



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

January 7, 2020

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ian H. Silverman, Esq.  
NYS Department of Health  
Bureau of Professional Conduct  
Empire State Plaza  
Corning Tower Building, Room 2512  
Albany, New York 12237

Sean Atae, M.D.  


**RE: In the Matter of Sean Atae, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 20-005) 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:

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: cmg  
Enclosure

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

COPY

-----X  
IN THE MATTER :  
OF :  
SEAN ATAEE, M.D. :  
-----X

DETERMINATION  
AND  
ORDER  
20-005

A hearing was held on December 18, 2019, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to Public Health Law (PHL) § 230(10)(e), Mary E. Rappazzo, M.D., Chairperson, Kenneth J. Steier, D.O., and Janet R. Axelrod, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Ian Silverman, Associate Counsel. A Commissioner's Order of Summary Action, Notice of Referral Proceeding and Statement of Charges, all dated October 17, 2019, were duly served upon Sean Atae, M.D., (Respondent), who did not appear at the hearing.<sup>1</sup>

The Hearing Committee received and examined documents from the Department (Exhibits 1-7). A stenographic reporter prepared a transcript of the proceeding.

After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct in violation of Education Law (Educ. Law) § 6530(9), and votes that the penalty of revocation of his medical license is appropriate.

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<sup>1</sup> On December 11, 2019, ALJ Champion received an adjournment request by the Respondent and opposition thereto from the Department. ALJ Champion denied the request and the hearing proceeded as scheduled.

## BACKGROUND

The Department brought this 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)(b) "[h]aving been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state" and pursuant to Educ. Law § 6530(9)(d) for "[h]aving his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state."

Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

## FINDINGS OF FACT

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

1. Sean Atae, M.D., the Respondent, was authorized to practice medicine in New York State on June 22, 2004 by the issuance of license number 232919 by the New York State Education Department. (Ex. 5.)

2. On August 6, 2019, the Medical Board of California (California Board) revoked the Respondent's license to practice medicine. The California Board found that the Respondent engaged in gross negligence or repeated acts of negligence, acts of sexual misconduct, and unprofessional conduct. (Ex. 6.)

3. The basis for the findings by the California Board pertain to the Respondent's treatment of one female patient. Specifically, after a hearing on the issues, the California Board found that the Respondent pressed his groin against the patient multiple times, exposed and fondled the patient's breasts, and inserted his finger into her underpants to touch her skin near her vagina, all without medical reason or purpose and without a chaperone present. (Ex. 6.)

#### **VOTE OF THE HEARING COMMITTEE**

The Hearing Committee decides, by a vote of 3-0, that the evidence supports sustaining the charges of the Respondent having committed professional misconduct as defined in Educ. Law §§ 6530(9)(b) & (d).

#### **HEARING COMMITTEE DETERMINATIONS**

The Department charged the Respondent with professional misconduct pursuant to Educ. Law § 6530(9) (b) & (d). The charges contain two specifications – one pertaining to the Respondent's having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state and one pertaining to having had disciplinary action taken by a duly authorized professional disciplinary agency of another state. The Department alleges, and the Hearing Committee concludes, that the conduct resulting in the finding of professional misconduct and the disciplinary action, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in:

Educ. Law § 6530(3) – "[p]racticing the profession with negligence on more than one occasion;"

Educ. Law § 6530(4) – “[p]racticing the profession with gross negligence on a particular occasion;” and

Educ. Law § 6530(20) – “[c]onduct in the practice of medicine which evidences moral unfitness to practice medicine.”

The Department has recommended that the Respondent’s license to practice medicine in New York State be revoked. Given the nature of the findings by the California Board and the Hearing Committee’s concern for the public in the State of New York, the Hearing Committee unanimously agrees with the Department’s recommendation.

**ORDER**

Now, after reviewing the evidence from the hearing, it is hereby ordered that:

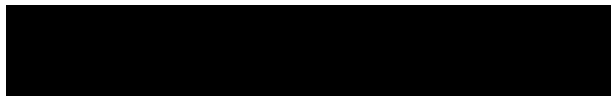
1. The specification of professional misconduct as set forth in the Statement of Charges is sustained;
2. The Respondent’s license to practice medicine in the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: December \_\_\_\_, 2019  
Albany, New York

**NYS DEPT OF HEALTH**

**JAN 06 2020**

Division of Legal Affairs  
Bureau of Adjudication



Mary E. Rappazzo, M.D., Chairperson  
Kenneth J. Steier, D.O.  
Janet R. Axelrod, Esq.

Ian H. Silverman  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

Sean Atae, M.D.  


APPENDIX I

IN THE MATTER  
OF  
SEAN ATAEE, M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: Sean Atae, M.D.  
18837 Brookhurst Street, Suite 210  
Fountain Valley, CA 92708

The undersigned, Sally Dreslin, M.S., R.N., Executive Deputy Commissioner, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that Sean Atae, M.D. (henceforth Respondent), New York license number 239919, has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction (California), for acts which if committed in this state would have constituted the basis for summary action by the Commissioner pursuant to N.Y. Public Health Law 230(12)(a) as an imminent danger to the health of the people, as is more fully set forth in the California Final Decision and Order, and the Statement of Charges attached to the Notice of Referral Proceeding, and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.

Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter.





The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. 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 a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

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 FORTH 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 17, 2019

  
Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner  
New York State Department of Health

Inquiries should be directed to:

Ian H. Silverman  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Division of Legal Affairs  
2512 Corning Tower  
Empire State Plaza  
Albany, New York 12237-0032  
518.473.4282

cc:

Steven Maslauski, Esq.  
310 Golden Shore  
Fourth Floor  
Long Beach, CA 90802

IN THE MATTER

OF

SEAN ATAEE, M.D.

STATEMENT  
OF  
CHARGES

SEAN ATAEE, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 22, 2004 by the issuance of license number 232919 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about August 6, 2019 the Medical Board of California (California Board) by way of a Decision and Order revoked the Respondent's license to practice medicine. The California Board found that the Respondent engaged in gross negligence or repeated acts of negligence, repeated acts of sexual abuse and unprofessional conduct.
- B. The California Board Decision and Order was based upon his care and treatment of one female patient. It was found at hearing that Respondent pressed his groin against her multiple times, exposed and fondled her breast, and inserted his finger into her underpants to touch her skin near her vagina, all without medical reason or purpose and without a chaperone present.
- C. Respondent's conduct as described above upon which the finding of unprofessional conduct in California was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:
1. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion)
  2. New York Education Law §6530 (4) (practicing the profession with gross negligence on a particular occasion) and/ or
  3. New York Education Law §6530 (20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine)

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530 (3), (4) and/or (20) ) as alleged in the facts of the following:

1. The facts in Paragraph A, B and C.

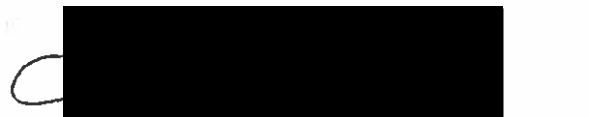
**SECOND SPECIFICATION**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(3), (23) and/or (32)) as alleged in the facts of the following:

2. The facts in Paragraph A, B and C.

DATE: October 17, 2019  
Albany, New York



Timothy J. Mahar  
Deputy Counsel  
Bureau of Professional Medical Conduct