



**Board for Professional Medical Conduct**

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

C. Maynard Guest, M.D.  
Executive Secretary

December 29, 1993

Mr. Robert Bentley  
Director  
Division of Professional Licensing Services  
New York State Education Department  
Empire State Plaza  
Cultural Education Center  
Albany, New York 12230

RE: License No. 148759  
Effective Date: 12/8/93

Dear Mr. Bentley:

Enclosed please find Order #93-198 of the New York State Board for Professional Medical Conduct concerning Cesar Castillo, M.D.

Neither the Department of Health nor the Respondent has requested an administrative review in this matter. The failure to request a review exhausts the administrative remedies in this matter.

Sincerely,

C. Maynard Guest, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

December 1, 1993

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Cesar Castillo, M.D.  
877 W. El Reppetto Drive  
Apartment 81B  
Mount Erey Park, California 91754

Frederick Zimmer, Esq.  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - 24th Floor  
Albany, New York 12237

**RE: In the Matter of CESAR O. CASTILLO, M.D.**

Dear Dr. Castillo Mr. Zimmer:

Enclosed please find the Determination and Order (No. BPMC 93-198) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

New York State Department of Health  
Office of Professional Medical Conduct  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he 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 all action 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.

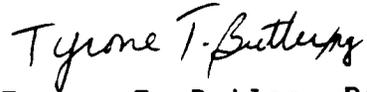
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower -Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:rg  
Enclosure

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

-----X  
IN THE MATTER  
OF  
CESAR O. CASTILLO, M.D.

: DETERMINATION  
: AND  
: ORDER  
: OF THE  
: HEARING COMMITTEE  
: ORDER NO.  
: BPMC-93-198  
-----X

A Notice of Hearing and Statement of Charges dated October 7, 1993 were served upon **CESAR O. CASTILLO, M.D.** (hereinafter referred to as "Respondent"). The undersigned Hearing Committee consisting of **TERESA S. BRIGGS, M.D., Ph.D.**, Chairperson, **MICHAEL E. BERLOW, M.D.** and **MATTHEW M. CAMMEN**, was duly designated and appointed by the State Board for Professional Medical Conduct. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as Administrative Officer.

A hearing was conducted on November 17, 1993 pursuant to §230 (10)(e) of the Public Health Law and §301-307 and §401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of Section 6530 of the New York Education Law by Respondent. The hearing was held at the Offices of the New York State Department of Health, Corning Tower, Empire State Plaza, Albany, New York.

The Department of Health appeared by Frederick Zimmer, Esq., of counsel to Peter J. Millock, Esq., General Counsel.

Respondent neither appeared in person nor by counsel. Evidence was received and a transcript of this proceeding was made.

### STATEMENT OF CASE

The proceeding was brought pursuant to Public Health Law §230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of New York Education Law, §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct if committed in New York. The scope of the expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon a licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to New York Education Law §6530(9)(a)(iii) based upon the fact that he has been convicted of committing an act constituting a crime under the law of another jurisdiction which, if committed within New York State would have constituted a crime under New York State Law. Furthermore, Respondent is charged with professional misconduct pursuant to the New York Education Law §6530(9)(b), by reason of his having been found guilty of professional misconduct by the 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. Finally, Respondent is charged with professional misconduct by reason of his having had his license to practice medicine revoked after a disciplinary action was instituted by the duly authorized professional disciplinary agency of another state where the conduct resulting in the revocation would, if committed in New York State constitute professional misconduct under the laws of New York State, in violation of New York Education Law §6530 (9)(d). The charges are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges which is attached to this Determination and Order (Appendix I).

#### **SIGNIFICANT LEGAL RULINGS**

The Administrative Law Judge found that the State had made service upon Respondent pursuant to statute and that - therefore, jurisdiction of Respondent had been established.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. The findings are derived

from evidence found persuasive by the Hearing Committee.  
Conflicting evidence, if any was considered and rejected.

### FACTUAL ALLEGATIONS

1. Respondent, was authorized to practice medicine in New York State on November 20, 1981 by the issuance of license number 148759 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. His last registration address was 877 W. El Repetto Drive, Apartment 81B, Mount Erey Park, California 91754.

2. The Superior Court of California, County of Los Angeles, by a sentence pronounced on July 3, 1990, convicted Respondent of three counts of violating California Penal Code §245 (a)(2) (assault upon the person of another with a firearm).

3. The conduct underlying Respondent's conviction included Respondent's willful and unlawful commission of an assault with a firearm on 3 individuals, on July 2, 1987. The California court imposed a sentence of 5 years of imprisonment upon Respondent with credit for 509 days which Respondent had previously served.

4. The conduct upon which the California Superior Court convicted Respondent of committing an act constituting a crime under California Law would, if committed within New York State, have constituted a crime under New York State Penal Law, §120.25 (reckless endangerment in the first degree) and/or New York State Penal Law §120.20 (reckless endangerment in the second degree).

5. The Medical Board of California (hereinafter "the California Board") by a Default Decision Revoking License, dated December 13, 1990, found Respondent guilty, in its Determination of Issue §4, of violating California Business and Professions Code §820 and §821 (failing to comply with an Order issued under California Business and Professions Code, §820, ordering the licentiate to be examined by one or more physicians, surgeons or psychologists to determine if the licentiate's ability to practice is impaired) and, in its Determination of Issue §5, of violating California Business and Professions Code, §2236 (conviction of any offense substantially related to the qualifications, functions or duties of a physician and surgeon). The California Board revoked Respondent's license to practice medicine.

6. The California Board found in support of its finding in Determination of Issue §5 that Respondent had been convicted of

three counts of violating California Penal Code, §245 (a)(2) by the California Superior Court of Los Angeles County following a jury trial on September 25, 1989 in Case SA954313 entitled "The People of the State of California v. Cesar Ovidio Castillo."

The California Board stated that these charges arose out of an incident which occurred on July 2, 1987 when Respondent was involved in an altercation with 3 juveniles at a park which ended with Respondent firing gunshots at the juveniles as they ran away.

7. The conduct specified in paragraph "6" above, would if committed in New York State, constitute professional misconduct under New York Education Law 6530(9)(a)(i) (McKinney Supp. 1993) (being convicted of committing an act constituting a crime under New York State Law).

8. The California Board found in support of its finding in Determination of Issue §4, that Respondent failed to comply with a Petition to Compel Psychiatric Examination filed against him by the California Board on October 24, 1989, and an Order granting the above Petition issued on November 22, 1989, and which were duly served upon Respondent. Said Petition and Order required that Respondent submit to a psychiatric examination pursuant to California Business and Professions Code, §820.

9. The conduct specified in paragraph "8" above, would if committed in New York State, constitute professional misconduct under New York Education Law 6530 (15) (McKinney Supp. 1993) which requires licensees to submit to a psychiatric examination when a committee on professional conduct has reason to believe that the licensee may be impaired by alcohol, drugs, physical disability or mental disability).

### CONCLUSIONS

The State has satisfied its burden of proof. Respondent committed a felony in California, was convicted and sentenced. He then was subject to revocation by the California authorities and failed to comply with an order for an examination. The Committee is convinced that Respondent has committed conduct which would not be tolerated by a physician in this state or any other jurisdiction. There can be no other sanction but revocation.

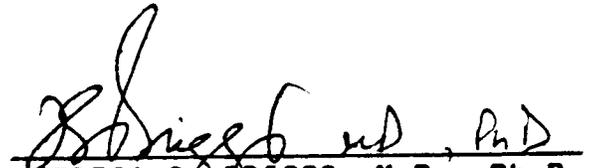
**ORDER**

Based upon the foregoing it is hereby **ORDERED** that,

1. The specifications of professional misconduct contained in the Statement of Charges in this matter be **SUSTAINED**; and

2. The license of Respondent to practice medicine in this state be **REVOKED**.

DATED: Albany, New York  
November 24, 1993

  
TERESA S. BRIGGS, M.D., Ph.D.  
Chairperson

MICHAEL E. BERLOW, M.D.  
MATTHEW M. CAMMEN

TO: Frederick Zimmer, Esq.  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower  
Albany, N.Y.

Cesar O. Castillo, M.D.  
877 W. El Reppetto Drive  
Apartment 81B  
Mount Erey Park, California 91754

**APPENDIX I**

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

-----X  
: IN THE MATTER : NOTICE OF  
: OF : REFERRAL  
: CESAR O. CASTILLO, M.D. : PROCEEDING  
: :  
-----X

TO: CESAR O. CASTILLO, M.D.

Department EXHIBIT #1  
FOR IDENTIFICATION  
LORA KAYE SAUCEDA, CSR, NP  
Nov 17 19 93

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 17th day of November, 1993 at 1:15 p.m. in the afternoon of that day at New York State Department of Health, Bureau of Adjudication, Corning Tower, Room 2509, Empire State Plaza, Albany, New York 12237.

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. 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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before November 10, 1993.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address

indicated above on or before November 10, 1993, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 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.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to 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.

SINCE THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE

TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR  
IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE  
URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN  
THIS MATTER.

DATED: Albany, New York  
*October 26*, 1993

*Peter D. Van Buren*

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PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

FREDRICK ZIMMER  
Associate Counsel  
(518) 474-8266

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
CESAR O. CASTILLO, M.D. : CHARGES  
Respondent :  
-----X

CESAR O. CASTILLO, M.D., the Respondent, was authorized to practice medicine in New York State on November 20, 1981 by the issuance of license number 148759 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. His last registration address was 877 W. El Repetto Drive, Apartment 81B, Mount Erey Park, California 91754.

FACTUAL ALLEGATIONS

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1. The conduct underlying Respondent's conviction included Respondent's willful and unlawful commission of an assault with a firearm on 3 individuals, on July 2, 1987. The California court imposed a sentence of 5 years of imprisonment upon

Respondent with credit for 509 days which Respondent had previously served.

2. The conduct upon which the California Superior Court convicted Respondent of committing an act constituting a crime under California Law would, if committed within New York State, have constituted a crime under New York State Penal Law, §120.25 [reckless endangerment in the first degree] and/or New York State Penal Law §120.20 [reckless endangerment in the second degree].

B. The Medical Board of California (hereinafter "the California Board") by a Default Decision Revoking License, dated December 13, 1990, found Respondent guilty, in its Determination of Issue §4, of violating California Business and Professions Code §820 and §821 [failing to comply with an Order issued under California Business and Professions Code, §820, ordering the licentiate to be examined by one or more physicians, surgeons or psychologists to determine if the licentiate's ability to practice is impaired] and, in its Determination of Issue §5, of violating California Business and Professions Code, §2236 [conviction of any offense substantially related to the qualifications, functions or duties of a physician and surgeon].

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1. The California Board found in support of its finding in Determination of Issue §5 that Respondent had been convicted of three counts of violating California Penal Code, §245 (a)(2) by the California Superior Court of Los Angeles County following a jury trial on September 25, 1989 in Case § A954313 entitled "The People of the State of California v. Cesar Ovidio Castillo." The California Board stated that these charges arose out of an incident which occurred on July 2, 1987 when Respondent was involved in an altercation with 3 juveniles at a park which ended with Respondent firing gunshots at the juveniles as they ran away.

2. The conduct specified in paragraph "B.1" above, would if committed in New York State, constitute professional misconduct under N.Y. Educ. Law § 6530(9)(a)(i) (McKinney Supp. 1993) [being convicted of committing an act constituting a crime under New York State law].

3. The California Board found in support of its finding in Determination of Issue §4, that Respondent failed to comply with a Petition to Compel Psychiatric Examination filed against him by the California Board on October 24, 1989, and an Order granting the above Petition issued on November 22, 1989, and which were duly served upon Respondent. Said Petition and Order

required that Respondent submit to a psychiatric examination pursuant to California Business and Professions Code, § 820.

4. The conduct specified in paragraph "B.3" above, would if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530 (15) (McKinney Supp. 1993) [a failure to comply with an order issued pursuant to New York State Public Health Law §230 (7) (McKinney Supp. 1993) which requires licensees to submit to a psychiatric examination when a committee on professional conduct has reason to believe that the licensee may be impaired by alcohol, drugs, physical disability or mental disability].

#### FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having been convicted of committing an act constituting a crime under the law of another jurisdiction which, if committed within New York State would have constituted a crime under New York State law, in violation of N.Y. Educ. Law §6530(9(a)(iii) (McKinney Supp 1993), in that Petitioner charges:

1. The facts in Paragraphs A and A.1 and A.2.

### SECOND AND THIRD SPECIFICATIONS

Respondent is charged with professional misconduct by reason of his having been found guilty of professional misconduct by the 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 in violation of N.Y. Educ. Law §6530(9)(b) (McKinney Supp 1993) in that Petitioner charges:

2. The facts in Paragraphs B and B.1 and B.2.
3. The facts in Paragraphs B and B.3 and B.4.

### FOURTH AND FIFTH SPECIFICATIONS

Respondent is charged with professional misconduct by reason of his having had his license to practice medicine revoked after a disciplinary action was instituted by the duly authorized professional disciplinary agency of another state where the conduct resulting in the revocation would, if committed in New York State constitute professional misconduct under the laws of New York State, in violation of N.Y. Educ. Law §6530 (9)(d) (McKinney Supp 1993), in that Petitioner charges;

4. The facts in Paragraphs B and B.1 and B.2.
5. The facts in Paragraphs B and B.3 and B.4.

DATED: Albany, New York  
*October 26, 1993*

*Peter D. Van Buren*  
\_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical  
Conduct