

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

**IN THE MATTER  
OF  
MICHAEL ALEXANDER EVARD, R.P.A.**

**SURRENDER  
ORDER**

BPMC No. #09-47

Upon the application of (Respondent) MICHAEL ALEXANDER EVARD, R.P.A. to Surrender his license as a physician assistant in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physician assistants in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

Redacted Signature

DATE: 3-18-2009

\_\_\_\_\_  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct



I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s).

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

^ Redacted Signature

DATE 2/24/09

~~\_\_\_\_\_~~  
MICHAEL ALEXANDER EVARD, R.P.A.  
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: \_\_\_\_\_

BRIAN JAMES CARMODY, ESQ.  
Attorney for Respondent

DATE: March 11, 2009

Redacted Signature

MARCIA E. KAPLAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 3/17/09

Redacted Signature

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

**EXHIBIT "A"**

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

**IN THE MATTER  
OF  
MICHAEL ALEXANDER EVARD, R.P.A.**

**STATEMENT  
OF  
CHARGES**

MICHAEL ALEXANDER EVARD, R.P.A., the Respondent, was licensed to practice as a physician assistant in New York State on or about July 19, 1997, by the issuance of registration number 005981 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or before and between January 14, 2005 and April 21, 2006, in the County of Queens, Respondent offered or possessed multiple forged prescriptions, knowing that these prescriptions were forged, and with the intent to defraud, deceive or injure another.
- B. On or about September 18, 2007, in the Supreme Court of the City of New York, County of Queens, Respondent was convicted, upon a plea of guilty, based upon the facts set forth in paragraph A above, of committing an act constituting a crime under:
1. N.Y. Penal Law Sec. 170.25, Criminal Possession of a Forged Instrument in the Second Degree, a Class D felony; and
  2. N.Y. Penal Law Sec. 170.20, Criminal Possession of a Forged Instrument in the Third Degree, a Class A misdemeanor.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraph A.

**SECOND SPECIFICATION**

**CRIMINAL CONVICTION (N.Y.S.)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

2. Paragraphs A, B, B.1 and B.2.

DATE:

3/10/09  
November 17, 2008  
New York, New York

Redacted Signature

~~ROY NEMERSON~~  
Deputy Counsel  
Bureau of Professional Medical Conduct

**EXHIBIT "B"**

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE  
FOLLOWING MEDICAL LICENSE REVOCATION, SURRENDER  
OR SUSPENSION OF SIX MONTHS OR MORE**

1. Respondent shall immediately cease practice as a physician assistant in compliance with the terms of the Surrender Order. Respondent shall not represent that Respondent is eligible to practice as a physician assistant and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Surrender Order's effective date, Respondent shall notify all patients that Respondent has ceased practice as a physician assistant, and shall refer all patients for continued care, as appropriate.
3. Within 30 days of the Surrender Order's effective date, Respondent shall deliver Respondent's original registration to practice as a physician assistant in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within 30 days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least 6 years after the last date of service, and, for minors, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be provided promptly or sent to the patient at reasonable cost (not to exceed 75 cents per page). Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Surrender Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender Respondent's DEA controlled substance certificate, privileges, and any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Surrender Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.



7. Within 15 days of the Surrender Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice as a physician assistant, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from practicing as a physician assistant. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, before the Surrender Order's effective date.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and/or as a physician assistant, Respondent's license is revoked, surrendered or suspended for 6 months or more pursuant to this Surrender Order, Respondent shall, within 90 days of the Surrender Order's effective date, divest all financial interest in the professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Surrender Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing as a physician assistant when a license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to 4 years, under N.Y. Educ. Law § 6512. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under N.Y. Pub. Health Law § 230-a.