

IN THE MATTER
OF
CESAR FRANCISCO MELLA, M.D.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: CESAR FRANCISCO MELLA, M.D.


The undersigned, Howard A. Zucker, M.D., J.D., 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 the duly authorized professional disciplinary agency of another jurisdiction, the State of Texas, has made a finding substantially equivalent to a finding that the practice of medicine by Cesar Francisco Mella, M.D.(the Respondent), New York medical license number 286304, in that jurisdiction constitutes an imminent danger to the public, as is more fully set forth in the November 19, 2020 Order of Temporary Suspension of the Texas Medical Board (henceforth: "predicate action"), attached hereto as Appendix "A" 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.

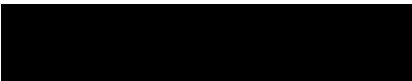
This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. 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 to be provided to the Respondent after the final conclusion of the proceeding in the predicate action.

Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THE NEW YORK 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
April 6, 2021



Howard A. Zucker, M.D., J.D.
Commissioner
New York State Department of Health

Inquiries should be directed to:

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Division of Legal Affairs
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APPENDIX "A"

LICENSE NO. P7160

IN THE MATTER OF
THE LICENSE OF
CESAR FRANCISCO MELLA, M.D.

BEFORE THE DISCIPLINARY
PANEL OF THE
TEXAS MEDICAL BOARD

ORDER OF TEMPORARY SUSPENSION
(WITHOUT NOTICE OF HEARING)

On November 19, 2020, came to be heard before the Disciplinary Panel (Panel) of the Texas Medical Board (Board), composed of George DeLoach, D.O., Chair; Robert Gracia, and LuAnn Morgan, members of the Board duly in session; the matter of the Application for Temporary Suspension (Without Notice of Hearing) of the license of Cesar Francisco Mella, M.D. (Respondent). Nikki Karr represented Board staff. Based on evidence submitted, the Board through this Panel makes the following Findings of Fact and Conclusions of Law and enters this Order of Temporary Suspension (Without Notice of Hearing).

FINDINGS OF FACT

1. Respondent is a Pediatrician who is Board Certified by the American Board of Pediatrics and Pediatric Critical Care Medicine. Respondent also holds New York Medical License 286304, which was issued on August 26, 2016. Respondent's last known address is in New York.
2. Respondent has a history of impairment.
3. On October 14, 2015, failed to report for duty at the Cardiovascular Intensive Care Unit at Texas Children's Hospital and after a well check to his residence, was found unconscious with a bag containing medications, needles and cocaine; Respondent was taken by ambulance to Memorial Hermann Hospital to be treated. Staff who worked with Respondent the previous week reported concerns that he appeared to have an altered mental state.
4. At a meeting with hospital staff on October 15, 2015, Respondent admitted to cocaine use.
5. On January 20, 2016, Board Staff received confirmation that Respondent was meeting the terms and conditions of the Texas Physician's Health Program in a satisfactory

manner.

6. On September 3, 2020, Respondent was employed as a locum tenens Pediatric Intensive Care Unit physician at El Paso Children's Hospital. Respondent reported for duty appearing anxious, agitated, sweating and trembling. His speech appeared impaired. He was unable to cognitively follow conversations and was sent home.

7. On September 5, 2020, Respondent was brought by Emergency Medical Services (EMS) to the University Medical Center El Paso Emergency Department (UMCEP). EMS reported that Respondent was found sleeping nude in a public hallway of a local Marriott hotel, using a blanket as a pillow. Respondent was initially unresponsive and EMS administered 2 mg of Narcan IV. EMS also reported that Respondent had an ID for El Paso Children's Hospital.

8. While in the emergency department of UMCEP, Respondent was incoherent, speaking inappropriate words, not answering questions, and not cooperating with examinations. He actively pushed away examiners (physicians and nurses). He required multiple doses of Versed IV to facilitate a CT scan of the head, which was normal. A urine toxicology screen showed that Respondent was positive for amphetamines.

9. Prior to being taken to the inpatient ward of UMCEP, Respondent took off all his clothes, pulled out his IV line, and tried to leave. Hospital staff filed an application for emergency detention. Respondent was discharged on September 7, 2020.

10. El Paso Children's Hospital made multiple attempts to contact Respondent to schedule a conference to discuss the impairment allegations brought to the hospital's attention. Respondent finally responded and asked to resign his privileges on October 2, 2020. However, there is no correspondence showing that Respondent officially resigned.

11. Respondent has exhibited a history and a pattern of impairment that constitutes a continuing threat to the public health and welfare.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Section 164.059 of the Act authorizes the Disciplinary Panel to temporarily suspend or restrict the medical license of Respondent if the Disciplinary Panel determines from

evidence presented to it that the Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

2. Respondent's conduct, as described above, shows that Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare, as defined by Section 151.002(a)(2) of the Act. Continuing threat means "a real danger to the health of a physician's patients or to the public from acts or omissions of the physician caused through the physician's lack of competence, impaired status, or failure to care adequately for physician's patients."

3. Section 164.051(a)(4) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's inability to practice medicine with reasonable skill and safety to patients because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other substances, or as a result of any mental or physical condition.

4. Section 164.052(a)(4) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's use of alcohol or drugs in an intemperate manner that, in the opinion of the Board, could endanger the lives of patients.

5. Based on the evidence presented and the above Findings of Fact and Conclusions of Law, the Panel determines that Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Panel ORDERS that:

1. Respondent's Texas Medical License No. P7160 is hereby TEMPORARILY SUSPENDED.

2. This Order of Temporary Suspension (Without Notice of Hearing) is effective on the date rendered.

3. Notice of this Order of Temporary Suspension (Without Notice of Hearing) shall be given immediately to Respondent.

4. A hearing on the Application for Temporary Suspension (With Notice of Hearing) will hereby be scheduled before a Disciplinary Panel of the Board at a date to be determined as

soon as practicable, at the offices of the Board, unless such hearing is specifically waived by Respondent.

5. This Order of Temporary Suspension (Without Notice of Hearing) shall remain in effect until such time as a hearing on the Application for Temporary Suspension (With Notice of Hearing) is conducted and a Disciplinary Panel enters an order, or until superseded by a subsequent order of the Board.

[SIGNATURE PAGE FOLLOWS]

Signed and entered this 19th day of November, 2020.



11/19/2020

George DeLoach, D.O.
Chair, Disciplinary Panel
Texas Medical Board