

**PUBLIC**

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

March 4, 1999

Richard J. Adler, Physician  
Las Fuentes de Son Beltran  
07179 Deya  
Mallorca, Spain

Re: Application Restoration

Dear Dr. Adler:

Enclosed please find the Commissioner's Order regarding Case No. 99-28-60 which is in reference to Calendar No. 16936. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations

By:

GUSTAVE MARTINE  
Supervisor

DJK/GM/er

**RECEIVED**

**MAR 8 1999**

**OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT**

The University of the State of New York  
Education  Department

IN THE MATTER

of the

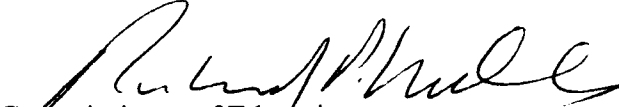
Application of RICHARD J.  
ADLER for restoration of his license  
to practice medicine in the State of  
New York.

Case No. 99-28-60

It appearing that the license of RICHARD J. ADLER, Las Fuentes de Son Beltran, 07179 Deya, Mallorca, Spain, authorizing him to practice medicine in the State of New York, was revoked by action of the State Board for Professional Medical Conduct effective August 7, 1993, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 3, 1999, it is hereby

ORDERED that the petition for restoration of License No. 113264, authorizing RICHARD J. ADLER, to practice medicine in the State of New York, is denied.

IN WITNESS WHEREOF, I, Richard P. Mills,  
Commissioner of Education of the State of New York for  
and on behalf of the State Education Department, do  
hereunto set my hand and affix the seal of the State  
Education Department, at the City of Albany, this *24<sup>th</sup>*  
day of February, 1999.

  
Commissioner of Education

Case No. 99-28-60

It appearing that the license of RICHARD J. ADLER, Las Fuentes de Son Beltran, 07179 Deya, Mallorca, Spain, to practice medicine in the State of New York, having been revoked by action of the State Board for Professional Medical Conduct effective August 7, 1993, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 3, 1999, it was

VOTED that the petition for restoration of License No. 113264, authorizing RICHARD J. ADLER, to practice medicine in the State of New York, be denied.

Case number 99-28-60

November 18, 1998

THE UNIVERSITY OF THE STATE OF NEW YORK  
The State Education Department

Report of the Committee on the Professions  
Application for Restoration of Physician License

Re: **Richard J. Adler**

Not Represented by Counsel

Richard J. Adler, Las Fuentes de Son Beltran, 07179, Deya, Mallorca, Spain, petitioned for restoration of his physician license. The chronology of events is as follows:

- |          |  |
|----------|--|
| 08/01/72 | Issued license number 113264 to practice medicine in New York State.   |
| 06/26/92 | Charged with professional misconduct by Department of Health.  |
| 07/31/93 | State Board for Professional Medical Conduct voted revocation and imposed a \$200,000 fine.                    |
| 08/07/93 | Effective date of revocation.  |
| 03/08/96 | Petition for restoration of physician license submitted.   |
| 11/21/97 | Peer Committee restoration review.   |
| 03/17/98 | Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")                             |
| 11/18/98 | Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.") |

**Disciplinary History.** (See attached Hearing Committee Determination and Order No. BPMC-93-105.) On June 6, 1992, the Department of Health charged Dr. Adler with 37 specifications of professional misconduct. On July 31, 1993, a Hearing Panel of the State Board for Professional Medical Conduct found Dr. Adler guilty of 20 of those specifications, voted to revoke his license and imposed a fine of \$10,000 for each specification upon which he was found guilty, for a total of \$200,000. The Panel found Dr. Adler guilty of practicing medicine with negligence on more than one occasion, practicing medicine with incompetence on more than one occasion, practicing medicine fraudulently, willfully making or filing false reports, ordering excessive tests and treatment, failing to maintain a record for each patient which accurately reflected his evaluation and treatment of the patient, and moral unfitness to practice medicine. In

addition to the charges related to his patients, he was also found guilty of stating on his applications for medical licensure in Connecticut and appointment to the staff of Danbury Hospital that he received an undergraduate degree from Princeton University when he never received any degree from that institution. Dr. Adler submitted his petition for restoration of his license on March 8, 1996.

**Recommendation of the Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Lee, Putnam, Riggins) met on November 21, 1997. In its report dated March 17, 1998, the Committee recommended unanimously that Dr. Adler's application for restoration of his physician license be denied.

**Recommendation of the Committee on the Professions.** On November 18, 1998, the Committee on the Professions (Ahearn, Templeman, Muñoz) met with Dr. Richard J. Adler to consider his petition for restoration of his physician license. An attorney did not accompany him. Dr. Adler presented the Committee with the following:

- Certificate of Appreciation from The American Jewish Joint Distribution Committee, Inc., dated January 1995, for his life-saving efforts on behalf of Rwandan refugees.
- Verification of his membership in the American Academy of Anti-Aging Medicine through August 28, 1999.
- Verification of his participation in the 5<sup>th</sup> Annual Conference on Anti-Aging Medicine and Biotechnology in Las Vegas, Nevada, in December 1997.
- A copy of "*Huperzia serrata* extract" reflecting its use in the treatment of Alzheimer's dementia.

The Committee asked Dr. Adler to describe the circumstances that resulted in the revocation of his license. He responded that he had practiced in New York for 20 years and had always been devoted to his patients. He reported that he started out in family medicine and then specialized in allergies and immunology. Dr. Adler said that he always had a strong commitment to ongoing continuing education through attendance at seminars, published articles, and research. He stated that he supervised a staff of about 30 persons, mainly nurses, and strove to maintain a high level of professionalism. Dr. Adler reported that there were no successful malpractice suits against him and no hospital censures. He told the Committee that he was "assaulted by the insurance company (Metropolitan)," which questioned the ways he was billing for his practice. He explained this as misunderstandings with the insurance company, due to his inability to successfully "negotiate" with Metropolitan. Dr. Adler told the Committee that the code numbers for various types of reimbursement were not as clear as they are now, which led to confusions in billing. He indicated that he had a large number of patients who worked for IBM in Fishkill and had Metropolitan's insurance. He said Metropolitan cut payments to him and later resumed the payments but told him that "We're going to get you." Dr. Adler said that he never had any patients suffer because of his actions. He stated that because of the insurance company, he lost his medical license in New York, his laboratory director's license, and his Connecticut medical license.

The Committee asked about the tax evasion charges. He said that he didn't declare income for some years and he realizes it was a "stupid mistake" and he was

probably "too arrogant." He said that he knew at the time that he should have reported it. The Committee asked what dollar amounts were involved and Dr. Adler replied that he owed about \$300,000 on unreported income of about a million dollars. He indicated that he was able to negotiate a settlement with the IRS.

The Committee asked about his entries on applications for licensure in Connecticut and for a staff position at Danbury Hospital, which falsely reflected that he graduated from Princeton University. He replied, "I don't know if I or my staff filled out the applications. I honestly don't know." The Committee asked how this could occur two separate times at two different locations. He responded, "I wasn't aware of it." Dr. Adler said that he did attend Princeton but received his undergraduate degree in France.

The Committee asked about the charges that he ordered tests that were not warranted and whether he viewed it as a conflict of interest to have his laboratory do tests for his patients. He replied that the laboratory was a separate entity, distinct from his practice, and he did not think it was a conflict. Dr. Adler indicated that he felt the charges related to unwarranted tests were connected to the late 70's when a new allergy blood test came into existence to replace the skin tests. He reported that he championed the use of the new blood test, even though there was a lot of controversy about its effectiveness. He said that he billed for both during a crossover period and "I think this is where it came from."

When asked his reactions to the Peer Committee's report, Dr. Adler said that he does have remorse and "deeply regrets the mistakes and impact on patients." He stated, "I left them in the lurch. I left my staff in the lurch. He told the Committee that he was even remorseful to the insurance company that he let down as he "should have been more flexible and a better negotiator." Dr. Adler said, "Perhaps, I was too defensive." He said that "being exiled from your profession, your state, and your country" was a severe punishment for what he had done. Dr. Adler said there was a mistake in the investigator's report, as he did not work in any clinics after he lost his license.

The Committee asked about the insurance forms with his name on them which were dated after he lost his license. He replied that the doctor working for him continued on at the practice and used his (Dr. Adler's) stamp. Dr. Adler told the Committee that he didn't know what happened to the doctor as he disappeared. He said that his offices just folded, he sold the buildings, and was unaware that his "shingle" was still hanging outside one of the offices. The Committee asked Dr. Adler if he knew why Michael Davis withdrew his affidavit after being informed by OPD of the misconduct that led to the revocation. He replied, "I didn't know he withdrew his support."

Dr. Adler told the Committee that one of the main problems was that he had five offices and had grown too big. One of the offices was a satellite office in Connecticut. He said that he lost count of the day to day operations of each office but realizes that he was ultimately responsible. In response to the Committee's inquiry, Dr. Adler said that he was the only physician for those five offices and the nurses could adequately take care of most of the patients. He said, "If they were not feeling well, I would see them." He indicated that he was trying to do too much, with his clinic, his lab, and clinical research and this led to errors which, "in part, led to losing my license." Dr. Adler said that he had his own caseload at each location and each office had a business manager

on site. Dr. Adler said that he had to assume responsibility for the errors in billing as he signed everything, but may not have read everything he was signing. He stated that he had no motivation to lie and reported that the peculiarities in billing were brought up by an aggressive prosecutor.

The Committee asked Dr. Adler what type of practice he would like to go into if his license were restored. He said that he had worked in Africa during 1994 but hadn't "done much in the last couple of years." He reported that his main interest now was to go into anti-aging medicine and follow the American Academy of Anti-Aging Medicine's protocols. Dr. Adler said that he has been studying a lot in this field and has developed and produced a new medicine to support body functions to live longer. He indicated that it was all natural, aided memory, and referred to the abstract given to the Committee earlier. He stated that he was working for himself now and manufacturing the extract in China. In response to the Committee's inquiry as to how long he practiced in Africa, he said that he was there one month with a medical team and then went back for six months working with the team as a medical doctor. Dr. Adler stated that he did not tell them he did not have a medical license, as a license was not required by the Jewish Joint Distribution Committee.

Dr. Adler said that he had a good record for 20 years, admits his mistakes, and would do better in the future. He indicated that in spite of the disgrace of losing his license, he has remained in contact with the profession. He said that he keeps learning. Dr. Adler told the Committee, "I've suffered a very long five years of very harsh punishment." He stated that he also wants to get his license back because the loss is a very black mark on his record that limits the other things he can do in the field of medicine. He indicated that unless the license is restored in New York, it would be extremely difficult to be licensed anywhere.

On December 7, 1998, Dr. Adler e-mailed a letter to the Committee members explaining why he felt the Committee should believe he was truthful and providing additional information regarding his tax problems. He indicated that he agreed to plead guilty to the IRS so that no charges would be lodged against his wife. The Committee agreed to have this letter become part of the record.

The overarching concern in all restoration cases is the protection of the public. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that licensure should be granted in the face of misconduct that resulted in the loss of licensure. There must be a clear preponderance of evidence that the misconduct will not recur and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner.

The Committee on the Professions (COP) believes it is not its role to merely accept as valid whatever is presented to it by the petitioner but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record. The COP concurs with the Peer Committee that Dr. Adler "has demonstrated no real remorse nor any real insight into the problems that gave rise to the charges against him." He continues to refer to his actions as mistakes and continues to blame the insurance company for what happened to him, rather than acknowledging that he made deliberate, intentional decisions contrary to accepted practice. The COP found that Dr. Adler was unable to articulate the root causes of his misconduct, and referred to them

as stupid mistakes, never acknowledging or hinting that greed may have been a factor as the record seems to indicate. Similarly, he continues to dwell upon the effects the revocation has had upon him and his family, but was unable to provide any insight to the Committee of the possible detrimental effects his actions had upon his patients and the public. The COP notes that had his license not already been revoked, the tax evasion charges that were subsequently adjudicated would probably have been sufficient for revocation. The COP is troubled by the misrepresentations he made for Connecticut licensure and hospital privileges and, taken together with the insurance and income tax misrepresentations, believes that serious questions of Dr. Adler's credibility are apparent. The COP notes that in the Department of Health's recommendation that Dr. Adler's license not be restored, they indicate that the Appellate Division of the Third Judicial Department considered his appeal and considered "the penalty of revocation appropriate as Dr. Adler abused the privilege afforded him by his medical license by using it chiefly as a means of personal aggrandizement rather than in the service of the people of this State." Dr. Adler continues to stress his 20 years of good practice as the main reason for restoring his license, rather than acknowledging the root causes of the misconduct and demonstrating that such misconduct would not recur in the future.

Therefore, after a complete review of the record and its meeting with him, the Committee on the Professions voted unanimously to concur with the recommendation of the Peer Committee that Dr. Adler's petition for restoration of his license to practice as a physician in the State of New York be denied at this time.

Kathy Ahearn, Chair

Leslie Templeman

Frank Muñoz





# The University of the State of New York

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
STATE BOARD FOR MEDICINE

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In the Matter of the Application of

**RICHARD ADLER**

**REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 16936**

for the restoration of his license to  
practice as a physician in the State of  
New York.

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Applicant, RICHARD ADLER, was authorized to practice as a  
physician in the State of New York by the New York State Education  
Department.

### PRIOR DISCIPLINARY PROCEEDING

On July 31, 1993, Order #BPMC-93-105 was issued revoking  
applicant's license to practice Medicine in New York State.  
Applicant was found guilty of practicing medicine with negligence  
on more than one occasion in violation of Education Law 6530(3).  
Specifically, applicant failed to obtain an adequate patient history  
on fourteen occasions. Applicant failed to perform an adequate  
physical examination of patients on fourteen occasions. Applicant  
ordered various tests or procedures which were not medically  
indicated on thirty occasions. Applicant failed to maintain a  
medical record for patients which accurately reflected patients'

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history on nine occasions. Applicant billed for work not actually done on eleven occasions. Applicant improperly billed patients for office visits on eight occasions. Applicant failed to charge patients the 20% co-payment. Applicant also entered or caused to be entered certain CPT codes on claim forms which falsely represented that a physician had evaluated or treated the patient on such occasions.

On or about March 26, 1976, applicant applied to the Connecticut Medical Examining Board for a license to practice medicine in Connecticut. As part of the application, applicant swore before a notary public that all statements contained in the application were true. Applicant stated in the application that he received an undergraduate degree from Princeton University in 1958. This statement was knowingly false. Applicant never received any degree from Princeton University.

On or about April 23, 1997, applicant submitted an application for appointment to the staff of Danbury Hospital in Danbury, Connecticut. In the application, applicant falsely stated that he had received an undergraduate degree from Princeton University in 1957.

#### THE APPLICATION

On March 8, 1996 applicant petitioned for the restoration of his license to practice as a physician in the State of New York.

In his petition applicant states:

"The main reasons why I want to have my license as a medical

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doctor restored, is that I feel that I have served well as a practicing physician in New York State for over twenty years, and that the vast majority of patients that I treated over those years benefited from my care. Also, being a doctor and care-giver is a major part of my make-up. I really enjoy being a doctor and I wish to continue working in this field of endeavor.

"The specific reasons why the Board of Regents should consider taking favorable action on my petition relate to my long-term commitment to medicine in several distinct categories of activity. These include: 1) The practice of medicine 2) Clinical research activity 3) Commitment to on-going medical education 4) Clinical laboratory directorship 5) Humanitarian medical work.

1. I first became licensed in medicine in New York State in 1972. I opened private practice in the inner city area of Rochester, New York. There I served an underprivileged population who badly needed medical care. During this period, I also became Board certified in family medicine. Then, in 1975, I got married and suddenly found myself responsible for seven children, those of my wife and my own. I moved to Putnam County, and began to practice family medicine. I greatly enjoyed family practice, and I had an office practice and in-

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patient hospital practice at Putnam Community Hospital. I always had maintained an active interest in Allergy and Immunology, and around 1985 I shifted the focus on my practice to that of clinical allergy. I saw many patients with clinical allergy problems, and I was able to do some research relating to patient care in the field of allergy.

2. I was alert to new developments in the diagnosis and treatment of allergic disorders. I was able to do several research projects relating to allergy diagnostic methods, and also relating to treatment methods. Several of my papers were published in Juried Medical Journals or were presented at mainstream medical meetings in the USA and in Europe.
3. Over the course of my medical career I maintained membership in the American Academy of Family Physicians, the American College of Allergy and Immunology, the American Thoracic College of Allergy and Immunology, the American Thoracic Society, the European Academy of Allergy, and other professional societies. I assiduously attended educational meetings of these various societies in order to continue my own post-graduate medical

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education. I always accumulated the required number of post graduate education hours to qualify for on-going membership in the academy of family practice and to meet the requirements of the State of New York.

4. In 1985 I was qualified as clinical laboratory director by the State of New York. Thereupon, I opened a clinical diagnostic laboratory to serve physicians and their patients in the field of allergy blood tests. This laboratory passed all the stringent proficiency tests of the State and Federal authorities, and rendered good service until 1993.
5. In the 1980's I established a relationship with a humanitarian organization called Blueberry Treatment Center. I served as a volunteer physician and consultant to this group for over ten years. Blueberry offered care and treatment to severely mentally ill and disadvantaged children. As a physician, I rendered medical care to these children, responded to emergencies, and helped set up the medical program at the summer camp in the Catskills. During the many years of my private practice of medicine, I treated disadvantaged patients at no fee in my practice. These patients

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were usually referred to my practice by local clergy who knew of our receptiveness to these types of problems. More recently, I spent a long stint as a volunteer physician to treat and help the Rwandan refugees. In this regard, I directly treated more than two thousand Rwandan refugees in the Kibumba Refugee Camp in Zaire, I set up and conducted a teaching program for community health workers in the refugee camps, and I administered a relief program. At the present moment, I am engaged in writing education brochures on medical topics for health workers in the field, at the request of the international rescue committee.

"I have maintained knowledge and skills in my profession during the period the New York license was revoked, by actively engaging in medical care to the Rwandan Refugees in Rwanda and Zaire. I personally rendered care to more than two thousand severely ill Rwandan refugees, and I supervised medical care to thousands more, through a network of community health workers. This experience greatly enhanced my knowledge and skills in medical care, and also gave me insights into problems I had not seen before, such as malaria, wide-spread aids, wide-spread parasitic infestations, various forms of colera and dysentery, amebiasis, grave malnutrition, atypical pneumonias, and new forms of venereal disease. My teaching

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duties in this setting enabled me to deepen and formalize my own learning.

"The background of my case appears to revolve around a complaint by the Metropolitan Life Insurance Company, in which they allege that I engaged in unfair billing practices for medical services rendered to their insured. In fact, nobody accused me of billing for patients who were not seen. All patients who were billed were in fact treated in my office. However, the dispute raged about the type of billing my office used. Namely, when a patient received care in my office, the patient usually saw the registered professional nurse who administered the allergy injections and checked up on the patient's status according to my protocol. Sometimes I also saw the patient, but often not. Our practice billed for an allergy visit, in addition to billing for the injections, on the basis that the patient had received a care component, rendered by the nurse under my supervision and according to my protocol. Metropolitan took the position that this was unfair billing because I had not personally seen the patient. Also, certain quality of care issues were brought up and held against me, such as poor record keeping.

"Certainly, these situations which led to the revocation of my medical license, are not likely to recur. I am certainly committed to improvement of my record keeping and to further improvement of my performance as a physician. I would not

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represent a threat to the public were my license restored. I hereby swear in this affidavit of verification that the facts presented in this petition are true to the best of my belief."

PEER PANEL REVIEW

On November 21, 1997, the Peer Panel met to review the application in this matter. Applicant appeared and elected to proceed without an attorney. The Department was represented by Claudia J. Stern, Esq.

The Chairperson opened the meeting by stating that the Peer Panel had read the full application and all supporting documentation before the meeting. The Chairperson then had everyone in the meeting introduce themselves.

Ms. Stern then made an opening statement followed by applicant.

Applicant spoke to the committee and repeated much of what was stated in his application. He was then questioned by Ms. Stern and the panel. Ms. Stern as well as the panel went on to question applicant about what caused him to conduct himself as he did and what he could tell them he would do to avoid any recurrence of such activity.

Applicant stated he would be much more careful regarding record keeping.

Applicant stated that he was overextended what with five offices, his research and his publishing.

Applicant stated that no patient was even hurt by him.



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Applicant, when questioned about it, did not seem to see any ethical problem or conflict of interest in ordering tests on his patients and sending these tests to his own laboratory. Applicant went on to say that evidence of his rehabilitation is his work in Africa with small groups to help refugees which he has been doing since the Fall of 1994.

Regarding the false billing, he does no billing at all now but does this volunteer work.

Regarding continuing education applicant stated that he has been in the continual practice of medicine in Africa which requires continual learning under difficult circumstances. It involves basic medicine and he follows the United Nations guidelines in his work with "Doctors Without Borders".

Upon questioning regarding the disciplinary proceeding applicant stated that the chief witness against him was a professional gunslinger and a hatchet man.

Applicant stated, in answer to a question, that he did not tell the group that he is working with now that his license was revoked.

In answer to a question by Ms. Stern applicant admitted that he was arrested and convicted for tax evasion but that he is suing the IRS now and it is going well.

Applicant then made a closing statement saying he believes he has met the standards for restoration of licensure.

Ms. Stern closed by saying the Department opposes restoration

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of licensure because applicant has not met his burden.

RECOMMENDATION

We unanimously recommend that the application herein not be granted and that the revocation of applicant's license to practice medicine in the State of New York not be stayed.

Applicant has demonstrated no real remorse nor any real insight into the problems that gave rise to the charges against him. He seems sorry for the tactical mistakes, not for the flaws in his practice.

He does not seem to believe there is a conflict of interest in ordering and doing excessive tests on his patients and referring these patient's tests to his own laboratory, then billing the insurance company for all these procedures.

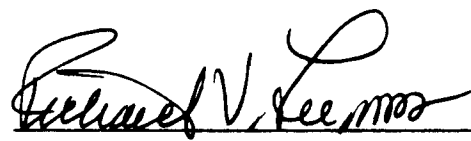
Applicant has also engaged in a pattern of misrepresentation.

Respectfully submitted,

RICHARD V. LEE, M.D., Chairperson

THEODORE I. PUTNAM

DELORES D. RIGGINS, Public Member

 17 March 1998

Chairperson

Dated

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
STATE BOARD FOR MEDICINE

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In the Matter of the Application of

**RICHARD ADLER**

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**REPORT OF  
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