records on a flash drive which was destroyed by his wife, in or about December 2019. Respondent did provide documentation of three telemedicine visits in January and December 2019 and February 2020, and a prescription record demonstrating prescriptions between July 2019 and June 2020, including overlapping controlled substance prescriptions. Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
    a. perform an adequate evaluation and/or detail an assessment or plan,
    b. review I-Stop while prescribing controlled substances for the patient,
    c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient, excluding March 7, 2020 - June 25, 2021 per New York State Executive Order #220.10.
2. inappropriately prescribed medications:
    a. without adequate medical justification,
    b. simultaneously,
    c. at too frequent intervals.

E. Respondent issued prescriptions to Patient D, a 47-year-old male, for Oxycodone, Alprazolam and Buprenorphine-Naloxone, in or about June 2022 through in or about July 2023. Patient D has, at times, lived with Respondent in his apartment/medical office. Respondent did not maintain a medical record for Patient D. Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
    a. perform an adequate evaluation and/or detail an assessment or plan,
    b. review I-Stop while prescribing controlled substances for the patient,
    c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.
2. inappropriately prescribed medications:

a. without adequate medical justification,

b. with significant dose escalation.

F. Respondent prescribed Oxycodone and Dextroamphetamine for Patient E, a 45-year-old female, from in or about March 2023 through July 2023. Respondent did not maintain a medical record for Patient E. Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,
   c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.
2. inappropriately prescribed medications, without adequate medical justification.

G. Respondent issued prescriptions to Patient F, a 31-year-old female, for Buprenorphine, Clonazepam, and Oxycodone, from in or about November 2022 through in or about January 2023. Patient F has, at times, lived with Respondent in his apartment/medical office. Respondent did not maintain a medical record for the patient. Respondent deviated from minimally accepted medical standards in that he:

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,
   c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.
2. inappropriately prescribed medications:
   a. without adequate medical justification,
   b. simultaneously.

H. Respondent issued prescriptions to Patient G, a 37-year-old female, for Alprazolam, Dextroamphetamine, and Zolpidem, from in or about March 2023 through June 2023. Patient G has, at times, lived with Respondent in his apartment/medical office. Respondent did not maintain a medical record for the patient. Respondent deviated from minimally accepted standards in that he

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,
   c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.
2. inappropriately prescribed medications, without adequate medical justification.

I. Respondent issued prescriptions to Patient H, a 43-year-old male, for Oxycodone, Alprazolam, and Dextroamphetamine, from in or about May 2023 through July 2023. Respondent did not maintain a medical record for the patient. Respondent deviated from minimally accepted standards in that he:

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,
   c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.
2. inappropriately prescribed medications, without adequate medical justification.

J. Respondent issued prescriptions to Patient I, a 21-year-old-male, for Vyvanse, Adderall, and Lorazepam, from in or about October 2016 through February 2022.

2020

Amended 9-27-23

OPMC requested medical records from Respondent in June 2020, in the form of a Director's Order of Comprehensive Review of Records. Respondent responded that he kept his patient records on a flash drive which was destroyed by his wife, in or about December 2019. Respondent did provide a prescription record demonstrating prescriptions between October 2016 and February 2020, including overlapping controlled substance prescriptions. Respondent deviated from minimally accepted standards in that he:

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,
   c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient, excluding March 7, 2020 - June 25, 2021 per New York State Executive Order #220.10.
2. inappropriately prescribed medications:
   a. without adequate medical justification,
   b. simultaneously, and
   c. at too frequent intervals.

K. Respondent issued prescriptions to Patient J, a 23-year-old-male, for Alprazolam, Diazepam, and Adderall, from in or about December 2016 through July 2018. OPMC requested medical records from Respondent in June 2020, in the form of a Director's Order of Comprehensive Review of Records. Respondent responded that he kept his patient records on a flash drive which was destroyed by his wife, in or about December 2019. Respondent did provide a prescription record demonstrating prescriptions between December 2016 and July 2018, including overlapping controlled substance prescriptions. Respondent deviated from minimally accepted standards in that he:

1. failed to:
   a. perform an adequate evaluation and/or detail an assessment or plan,
   b. review I-Stop while prescribing controlled substances for the patient,

c. maintain a record which accurately reflects the evaluation and treatment rendered to the patient.

2. inappropriately prescribed medications:
   a. without adequate medical justification,
   b. simultaneously,
   c. at too frequent intervals.

SPECIFICATION OF CHARGES

FIRST 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:

1. Paragraph A and its subparagraphs.

SECOND-ELEVENTH SPECIFICATIONS

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 B and its subparagraphs.

3. Paragraph C and its subparagraphs.

4. Paragraph D and its subparagraphs.

5. Paragraph E and its subparagraphs.

6. Paragraph F and its subparagraphs

7. Paragraph G and its subparagraphs.

8. Paragraph H and its subparagraphs.

9. Paragraph I and its subparagraphs.

10. Paragraph J and its subparagraphs.

11. Paragraph K and its subparagraphs.

TWELFTH-TWENTYFIRST SPECIFICATIONS

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

12. Paragraph B and its subparagraphs.

13. Paragraph C and its subparagraphs.

14. Paragraph D and its subparagraphs.

15. Paragraph E and its subparagraphs.

16. Paragraph F and its subparagraphs.

17. Paragraph G and its subparagraphs.

18. Paragraph H and its subparagraphs.

19. Paragraph I and its subparagraphs.

20. Paragraph J and its subparagraphs.

21. Paragraph K and its subparagraphs.

TWENTYSECOND-THIRTYFIRST SPECIFICATIONS

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:

22. Paragraph B and 1c.

23. Paragraph C and 1c.

24. Paragraph D and 1c.

25. Paragraph E and 1c.

26. Paragraph F and 1c.

27. Paragraph G and 1c.

28. Paragraph H and 1c.

29. Paragraph I and 1c.

30. Paragraph J and 1c.

31. Paragraph K and 1c.

DATE: August 21, 2023
New York, New York

[redacted]

HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct