



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

June 1, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cesar V. Veloso, M.D.


Nathaniel White, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Coming Tower Building-Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Cesar V. Veloso, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-152) 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 (l), (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:

James F. Horan, Esq., Chief 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 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,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: mw
Enclosure

COPY

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

**IN THE MATTER
OF
CESAR V. VELOSO, M.D.**

**DETERMINATION
AND
ORDER**

A hearing was held on May 18, 2017, at the offices of the New York State Department of Health ("Department").¹ Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **KENDRICK A. SEARS, M.D.**, Chairperson, **DEBORAH WHITFIELD, M.A., Ph.D.** and **MICHAEL R. GOLDING, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the Administrative Officer.

The Department appeared by Nathaniel White, Associate Attorney. A Notice of Referral Proceeding and Statement of Charges dated January 30, 2017, were served upon Cesar V. Veloso, M.D. ("Respondent"), who represented himself at the hearing.² The Respondent testified on his own behalf. There were no other witnesses at the hearing. The Hearing Committee received and examined documents from the Department and the Respondent, and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of Education Law ("Educ. Law") § 6530(9)(a)(i), and unanimously votes 3-0 to revoke the Respondent's license to practice medicine in New York.

¹ The location of the hearing was 150 Broadway, Suite 510, Menands, New York.

² The Department submitted the Affidavit of Service, which states that on February 4, 2017, the Respondent was personally served with the Notice of Referral Proceeding and Statement of Charges in Ridgewood, New Jersey, establishing jurisdiction. [Exhibit 2].

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a registered provider or licensee is charged solely with a violation of Educ. Law § 6530(9). In such cases, the charge of misconduct is based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The Respondent is charged with one specification of professional misconduct pursuant to Educ. Law § 6530(9)(a)(i) by having been convicted of committing acts constituting misdemeanor crimes under New York state law, specifically Sexual Abuse in the third degree, in violation of New York Penal Law § 130.55, and Forcible Touching, in violation of New York Penal Law § 130.52. A copy of the Notice of Hearing and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

These Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The references in brackets refer to exhibits ["Ex."]. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Cesar V. Veloso, M.D., the Respondent, was licensed to practice as a physician on January 22, 1973, by the issuance of license number 114830 by the Education Department. [Ex. 3].
2. The Respondent maintained a medical practice and specialized in pediatrics. [Ex. C].
3. On December 13, 2010, the Respondent was convicted, in the Criminal Court of the City of New York, Kings County, following a bench trial, to three counts of Sexual Abuse in the third degree, a class "B" misdemeanor, in violation of New York Penal Law § 130.55, and one count of Forcible Touching, a class "A" misdemeanor, in violation of New York Penal Law § 130.52. On

March 11, 2011, the Respondent was sentenced on the misdemeanor charges to 30 days of incarceration, six years of probation and an order of protection. [Ex. 4].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Respondent violated New York Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law.

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Respondent's conduct involved improper sexual contact with a teenage patient at the time of a physical examination, which resulted in misdemeanor convictions under the New York Penal Law for Sexual Abuse in the third degree and Forcible Touching, in violation of §§ 130.55 and 130.52, respectively. These convictions, which constituted crimes under New York state law, amount to professional misconduct as defined in New York Educ. Law § 6530(9)(a)(i). Therefore, the specification of misconduct contained in the Statement of Charges of this proceeding is sustained.

The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties and found that the sustained specification involved the Respondent using his medical license to inappropriately examine an adolescent patient. Instead of acknowledging his wrongdoings, the Respondent's unpersuasively argued that a complete physical, history and evaluation of this patient required extensive examination of his rectum, penis and prostate. The Hearing Committee agreed with the Department and found the Respondent's disturbing conduct upon a pediatric patient, which resulted in a requirement that the Respondent register as a sex offender in New Jersey, to constitute a severe violation of the patient's trust. Also, the Hearing Committee noted

that the Respondent's medical practice included the performance of similar examinations on even younger patients. As such, the Hearing Committee determined that in order to protect the safety of all patients, the only appropriate penalty is permanent revocation of the Respondent's license to practice medicine in the state of New York.

ORDER

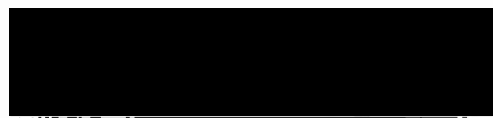
IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED;**

2. The Respondent's license to practice as a physician in New York state is hereby **REVOKED;**

3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at his last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
5-31, 2017



Kendrick A. Sears, M.D.
Chairperson

Deborah Whitfield, M.A., Ph.D.
Michael R. Golding, M.D.

TO: Cesar V. Veloso, M.D.



**Nathaniel White, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237**

APPENDIX I

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

IN THE MATTER
OF
CESAR VELOSO, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Cesar Veloso, M.D.



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on March 15, 2017, at 10:30 a.m., at the offices of the New York State Department of Health, 259 Monroe Avenue, Rochester, NY 14607.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau



of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands 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 which cannot be photocopied.

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

Department attorney: Initial here [REDACTED]

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name

appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. 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
January, 30, 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Nathanial White
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
CESAR V. VELOSO, M.D.

STATEMENT
OF
CHARGES

CESAR V. VELOSO, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 22, 1973, by the issuance of license number 114830 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 13, 2010, in the Criminal Court of the City of New York, Kings County, Respondent was found guilty of three counts of Sexual Abuse in the third degree as defined by New York Penal Law § 130.55, a class "B" misdemeanor, and one count of Forcible Touching as defined by New York Penal Law § 130.52, a class "A" misdemeanor. On or about March 11, 2011, Respondent was sentenced to serve thirty days of imprisonment and six years of probation and was issued an order of protection for one year.

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. Paragraph A.

DATE: January 30, 2017
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct