



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

PUBLIC

February 20, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Adolfo M. Ayuyao, M.D.
355 South End Avenue
New York, New York 10280

Denise Lepicier, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

RE: In the Matter of Adolfo M. Ayuyao, M.D.

Dear Parties:

Please note this letter is issued to correct the street address of respondent erroneously noted as 365 South End Avenue in the letter dated January 23, 2003, issuing Determination and Order (No. 03-17), and should be incorporated in the file.

We regret any inconvenience caused to the principals concerned.

Sincerely,

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh



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Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

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PUBLIC

January 23, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Adolfo M. Ayuyao, M.D.
365 South End Avenue
New York, New York 10280

Denise Lepicier, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

RE: In the Matter of Adolfo M. Ayuyao, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-17) 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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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.

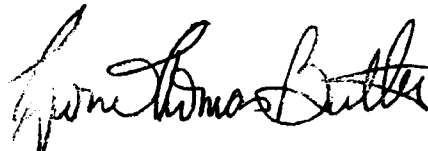
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

COPY

**IN THE MATTER : HEARING COMMITTEE
OF : DETERMINATION
ADOLFO M. AYUYAO, M.D. : AND ORDER**

BPMC No. 03-17

Gerald M. Brody, M.D., Chairperson, Steven M. Lapidus, M.D. and Mr. Charles Ahlers, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230 (1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230 (10) (e) and 230 (12) of the Public Health Law. Stephen Bermas, Esq., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

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

SUMMARY OF THE PROCEEDINGS

Notice of Hearing dated:	October 15, 2002
Statement of Charges dated:	October 15, 2002
Hearing Date:	December 17, 2002
Deliberation Date:	December 17, 2002
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, New York
Petitioner Appeared By:	Denise Lepicier, Esq. Associate Counsel Bureau of Professional Medical Conduct NYS Department of Health
Respondent did not appear.	

STATEMENT OF CHARGES

The Statement of Charges has been marked as Petitioner's Exhibit 1 and attached hereto as Appendix A.

FINDINGS OF FACT

Inasmuch as Respondent has not filed a written answer to the Charge or to the Factual Allegations, they are deemed admitted as alleged in the Statement of Charges, pursuant to the provisions of N.Y. Pub. Health Law Section 230 (10) (c). Nonetheless, the Hearing Committee has reviewed the evidence to determine if it supports the Allegations and the Charge. All Findings are unanimous.

1. Respondent, Adolfo M. Ayuyao, M.D., was authorized to practice medicine in the State of New York on or about October 27, 1972 by the issuance of License 114371 by the New York State Education Department. (Ex. 2)
2. On or about May 16, 2002, a proceeding was held in compliance with N.Y. Public Health Law Section 230 (7), to determine whether Respondent should be ordered by a committee of the Board for Professional Medical Conduct to submit to an examination to determine whether he was impaired by alcohol, drugs or a physical or mental disability. (Ex. 3)
3. Notice of the May 16, 2002 proceeding was given to Respondent. (Ex. 6)
4. The Board for Professional Medical Conduct ordered Respondent to submit to an examination no later than June 28, 2002. (Ex. 3)
5. Respondent failed to comply with the aforesaid order (Ex. 9)
6. On or about October 15, 2002, Respondent was provided with written notice of an opportunity to be interviewed by the Office of Professional Medical Conduct with respect to suspected misconduct. (Ex. 7)
7. On or about November 20, 2002, Respondent was served with a copy of the Notice of Hearing and Statement of Charges in this proceeding. (Ex. 1, Appendix A)
8. Respondent has failed to respond to any of the foregoing notices or to appear in person or by counsel in this proceeding, and the only communication from Respondent is a letter dated March 19, 2001 in which he states that he was "retired from medical practice since last year." (Ex. 4)

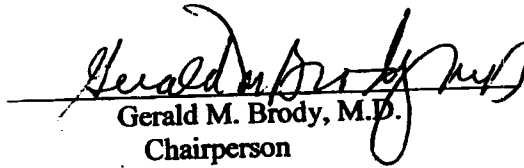
CONCLUSION OF LAW

FIRST: Respondent is found to have engaged in professional misconduct by reason of failing to comply with an order issued pursuant to New York Public Law Section 230, subsection 7, within the meaning of New York Education Law Section 6530 (15), as set forth in Findings of Fact 1 through 8, supra.

ORDER

The Hearing Committee determines and orders that Respondent's license to practice medicine be revoked.

Dated: New York, NY
January 17, 2003


Gerald M. Brody, M.D.
Chairperson

Steven M. Lapidus, M.D.
Charles Ahlers

APPENDIX I

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

IN THE MATTER
OF
ADOLFO M. AYUYAO, M.D.

NOTICE
OF
HEARING

TO: ADOLFO M. AYUYAO, M.D.
355 South End Avenue
New York, New York 10280

PLEASE TAKE NOTICE:

A 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 December 17, 2002, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, New York, New York, 10001, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for

the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten 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. 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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE 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

OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU
IN THIS MATTER.

DATED: New York, New York
October 18, 2002



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: Denise Lepicier
Associate Counsel
Bureau of Professional Medical Conduct
5 Penn Plaza
New York, New York 10001
Tel: 212-268-6806

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

IN THE MATTER
OF
ADOLFO M. AYUYAO, M.D.

STATEMENT
OF
CHARGES

ADOLFO M. AYUYAO, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 27, 1972, by the issuance of license number 114371 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 16, 2002, a proceeding was held, in compliance with Public Health Law Section 230(7), to determine whether Adolfo M. Ayuyao, M.D., should be ordered by a committee of the Board for Professional Medical Conduct to submit to an examination to determine whether he is impaired by alcohol, drugs, or a physical or mental disability. The Board ordered Adolfo M. Ayuyao, M.D., to submit to an examination to be commenced no later than June 28, 2002. Respondent failed to comply with this order.

SPECIFICATION OF CHARGES

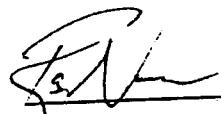
FIRST SPECIFICATION
FAILURE TO COMPLY WITH AN ORDER

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(15) by failing to comply with an order issued pursuant to

Section 230, subsection 7, of the Public Health Law, as alleged in the facts of:

1. Paragraph A.

DATED: October 5, 2002
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct