

Public



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

January 28, 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Roberto R. Aymat, M.D.  
a/k/a Roberto Aymat Rodriguez, M.D.  
Redacted Address

Roberto R. Aymat, M.D.  
a/k/a Roberto Aymat Rodriguez, M.D.  
Redacted Address

Roberto R. Aymat, M.D.  
a/k/a Roberto Aymat Rodriguez, M.D.  
305 Second Avenue  
Suite 7  
New York, New York 10003

Wilfred T. Friedman, Esq.  
60 East 42 Street – 40<sup>th</sup> Floor  
New York, New York 10165

Robert Bogan, Esq.  
NYS Department of Health  
433 River Street – Suite 303  
Troy, New York 12180-2299

**RE: In the Matter of Roberto R. Aymat, M.D.  
a/k/a Roberto Aymat Rodriguez, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-15) 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  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

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,

Redacted Signature

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER

OF

**ROBERTO R. AYMAT, M.D.**  
aka **ROBERTO AYMAT RODRIGUEZ, M.D.**  
**CO-09-01-0332-A**

DETERMINATION

AND

ORDER

BPMC #10-15

**COPY**

A hearing was held on January 20, 2010, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges dated August 21, 2009, were served upon the Respondent, **Roberto R. Aymat, M.D. aka Roberto Aymat Rodriguez, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **John B. Waldman, M.D.**, Chairperson, **Berton R. Shayevitz, M.D.**, and **Richard H. Edmonds, Ph.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William J. Lynch, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing. Respondent's attorney, **Wilfred T. Friedman, Esq.**, did not attend the proceeding; however, a letter written on Respondent's behalf was provided to the Hearing Committee at his request.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## BACKGROUND

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

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

## WITNESSES

For the Petitioner: None

For the Respondent: None

## FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Roberto R. Aymat, M.D. aka Roberto Aymat Rodriguez, M.D., the Respondent, was authorized to practice medicine in New York State on December 12, 1995, by the issuance of license number 201729 by the New York State Education Department (Petitioner's Ex. 3).

2. On or about December 8, 2008, in the Criminal Court of the City of New York, County of New York, New York, Respondent was found guilty of Forcible Touching, in violation of New York Penal Law section 130.52, a class A misdemeanor, and Sexual Abuse in the Third Degree, in violation of New York Penal Law section 130.55, a class B misdemeanor. He was sentenced to a one-year conditional discharge (Petitioner's Ex. 4).

3. On or about December 8, 2008, in the Criminal Court of the City of New York, County of New York, New York, Respondent was found guilty of Sexual Abuse in the Third Degree, in violation of New York Penal Law section 130.55, a class B misdemeanor. He was sentenced to a one-year conditional discharge, and a six-year order of protection was imposed (Petitioner's Ex. 5).

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

#### **FIRST AND SECOND SPECIFICATIONS**

"Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law..."

**VOTE: Sustained (3-0)**

### HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing. After considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 2) as well as the letter submitted by Respondent's attorney (Respondent's Ex. A), the Administrative Law Judge ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite Respondent's absence.

In his letter dated January 19, 2010, Respondent's attorney alleges that the Respondent has worked diligently to rehabilitate himself, and he contends that the underlying problems have been addressed and are being cared for in a reasonable fashion. Respondent's attorney asks that the Hearing Committee consider the sanction of an indefinite suspension with a full restoration hearing in the event Respondent makes a sustained recovery and wishes to return to the practice of medicine. The letter further states, by all accounts, that the Respondent is a competent physician who was treating an underserved population.

In the Criminal Court proceeding, the Respondent pled guilty to the crimes of Forcible Touching and Sexual Abuse in the Third Degree. The Petitioner recommended that the Respondent's license to practice medicine be revoked as the only penalty that would sufficiently protect the people of the State of New York.

Since the Respondent failed to appear at the hearing, the record contains no evidence of mitigating circumstances, rehabilitation or remorse other than a letter written by his attorney. The statements made in the letter concerning Respondent's efforts at rehabilitation are not supported by any specifics, and the Respondent's failure to attend

the hearing deprived the Hearing Committee of the opportunity to question him regarding any mitigating circumstances. Based on the foregoing, the Petitioner's recommendation will be adopted.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Respondent's license to practice medicine in the State of New York is revoked;
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Albany, New York**  
1-26, 2010

Redacted Signature

**John B. Waldman, M.D.**  
**Chairperson**

**Berton R. Shayevitz, M.D.**  
**Richard H. Edmonds, Ph.D.**

**TO: Robert R. Aymat, M.D.**

Redacted Address

**Wilfred T. Friedman, Esq.**  
**Attorney for Respondent**  
**60 East 42 Street, Fortieth Floor**  
**New York, New York 10165**

**Robert Bogan, Esq.**  
**Attorney for Petitioner**  
**New York State Department of Health**  
**Bureau of Professional Medical Conduct**  
**433 River Street, Suite 303**  
**Troy, New York 12180-2299**

# APPENDIX I





IN THE MATTER  
OF  
ROBERTO R. AYMAT, M.D.  
aka ROBERTO AYMAT RODRIGUEZ, M.D.  
CO-09-01-0332-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: ROBERTO R. AYMAT, M.D.  
aka ROBERTO AYMAT RODRIGUEZ, M.D.

Redacted Address

ROBERTO R. AYMAT, M.D.  
aka ROBERTO AYMAT RODRIGUEZ, M.D.

Redacted Address

ROBERTO R. AYMAT, M.D.  
aka ROBERTO AYMAT RODRIGUEZ, M.D.  
305 Second Avenue  
Suite 7  
New York, NY 10003

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21<sup>st</sup> day of October, 2009, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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 that 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here     

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the 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 (5) 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

*August 21*, 2009

Redacted Signature

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

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

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

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IN THE MATTER  
OF  
ROBERTO R. AYMAT, M.D.  
aka ROBERTO AYMAT RODRIGUEZ, M.D.  
CO-09-01-0332-A

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STATEMENT  
OF  
CHARGES

ROBERTO R. AYMAT, M.D. aka ROBERTO AYMAT RODRIGUEZ, M.D., Respondent, was authorized to practice medicine in New York state on December 12, 1995, by the issuance of license number 201729 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 8, 2008, in the Criminal Court of the City of New York, County of New York, New York, Respondent was found guilty, based on a plea of guilty, of Forcible touching, in violation of New York Penal Law, §130.52, a class A misdemeanor, and sexual abuse in the third degree, in violation of New York Penal Law §130.55, a class B misdemeanor, and on or about January 22, 2009, was sentenced to a one (1) year conditional discharge.

B. On or about December 8, 2008, in the Criminal Court of the City of New York, County of New York, New York, Respondent was found guilty, based on a plea of guilty, of sexual abuse in the third degree, in violation of New York Penal Law §130.55, a class B misdemeanor, and on or about January 22, 2009, was sentenced to a one (1) year conditional discharge and a six (6) year order of protection.

**SPECIFICATIONS**

**FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph B.

DATED: *August 21*, 2009  
Albany, New York

Redacted Signature

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