

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

February 29, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David Hallasey-Roberts, M.D.

REDACTED ADDRESS

Lee A. Davis, Esq.

NYS Department of Health

ESP-Corning Tower-Room 2512

Albany, New York 12237

James P. Harrington, Esq.

Harrington & Mahoney

70 Niagara Street - 3rd Floor

Buffalo, New York 14202-3407

RE: In the Matter of David Hallasey-Roberts

Dear Parties:

Enclosed please find the Determination and Order (No. 12-32) 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.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

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:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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 Mr. Horan 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 SIGNATURE

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah

Enclosure

PROCEDURAL HISTORY

Pre-Hearing Conference: November 18, 2011
Hearing Date: November 30, 2011
Witness for Petitioner: Dennis Nave, M.D.
Witness for Respondent: David Hallasey-Roberts, M.D.
Receipt of Submissions: January 10, 2012
Deliberation Held: January 18, 2012

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§230 et seq of the Public Health Law of the State of New York [hereinafter "P.H.L."]).

This case was brought by the New York State Department of Health, Office of Professional Medical Conduct (hereinafter "Petitioner" or "Department") pursuant to §230 of the P.H.L. David Hallasey-Roberts, M.D., ("Respondent") is charged with Five (5) specifications of professional misconduct, as defined in §6530 of the Education Law of the State of New York ("Education Law"). The charges include violation of Article 33 of the Public Health Law, negligence on more than one occasion, gross negligence, and failure

to maintain records. A copy of the Notice of Hearing and Statement of Charges dated October 14, 2011 is attached to this Determination and Order as Appendix I. The Respondent filed an Answer in which he admits the factual allegations and specifications of misconduct contained in the Statement of Charges.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Unless otherwise noted, all findings and conclusions set forth below are the unanimous determinations of the Hearing Committee. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. Numbers below in parentheses refer to exhibits (denoted by the prefix "Ex.") or transcript page numbers ("T."). These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Having heard testimony and considered documentary evidence presented by Petitioner and Respondent, the Hearing Committee makes the following findings of fact:

1. Respondent was authorized to practice medicine in New York State on July 1, 1988, by the issuance of license number 175084 by the New York State Education Department. (Dept. Ex.2)
2. Respondent provided medical care to Patient A between December 8, 2008 through August 31, 2009 (Admitted by Respondent in Ex. A; Exs.6 and 12)

3. Respondent prescribed excessive overlapping prescriptions and refills of narcotic pain relievers for Patient A without adequate medical justification, resulting in dangerously large quantities being dispensed to Patient A. (Admitted by Respondent in Ex. A; Exs. 5-5L)

4. Respondent failed to perform adequate routine physical assessments of Patient A in light of the medications being prescribed. (Admitted by Respondent in Ex. A; Exs. 5- 5L)

5. Respondent failed to perform adequate routine health screens of Patient A in light of the medications being prescribed. (Admitted by Respondent in Ex. A; T. 42-44)

6. Respondent continued to prescribe narcotic pain relievers to Patient A after Patient A's care had been transferred to another physician, without informing the physician. (Admitted by Respondent in Ex. A; T. 41)

7. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A. (Admitted by Respondent in Ex. A; T. 32)

8. Respondent provided medical care to Patient B from June 2, 2003 through August 3, 2009. (Admitted by Respondent in Ex. A; Ex. 17)

9. Respondent prescribed excessive overlapping prescriptions and refills of narcotic pain relievers for Patient B without adequate

medical justification, resulting in dangerously large quantities being dispensed to Patient B. (Admitted by Respondent in Ex. A; T.42-44)

10. Respondent failed to perform adequate routine physical assessments of Patient B in light of the medications being prescribed. (Admitted by Respondent in Ex. A, T. 43-44)

11. Respondent failed to perform adequate laboratory studies and follow up of Patient B in light of the medications being prescribed. (Admitted by Respondent in Ex. A, T. 43-44)

12. Respondent continued to prescribe narcotic pain relievers and other potentially addictive medications to Patient B after Patient B's care had been transferred to another physician, without informing the physician. (Admitted by Respondent in Ex. A; T. 43-44)

13. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient B. (Admitted by Respondent in Ex. A; T. 43-44)

14. On October 12, 2010, Department, by a Stipulation and Order number CS-10-30 ("Order"), assessed Respondent a \$10,000.00 civil penalty, based on Respondent's admitted violation of PHL §3304(1) PHL§ 332(3), 10 NYCRR 80.62(b) and 10 NYCRR 80.69. (Admitted by Respondent in Ex. A, Ex. 4)

15. The violations of the aforementioned PHL and New York Regulations took place during a 257 day period between December 8,

2008 and August 21, 2009 when Respondent wrote forty-four (44) Hydrocodone/APAP 10 mg prescriptions for Patient A. These prescriptions would have supplied a quantity of tablets sufficient for 2,070 days (more than 5 ½ years) had the medication been consumed in accordance with the stated directions for use. Forty-three (43) of the forty-four (44) prescriptions issued by Respondent in Patient A's name were issued prior to the date when all but a seven day supply of a previously prescribed supply would have been exhausted. (Admitted by Respondent in Ex. A; Ex. 4)

16. Violations of the aforementioned statutes and regulations cited in Fact#14 occurred on June 2, 2009, June 6, 2009, July 2, 2009, July 6, 2009, August 1, 2009 and August 3, 2009, when two different pharmacies filled prescriptions for Hydrocodone/APAP 10 mg (30 day supplies) which had been issued by Respondent in Patient B's name. Three of the six prescriptions issued by Respondent in Patient B's name were issued prior to the date when all but a seven day supply of a previously prescribed supply would have been exhausted. (Admitted by Respondent in Ex. A; Ex. 4)

CONCLUSIONS OF LAW

The Hearing Committee makes the unanimous conclusion, pursuant to the Findings of Fact listed above, that all of the Factual Allegations contained in October 14, 2011 Statement of

Charges are **SUSTAINED**.

Based on the above, the complete Findings of Fact and the discussion below, the Hearing Committee unanimously concludes that **ALL OF THE SPECIFICATIONS OF MISCONDUCT** contained in the Statement of Charges are **SUSTAINED**. The rationale for the Hearing Committee's decision is set forth below.

DISCUSSION

The Respondent is charged with five specifications alleging professional misconduct within the meaning of Education Law §6530. The Hearing Committee determined that all of the allegations and all of the charges contained in the Statement of Charges were established by a preponderance of evidence. Respondent has admitted to all Charges and Specifications in the Answer filed before the start of the hearing. In addition to the fact that the allegations are deemed admitted, the Hearing Committee concludes that the documentary evidence and the testimony of Dennis Nave, M.D. sustain the allegations independently.

DETERMINATION AS TO PENALTY

After a full and complete review of all of the evidence presented and pursuant to the Findings of Fact, Conclusions of Law and Discussion set forth above, the Hearing Committee, by unanimous vote, determines that Respondent shall be placed on probation for a

period of five (5) years with a practice monitor. Respondent shall submit to an independent psychiatric evaluation within 30 days of the effective date of this Order. The Director, on behalf of the Office of Professional Medical Conduct (OPMC) shall set the conditions for treatment (if any), name the treating psychiatrist (if necessary) and monitor the process. Respondent shall also be permanently restricted from prescribing any medications for family members. Respondent shall complete any course of treatment and therapy that the independent psychiatric evaluation deems necessary. In addition, the probation terms shall require Respondent to remain in counseling for his Posttraumatic Stress Disorder (PTSD) and Major Depressive Disorder (MDD), to have a practice monitor and to comply with all provisions of Article 33 of the Public Health Law. The complete terms of probation are attached to and made a part of this Determination and Order as Appendix II.

At the hearing, Respondent admitted upfront that he had overprescribed medications for REDACTED . He testified about a host of traumatic life events that he believed contributed to his psychological state during the period covered by the charges that he admitted to.

REDACTED

. (T. 75-78)

Respondent believes that these early life events were

compounded by more recent events. In 2003, Respondent suffered a serious hip injury when he fell 30 feet from a zip line while training to become a military flight surgeon. (T. 70-71) In 2007,

REDACTED

(T. 45-51) Respondent further acknowledged that he has sought psychiatric help since March 2007 with Dr. Josie L. Olympia at the VA Hospital in Buffalo because he suffered depression and flashbacks from the culmination of these events.

The Hearing Committee has reviewed the report submitted by Dr. Olympia. (Ex. D) Respondent has placed his psychological history before the Hearing Committee. The Hearing Committee is troubled because they have concerns about Dr. Olympia's objectivity. She did not appear in person and submit to questions from the Department or the Hearing Committee regarding her opinion that Respondent is safe to practice medicine. For these reasons the Hearing Committee believes that Respondent should have an independent psychiatric evaluation by a board certified psychiatrist.

The Hearing Committee notes that Respondent has admitted responsibility for his actions and has exhibited remorse. They find

no evidence in the record that patients from Respondent's outside practice have been harmed as a result of his misconduct. As a result, the Hearing Committee does not believe that revocation or suspension is warranted. The Hearing Committee believes that Respondent should be allowed to continue to practice medicine provided he submits to the independent psychiatric evaluation, successfully completes any course of treatment and therapy deemed necessary and complies with all other provisions of the simultaneous five year probation with practice monitor. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, the imposition of monetary penalties and dismissal in the interests of justice.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First through Fifth Specifications of professional misconduct, as set forth in the Statement of Charges are SUSTAINED; and
2. Respondent shall submit to an INDEPENDENT PSYCHIATRIC EVALUATION within 30 days of the effective date of this Order; and
3. The Director of OPMC shall set the conditions for therapy and/or treatment (if any), name the treating psychiatrist (if necessary) and monitor the process;
4. Respondent shall complete any course of treatment and therapy that the independent psychiatric evaluation determines to be necessary; and
5. Respondent shall be permanently restricted from prescribing any medications for family members; and
6. Respondent shall be placed on a simultaneous PROBATION with PRACTICE MONITOR for a period of five (5) years. Respondent shall comply with all Terms of Probation as set forth in Appendix II, attached hereto and made a part of this Order; and

7. This Order shall be effective on personal service on the Respondent or seven (7) days after the date of mailing of a copy to Respondent by certified mail or as provided by PHL§230(10)(h).

DATED: 2/4 Malone, New York
2012

REDACTED SIGNATURE

~~IRVING S. CAPLAN (CHAIR)~~

BERTON R. SHAYEVITZ, M.D.
ROBERT J. CORONA, JR., D.O.

TO: David Hallasey-Roberts, M.D.
REDACTED ADDRESS

Lee A. Davis, Esq.
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower- Room 2512
Empire State Plaza
Albany, New York 12237

James P. Harrington, Esq.
Harrington & Mahoney
70 Niagara Street - 3rd Floor
Buffalo, New York 14202-3407

APPENDIX I

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



**IN THE MATTER
OF
DAVID HALLASEY-ROBERTS, M.D.**

**NOTICE
OF
HEARING**

TO: DAVID HALLASEY-ROBERTS, M.D.
REDACTED ADDRESS

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on November 30, 2011, at 10:00 a.m., at the Offices of the New York State Department of Health, 217 South Street, Conference Rooms 4a/4b/4c, Syracuse, NY 13202 , and at such other adjourned dates, times, and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A Summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of actual engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of New York Public Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide, at no charge, a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department Attorney: Initial here _____

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
October 14, 2011

REDACTED SIGNATURE

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to:

Lee A. Davis
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Coming Tower - Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
DAVID HALLASEY-ROBERTS, M.D.

STATEMENT
OF
CHARGES

DAVID HALLASEY-ROBERTS, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1988, by the issuance of license number 175084 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (Patients are identified by name in Appendix A) between on or about September 1, 2005 through on or about August 31, 2009. Respondent's care of Patient A deviated from accepted standards of medical care, in that:
1. Respondent prescribed excessive, overlapping prescriptions and refills of narcotic pain relievers for Patient A without adequate medical justification, resulting in dangerously large quantities being dispensed to Patient A.
 2. Respondent failed to perform adequate routine physical assessments of Patient A in light of the medications being prescribed.
 3. Respondent failed to perform adequate laboratory testing and follow up of Patient A in light of the medications being prescribed.
 4. Respondent continued to prescribe narcotic pain relievers to Patient A after Patient A's care had been transferred to another physician, without informing the physician.

5. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.
- B. Respondent provided medical care to Patient B from approximately February 9, 2002 through August 3, 2009. Respondent's care of Patient B deviated from accepted standards of medical care, in that:
1. Respondent prescribed excessive, overlapping prescriptions and refills of narcotic pain relievers for Patient B without adequate medical justification, resulting in dangerously large quantities being dispensed to Patient B.
 2. Respondent failed to perform adequate routine physical assessments of Patient B in light of the medications being prescribed.
 3. Respondent failed to perform adequate laboratory testing and follow up of Patient B in light of the medications being prescribed.
 4. Respondent continued to prescribe narcotic pain relievers and other potentially addictive medications to Patient B after Patient B's care had been transferred to another physician, without informing the physician.
 5. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient B.

C. On or about October 12, 2010, the State of New York, Department of Health (hereinafter "Department"), by a Stipulation and Order number CS-10-30 (hereinafter "Order"), assessed Respondent a \$10,000.00 civil penalty, based on Respondent's admitted violation of Public Health Law (PHL) §3304(1), PHL §3332(3), 10 NYCRR 80.62(b) and 10 NYCRR 80.69(c) as follows:

1. During the 257 day period between December 8, 2008 and August 21, 2009, Respondent wrote forty-four (44) Hydrocodone/APAP 10 mg prescriptions for Patient A. These prescriptions would have supplied a quantity of tablets sufficient for 2,070 days (more than 5 ½ years) had the medication been consumed in accordance with the stated directions for use. Forty-three (43) of the forty-four (44) prescriptions issued by Respondent in Patient A's name were issued prior to the date when all but a seven day supply of a previously prescribed supply would have been exhausted.
2. On June 2, 2009, June 6, 2009, July 2, 2009, July 6, 2009, August 1, 2009 and August 3, 2009, two different pharmacies filled prescriptions for Hydrocodone/APAP 10 mg (30 day supplies) which had been issued by Respondent in Patient B's name. Three of the six prescriptions issued by Respondent in Patient B's name were issued prior to the date when all but a seven day supply of a previously prescribed supply would have been exhausted.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

**HAVING BEEN FOUND IN VIOLATION OF
ARTICLE 33 OF THE PUBLIC HEALTH LAW**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(e) by having been found by the Commissioner of Health to be in violation of article thirty-three of the Public Health Law as alleged in the facts of the following:

1. The facts set forth in Paragraph C and C.1, and/or C and C.2.

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 two or more of the following:

2. The facts set forth in Paragraph A and A.1, A and A.2, A and A.3, A and A.4, A and A.5 B and B.1, B and B.2, B and B.3 B and B.4 and/or B and B.5.

THIRD AND FOURTH SPECIFICATIONS

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 A.1, and/or A and A.2, and/or A and A.3, and/or A and A.4.
4. Paragraph B and B.1 and/or B and B.2, and/or B and B.3, and/or B and B.4.

FIFTH 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 care and treatment of the patient, as alleged in the facts of:

5. A and A.5 and/or B and B.5.

DATE: October 14, 2011
Albany, New York

REDACTED SIGNATURE

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

A P P E N D I X I I

Terms of Probation

- 1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).**
- 2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.**
- 3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.**
- 4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.**
- 5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.**
- 6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.**
- 7. Respondent shall submit to an INDEPENDENT PSYCHIATRIC EVALUATION within 30 days of the effective date of this Order. The Director of OPMC shall set the conditions for therapy and/or treatment if any is recommended by the independent psychiatric evaluation. The Director shall be responsible to name the treating**

psychiatrist and monitor the process. Respondent shall complete any course of therapy and/or treatment that the independent psychiatric evaluation determines to be necessary.

8. In addition, Respondent shall continue his current therapy, which addresses his PTSD and MDD with a treating health care professional ("Therapist"). Respondent shall cause the Therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Therapist. The Therapist shall report to OPMC immediately if Respondent leaves treatment against medical advice or displays any symptoms of a suspected or actual relapse.

9. Respondent shall comply with all requirements of Article 33 of the Public Health Law and corresponding Rules and Regulations of New York State Department of Health regarding prescribing practices.

10. Respondent shall be permanently restricted from prescribing any medications for family members.

11. Respondent shall practice only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to written approval of the Director of OPMC. An approved practice monitor shall be in place within thirty (30) days of the effective date of this Order.

- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
- d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

12. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.