



**Department  
of Health**

**ANDREW M. CUOMO**  
Governor

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

**LISA J. PINO, M.A., J.D.**  
Executive Deputy Commissioner

February 18, 2021

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Luis Santos, M.D.  


Richard A. West, Esq.  
180 River Road  
Summit, New Jersey 07901

Marc S. Nash, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Luis Santos, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 21-029) 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:nm  
Enclosure

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

COPY

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: IN THE MATTER : DETERMINATION  
: :  
: OF : AND  
: :  
: LUIS SANTOS, M.D. : ORDER  
: :  
: BPMC-21-029  
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A hearing was held by videoconference on January 14, 2021. Pursuant to § 230(10)(e) of the Public Health Law (PHL), Jose M. David, M.D., chairperson, Jonathan Ecker, M.D., and Eileen Pasquini, B.S., A.A.S., duly designated members of the State Board for Professional Medical Conduct (BPMC), served as the hearing committee in this matter. Jean T. Carney, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Associate Counsel Marc S. Nash. The Respondent appeared in person, and through his attorney, Richard A. West, Esq. Jurisdiction over the Respondent was obtained by service of the Notice of Referral Proceeding and Statement of Charges. The Hearing Committee received and examined documents from the Department (Exhibits 1-4), and the Respondent (Exhibit A). The Respondent testified in his own behalf. 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 §

6530(9)(d); and that pursuant to PHL § 230-a, the penalty of suspension of the Respondent's license until certain conditions are met, 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 Education Law § 6530(9).

The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(d), having had his license revoked, or suspended, or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, namely New York State Education Law (Educ. Law) § 6530(20).

Under PHL § 230(10), the Department had 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. The Respondent was authorized to practice medicine in New York State by license number 205892, issued on February 18, 1997. (Exhibit 3).

2. On April 8, 2019, the Respondent entered into a Final Consent Order with the New Jersey State Board of Medical Examiners (NJ Board) wherein the NJ Board found that the Respondent had committed professional misconduct for sending text messages to a patient that were sexual in nature, and were unwelcome and offensive to the patient. The NJ Board further found that the text messages were "meant to seek or solicit sexual contact with [the patient]." (Exhibit 4).

3. The NJ Board suspended the Respondent's license for three years, effective retroactively to July 7, 2016, the date his license was temporarily suspended under an Interim Consent Order. Eighteen months of the suspension was served as an active suspension, and the remainder was stayed and served as a period of probation. The Respondent was ordered to complete a board approved boundaries course, and a board approved domestic violence course. (Exhibit 4).

4. In addition, the Respondent was required to continue his participation in the Professional Assistance Program (PAP) and comply with its requirements, including: comply with a substance abuse treatment program; abstain from the use of all psychoactive substances; comply with random drug screens; attend all face to face follow up meetings with the PAP; attend AA/NA meetings as directed; engage in psychotherapy as directed; and provide the NJ Board with detailed discharge

summaries and reports from each program and mental health professional who have participated in the Respondent's treatment. (Exhibit 4).

#### VOTE OF THE HEARING COMMITTEE

The Hearing Committee concludes that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law §6530(9)(d).

VOTE: Sustained (3-0)

#### HEARING COMMITTEE DETERMINATIONS

The Department met its burden of proving by a preponderance of the evidence that the Respondent committed professional misconduct as alleged in the Statement of Charges. The evidence shows that the Respondent was subject to disciplinary action by the NJ Board, which found that the Respondent had committed professional misconduct for sending text messages to a patient that were sexual in nature, were unwelcome and offensive to the patient, and were meant to seek or solicit sexual contact. These findings would constitute professional misconduct pursuant to New York Education Law §6530(20), conduct in the practice of medicine which evidences moral unfitness to practice medicine.

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, limitation of the license, and the imposition of monetary penalties; the Hearing Committee notes that the NJ Board has fully reinstated the Respondent's license to practice medicine in that state.

(Respondent's testimony at p. 14). In addition, the current status of the Respondent's New York license is "not registered," indicating he does not wish to establish a practice in New York. (Exhibit 3). However, the Hearing Committee also noted that although the Respondent testified that he took full responsibility for his actions, he continued to assert that the patient had misunderstood his texts, and has consistently minimized his actions. (Respondent Exhibit A; Respondent's testimony at pp. 16, 25, and 29). The Respondent also attenuated his drug and alcohol use and treatment; and overstated his compliance with the PAP. (Respondent's testimony at pp. 14, 19, and 35-37).

The Hearing Committee determined that the Respondent should not return to practice in New York State without oversight. Consequently, the Respondent's license to practice medicine in New York State should be suspended, with the suspension stayed unless and until the Respondent returns to practice medicine in New York State. If the Respondent returns to practice in New York State, he must obtain a psychiatric and psychological evaluation as approved by the BPMC to determine his fitness to practice. The Respondent shall follow all recommendations, if any, resulting from the evaluation, before being permitted to practice medicine in New York State.

#### ORDER

#### **IT IS HEREBY ORDERED THAT:**

1. The specifications of professional misconduct as set forth in the Statement of Charges are sustained; and

2. The Respondent's license to practice as a physician in New York State is wholly suspended, said suspension shall be stayed unless and until the Respondent returns to practice in New York, at which time the Respondent will obtain a psychiatric and psychological examination as approved by the BPMC; and

3. The Respondent shall follow any and all recommendations resulting from the evaluations prior to his license being reinstated; and

4. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York  
NYS DEPT OF HEALTH, 2021

FEB 16 2020

Division of Legal Affairs  
Bureau of Adjudication

[REDACTED]  
Jose M. David, M.D., Chairperson  
Jonathon Ecker, M.D.  
Eileen Pasquini, B.S., A.A.S.

To: Luis Santos, M.D.

[REDACTED]

Richard A. West, Esq.  
180 River Road  
Summit, New Jersey 07901

[REDACTED]

Marc S. Nash, Esq.  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower Building - Room 2512  
Empire State Plaza  
Albany, New York 12237

[REDACTED]



# APPENDIX A

IN THE MATTER  
OF  
LUIS SANTOS, M.D.

STATEMENT  
OF  
CHARGES

LUIS SANTOS, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 18, 1997, by the issuance of license number 205892 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 8, 2019, the New Jersey Board of Medical Examiners (hereinafter, "New Jersey Board") filed a Final Consent Order which: suspended Respondent's license a period of three years, with eighteen months served as a period of active suspension and the remainder stayed and served as a period of probation, and the active suspension is retroactive to July 7, 2016; directed Respondent to take and successfully complete Board-approved course in Boundaries and Domestic Violence; continue to participate in the New Jersey PAP program; and assessed a fine in the amount of \$5,000 and costs equal to \$18,607.55. These disciplinary actions were based upon findings that Respondent sent text messages to a patient that were sexual in nature, both unwelcome and offensive to the patient, and were meant to seek or solicit sexual contact with the patient.

B. The Conduct resulting in the New Jersey Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Section of New York State Law:

1. New York Education Law § 6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine).

SPECIFICATION OF CHARGES

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(20)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B and B.1.

DATE: September 21, 2020  
New York, New York

  
HENRY WEINTRAUB  
Chief Counsel  
Bureau of Professional Medical Conduct