



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

November 14, 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Paul Walker, Esq.  
315 West 106<sup>th</sup> Street  
Suite 1A  
New York, New York 10025

Fernando Checo, M.D.  


Deborah Beth Meadows, Esq.  
Senior Attorney  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Division of Legal Affairs  
90 Church Street, 4<sup>th</sup> Floor  
New York, New York 10007

**RE: In the Matter of Fernando Checo, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 18-257) 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. 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 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  
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 Judge 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,

A solid black rectangular box redacting the signature of James F. Horan.

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH: cmg  
Enclosure

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

-----X  
IN THE MATTER  
OF  
FERNANDO CHECO, M.D.

:  
: DETERMINATION  
:  
: AND  
:  
: ORDER  
: 18-257  
-----X

A hearing was held on October 24, 2018, at the offices of the New York State Department of Health (Department), 90 Church Street, New York, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), JILL M. RABIN, M.D., Chairperson, ELISA J. WU, M.D., and JACQUELINE H. GROGAN, Ed.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Deborah Beth Medows, Senior Attorney, and John Thomas Viti, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges dated June 14, 2018, were duly served upon Paul Walker, Esq., attorney for Fernando Checo, M.D. (Respondent). (Exhibits 1 and 2.) The Respondent appeared at the hearing and testified on his own behalf. Paul Walker, Esq. also appeared on behalf of the Respondent. There were no other witnesses. The Hearing Committee received and examined documents from the Department (Exhibits 1-4) and the Respondent (Exhibit A), 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 that pursuant to PHL § 230-a, the penalty of censure and reprimand of the Respondent's medical license is appropriate.

### BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law 6530(9)(a)(i), by having been convicted of an act constituting a crime under state law, specifically Vehicle & Traffic Law § 1192(3). Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence.

### FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. On April 9, 2012, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 264851. (Exhibit 3.)
2. On or about September 15, 2017, in Nassau County District Court, the Respondent was adjudicated guilty, following his plea of guilty, to the misdemeanor crime of Driving While Intoxicated, in violation of Vehicle and Traffic Law § 1192. The Respondent was ordered to pay a \$500 fine and assessed charges of \$395. (Exhibit 4.)

### VOTE OF THE HEARING COMMITTEE

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

In Nassau County District Court, a New York state court, the Respondent was adjudicated guilty, following his plea of guilty, to the crime of Driving While Intoxicated, in violation of Vehicle

and Traffic Law § 1192. Based on this conviction, the Hearing Committee determined that the Respondent violated Educ. Law 6530(9)(a)(i), which defines professional misconduct to include:

9. (a) Being convicted of committing an act constituting a crime under:
  - (i) New York state law.

In consideration of the full spectrum of penalties under PHL 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, the Hearing Committee agreed with the Department's recommendation that censure and reprimand of the Respondent's medical license was warranted. The Hearing Committee found that the Respondent lacked insight regarding the harm of drunk driving, as his testimony focused on the financial and professional impact of his conviction on his own life, rather than the dangers associated with driving while intoxicated. The Committee was also not satisfied by the Respondent's answers to questions posed regarding changes he has made to ensure that he will not drive under the influence of alcohol in the future. They found that the Respondent has deflected personal responsibility to abstain from drinking to others, shown by his described reliance on the presence of family members to avoid drinking and driving. The Hearing Committee was not persuaded that the Respondent's dependence on others, in lieu of devising strategies to alleviate stress and control himself in situations where alcohol may be served, would effectively prevent similar offenses in the future. For these reasons, the Hearing Committee concluded that the appropriate penalty in this case is censure and reprimand.



# APPENDIX I

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

IN THE MATTER  
OF  
FERNANDO CHECO, M.D.

STATEMENT  
OF  
CHARGES

FERNANDO CHECO, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 9, 2012, by the issuance of license number 264851 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On September 15, 2017, in Nassau District Court, Respondent was convicted of Driving While Intoxicated [Vehicle and Traffic Law § 1192(3)], a Class U misdemeanor, was fined Five Hundred Dollars (\$500.00) and assessed charges in the amount of Three Hundred Ninety-Five Dollars (\$395.00).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

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. The facts in Paragraph A.

DATE: June 14, 2018  
Albany, New York



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct