NYC Health & Hospitals (South Brooklyn Health) v. Savchuk

OATH Index No. 750/26 (Apr. 23, 2026)

Petitioner established that respondent made inappropriate comments to a patient, with the exception of one alleged comment that was not proven. Petitioner also proved that respondent inappropriately touched a patient. Termination of employment recommended.

New York City Office of
Administrative Trials and Hearings

In the Matter of
NYC Health and Hospitals
(South Brooklyn Hospital)
Petitioner
- against -
Vasyl Savchuk
Respondent

Report and Recommendation

Charlotte E. Davidson, *Administrative Law Judge*

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Petitioner, the New York City Health + Hospitals ("H+H"), South Brooklyn Health, referred this disciplinary proceeding under section 7.5 of its Personnel Rules and Regulations. The petition alleges that on January 29, 2025, respondent Vasyl Savchuk, a patient care associate, (1) made inappropriate comments to a patient, including calling himself a "blood sucker," saying "I also suck milk," and asking the patient if she was "allergic to money"; and (2) inappropriately touched the patient without her permission, kissing her arm while saying "love veins." Petitioner alleges that these statements and actions violated employee behavioral standards and H+H Facility Handbook rules governing satisfactory performance of assigned duties; standards of courtesy, grooming, and personal hygiene; and the exercise of self-control towards patients, visitors, supervisors, and associates, even under extreme stress (Pet. Ex. 1). Petitioner is seeking a recommendation that respondent's employment with H+H be terminated (Tr. 7-8).

At a trial held by videoconference before me on March 2, 2026, respondent failed to appear. Petitioner established that it had properly served respondent with the charges against him, as well as notice of the OATH trial and instructions for joining the trial by video or phone, by first-class and certified mail to respondent's official address on record with H +H, which petitioner's counsel confirmed was provided by respondent, as well as a second address on file with petitioner (Tr. 8-9, 17-23; Pet. Exs. 1, 2). Rule 10.1.3 of H+H's Personnel Rules requires employees to inform the agency of any updates to their address, and, under that rule, service mailed to respondent's last address on file is valid and sufficient service (Pet. Ex. 1). Health & Hospitals Corp., Personnel Rules Rule 10.1.3. According to petitioner's counsel, respondent's labor union had assigned him a lawyer before the pre-trial conference at H+H, but that lawyer had no contact with respondent and was never retained (Tr. 4). Facility staff called all phone numbers listed in respondent's personnel file but received no response or call back (Tr. 17). Because petitioner satisfied the jurisdictional prerequisites for finding respondent in default, the trial proceeded as an inquest.

Analysis

Audrey Russell, Director of Labor Relations for H+H, South Brooklyn Health, testified on behalf of petitioner (Tr. 11). Ms. Russell is responsible for disciplinary matters, grievances, and

joint labor management meetings at South Brooklyn Health (*Id.*). She trains supervisors and managers on labor relations and staff communications and meets individually with high-level executives at the facility (Tr. 12). In addition, she conducts investigations at the facility, including the investigation of the patient's complaint against respondent for his alleged conduct on January 29, 2025 (Tr. 11-12). Ms. Russell testified that the investigation revealed that respondent "cleaned the patient's area where he was going to draw blood and kissed that area of the patient. He also asked the patient, based on the information that I've uncovered, if the patient has kids, does the patient breastfeed, the patient is pretty" (Tr. 12-13). He also "called himself a blood sucker to the patient," making the patient "very uncomfortable" (Tr. 13). Ms. Russell was able to identify respondent based on facility records and the patient's description of respondent as a Russian man who was not a native Spanish speaker (Tr. 13, 33). Respondent has been suspended since February 12, 2025 (Tr. 14). No one at the facility has seen or been able to reach respondent since he was suspended (Tr. 17).

Beatriz Aldana, the assistant coordinating manager for the patient relations department at South Brooklyn Health, spoke directly to the patient/complainant by telephone on January 30, 2025 (Tr. 29, 31). Although the patient came forward after her evening appointment on January 29, Ms. Aldana had left for the day, so the patient was given Ms. Aldana's telephone number, and they spoke the next morning (Tr. 29, 31).

Ms. Aldana is assigned to take patient complaints or concerns, assist and guide patients, and serve as a liaison between patients and medical staff (Tr. 28-29). Her conversation with the patient was conducted in Spanish, the only language the patient spoke (Tr. 29, 34). Ms. Aldana described the patient as "very upset, very overwhelmed," crying, and speaking with a "shaky voice" (Tr. 32, 35).

The patient told Ms. Aldana that the person who checked her in and drew her blood "made inappropriate comments and acts toward her, and she felt very uncomfortable and unsafe," and she did not want to return to the location for appointments if that person was there (Tr. 29-30). Specifically, respondent referred to himself as a Chupacabra (Tr. 30). "Chupacabra"—or "goat sucker" in English—is a "mysterious canine-like monster that sucks the blood of livestock." National Geographic, The Chupacabra – How Evolution Made a Mythical

Monster (2025), https://www.nationalgeographic.com/culture/article/101028-chupacabra-evolution-halloween-science-monsters-chupacabras-picture; *see also* American Museum of Natural History, Chupacabra, https://www.amnh.org/explore/ology/ology-cards/281-chupacabra (last visited Mar. 18, 2026) (identifying the chupacabra as a "modern myth in the Americas" and "a fanged beast with red, glowing eyes that kills goats and cattle by sucking their blood"); Brendan Williams, *Blocking the Ballot Box: The Republican War on Voting Rights*, 28 WM. & MARY J. RACE, GENDER & SOC. JUST. 389, 409 (2022) (footnote omitted) (describing the chupacabra as a "mythical, nightmarish mammal-gobbling and goat-blood-sucking beast").

Ms. Aldana believed that respondent also told the patient while he was checking her in that he also likes sucking milk (Tr. 30, 35). The patient told Ms. Aldana that she recalled respondent making the same comments to the patient checking in behind her, who was also female and Spanish-speaking (Tr. 30-31).

Once respondent started cleaning the area where he would draw blood, the patient felt she was being touched inappropriately on her arm (Tr. 32). Ms. Aldana was not definitive on what that inappropriate touch was but "believe[d] at some point [respondent] also kissed her arm" (*Id.*). Ms. Aldana also testified that she "believe[d] that he also made another . . . comment where he asked [the patient] if she was allergic to anything and then asked her as well if she was allergic to money," which the patient interpreted as "insinuating an exchange of . . . a sexual action in exchange for money" (*Id.*).

Ms. Aldana provided the information the patient gave her to the grievance coordinator and was told that respondent was the person on the shift when the incident occurred (Tr. 33).

To prevail, petitioner must prove the charges by a preponderance of the credible evidence. *See Health & Hospitals Corp. (Elmhurst Hospital) v. Oazibullah*, OATH Index No. 1254/25 at 6 (Jan. 26, 2026), *adopted*, CEO Dec. (Feb. 25, 2026) (*citing Dep't of Correction v. Hall*, OATH Index No. 400/08 at 2 (Oct. 18, 2007), *adopted*, Comm'r Dec. (Nov. 2, 2007), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 08-33-SA (May 30, 2008)). Preponderance has been defined as "the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence." *Prince, Richardson on Evidence* § 3-206 (Lexis 2008); *see also Rinaldi & Sons, Inc. v. Wells Fargo Alarm Service, Inc.*, 39 N.Y.2d 191, 196 (1976). "If the evidence is

equally balanced, or if it leaves the [trier of fact] in such doubt as to be unable to decide the controversy either way, judgment must be given against the party upon whom the burden of proof rests." *Prince, Richardson on Evidence* § 3-206. In assessing witness credibility, "relevant factors include demeanor, consistency of a witness's testimony, supporting evidence, witness motivation, bias or prejudice, and the degree to which a witness's testimony comports with common sense and human experience." *Dep't of Correction v. McNeill*, OATH Index No. 265/22 at 8 (Feb. 22, 2022), *adopted*, Comm'r Dec. (June 16, 2022) (citing *Dep't of Sanitation v. Menzies*, OATH Index No. 678/98 at 2-3 (Feb. 5, 1998), *aff'd*, NYC Civ. Serv. Comm'n Iten No. CD 98-101 (Sept. 9, 1998)).

Hearsay is admissible in administrative proceedings and can form the sole basis for a disciplinary finding if sufficiently reliable and probative. *Dep't of Health & Mental Hygiene v. Dennis-Ekwobi*, OATH Index No. 1470/25 at 13 (June 11, 2025); *see also* 48 RCNY § 1-46(a) (Lexis 2026); *Health & Hospitals Corporation (Jacobi Medical Center) v. Khan*, OATH Index No. 2060/09 at 8 (Nov.10, 2009). However, the hearsay must be "carefully scrutinized as to its reliability and sufficiency to meet petitioner's burden of proof." *Dep't of Housing Preservation & Development v. Scharf*, OATH Index No. 2062/07 at 19 (Mar. 31, 2008) (quoting *Health & Hospitals Corp. (Lincoln Medical & Mental Health Center) v. Huling*, OATH Index No. 1359/05 at 5 (July 22, 2005)). In assessing hearsay evidence, factors to consider include "the identity of the hearsay declarant, the availability of the declarant to testify, declarant's personal knowledge of the facts, the independence or bias of the declarant, the detail of the hearsay, the degree to which it was corroborated by other people's statements and testimony, the degree to which it may have been supported by independently proved facts, the centrality of the hearsay evidence to the petitioner's case and the magnitude of the administrative burden should the hearsay be excluded." *Khan*, OATH 2060/09 at 9 (citing *Dep't of Environmental Protection v. Barnwell*, OATH Index No. 177/07 at 7-8 (Sept. 18, 2006)).

Petitioner's witnesses both testified credibly. Their testimonies were coherent, internally consistent, and understated. Each limited her testimony to her area of knowledge. Neither had a motive to fabricate. Ms. Russell's testimony, taken together with Ms. Aldana's, established that respondent was the subject of the patient's complaint. She was able to state

that the investigation of the incident established certain facts, including that respondent called himself a blood sucker, kissed the patient's arm, asked the patient if she had kids and if she breastfeeds them, and told her she was pretty, all of which made the patient uncomfortable.

I gave greater weight to Ms. Aldana's testimony than Ms. Russell's regarding respondent's actions, as Ms. Aldana spoke to the patient directly the day after the incident occurred. More than a year after the incident, Ms. Aldana clearly recalled that the patient told her respondent called himself a Chupacabra. She noted that the patient was very upset when they spoke the morning after the incident, that her voice was shaky, and that she started to cry during their conversation. As for Ms. Aldana's other recollections, as stated above, she testified that she believed respondent kissed the patient's arm, asked her if she was allergic to money, which the patient felt was an insinuation to exchange money for sex, and said that he liked sucking milk.

The word "believe" might ordinarily raise some doubt as to the reliability of the recollection. However, Ms. Aldana used the phrase "I believe" repeatedly throughout her testimony, even as to facts that appeared to be clear-cut, which led me consider the phrase to be more of a habit than a hedge in Ms. Aldana's case. Further, the specificity of Ms. Aldana's recollections adds to their certainty. For example, while Ms. Aldana testified that she *believed* the patient said respondent asked if she was allergic to money, she also said she believed the patient heard that as an insinuation. The detail regarding the insinuation would make no sense if the allergy to money comment had not occurred.

Accordingly, I find that petitioner has met its burden as to the comments regarding the Chupacabra (where respondent compared himself—as he was about to draw a patient's blood—to a destructive mythical creature who kills animals by sucking their blood), breastfeeding, milk-sucking, and an allergy to money but not as to the comment about loving veins. The credible, unrebutted evidence also established that respondent kissed the patient's arm.

Findings And Conclusions

1. Respondent was properly served with the charges and notice of trial.

2. Respondent made a series of inappropriate comments and actions toward a patient on January 29, 2025, including referring to himself as a Chupacabra, asking if she breastfed her children, and asking if she was allergic to money. Petitioner did not prove that respondent made a comment about loving veins.

3. Respondent inappropriately kissed the patient's arm on January 29, 2025.

Recommendation

Upon making the above findings and conclusions, I obtained and reviewed an abstract of respondent's H+H personnel record. Respondent's start date at H+H was April 29, 2019. He has held the title of Patient Care Associate throughout his employment at H+H with no promotions or demotions. He was placed on an unpaid pre-adjudication suspension related to this case from February 12, 2025, to March 13, 2025. He has been on a paid pre-hearing suspension since March 14, 2025. Respondent has had no prior formal discipline and no awards or commendations. There are three performance evaluations in his record. In the first, covering his first three months at H+H, respondent received an overall "satisfactory" rating. For his first full year, April 2019 to April 2020, his overall rating was "satisfactory plus." For the period of April 2020 to April 2021, his overall rating was back down to "satisfactory."

Petitioner is seeking termination of respondent's employment based on his conduct toward a patient. This is appropriate. This tribunal treats cases of patient abuse very seriously. *See, e.g.*, *Health & Hospitals Corp. (Coler Goldwater/Gouverneur Nursing Facility) v. Alce*, OATH Index No. 1362/03 at 11 (Oct. 7, 2003); *Health & Hospitals Corp. (Queens Hospital Ctr.) v. Whitaker*, OATH Index No. 486/18 at 12 (May 11, 2018) (recommending termination of service aide who, *inter alia*, verbally mistreated patients as "[h]ospital patients are generally in a compromised state of health and are therefore vulnerable. They should be able to recuperate and convalesce in a secure environment where they are not subjected to foul language or other inappropriate behavior of hospital staff. Respondent's display of intemperance and inappropriate statements put the health and recovery of patients at risk and cannot be tolerated"); *Health & Hospitals Corp. (Queens Hospital Ctr.) v. Davis,* OATH Index No. 660/14 at

11 (Jan. 15, 2014) ("Hospital patients are totally under the care and control of hospital employees and as such, are particularly vulnerable. Respondent's angry display calls into question his ability to control himself[] and implicates the safety of patients."). Termination has been recommended in patient mistreatment cases where an employee has a disciplinary history or other aggravating factors are present. *Alce*, OATH Index No. 1362/03; *Whitaker*, OATH 486/18; *Davis*, OATH 660/14. To his credit, respondent has no disciplinary history. However, he does not have a long employment history with H+H, and his conduct, which was sexual in nature, was inappropriate and violative toward a patient. Further, because respondent failed to appear for trial, there is no other mitigating evidence to offset the seriousness of the conduct. Respondent has only been employed by H+H for two years, has not demonstrated outstanding job performance in that time, and failed to appear at trial to present any evidence in his defense or mitigation or to request any accommodation.

Accordingly, I recommend that respondent be terminated from his employment.

Charlotte E. Davidson
Administrative Law Judge

April 23, 2026

Submitted To:

Svetlana Lipyanskaya
Chief Executive Officer

Appearances:

Kevin Andrade, Esq.
Attorney For Petitioner

No Appearance By Respondent