



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Nirav R. Shah, M.D., M.P.H.  
Commissioner  
NYS Department of Health  
Keith W. Servis, Director  
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.  
Chair  
Carmella Torrelli  
Vice Chair  
Katherine A. Hawkins, M.D., J.D.  
Executive Secretary

February 28, 2011

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

M. Stuart Adler, M.D.

REDACTED

Re: License No. 086077

Dear Dr. Adler:

Enclosed is a copy of BPMC #11-51 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect February 28, 2011.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Amy T. Kulb, Esq.  
Jacobson, Goldberg & Kulb, LLP  
585 Stewart Avenue, Suite 720  
Garden City, NY 11530

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

IN THE MATTER  
OF  
M. STUART ADLER, M.D.

CONSENT  
AGREEMENT  
AND  
SURRENDER  
ORDER

BPMC No. #11-51

Upon the application of (Respondent) M. STUART ADLER, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Consent Agreement and Surrender Order, it is

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

ORDERED, that effective 90 days from the issuance of this Order, Respondent's name be stricken from the roster of physicians 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 Consent Agreement and Surrender Order, either by first class mail to Respondent at the address in the attached Consent Agreement and Surrender Order Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 2-28-2011

REDACTED

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

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

IN THE MATTER  
OF  
M. STUART ADLER, M.D.

CONSENT  
AGREEMENT AND  
SURRENDER OF  
LICENSE

M. STUART ADLER, M.D., represents that all of the following statements are true:

That on or about July 20, 1961, I was licensed to practice as a physician in the State of New York and issued License No. 086077 by the New York State Education Department.

*M. Stuart Adler,*

REDACTED

My current address is \_\_\_\_\_, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement and Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York, with said surrender to become effective 90 days from the issuance of this Consent Agreement and Surrender Order, on the basis that I do not contest the First Specification, Negligence on More Than One Occasion, in full satisfaction of the charges against me.

- Effective immediately upon the issuance of this Order, and continuing until the effective date of my surrender of license, pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation, subject to the terms set forth in attached Exhibit "B."

I ask the Board to accept my Consent Agreement and Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "C".

I understand that, if the Board does not accept my Consent Agreement and 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 Consent Agreement and Surrender of License, the Chair of the Board shall issue a Consent Agreement and 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 Consent Agreement and 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 Consent Agreement and 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.

I ask the Board to accept this Consent Agreement and 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

Consent Agreement and 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 Consent Agreement and Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Consent Agreement and 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.

1  
REDACTED

DATE February 24, 2011

M. STUART ADLER, M.D.  
RESPONDENT

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

DATE: 2/24/11

REDACTED

~~AMY KULB, ESQ.~~  
Attorney for Respondent

DATE: 2/24/11

REDACTED

~~MARCIA E. KAPLAN~~  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 2/28/11

REDACTED

~~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  
M. STUART ADLER, M.D.**

**STATEMENT  
OF  
CHARGES**

M. STUART ADLER, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 20, 1961, by the issuance of license number 086077 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. During periods in or about 2007-2008, Respondent prescribed medications inappropriately to the patients identified in attached Appendix "A".

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of the following:

1. Paragraph A.

DATE: February 24, 2011  
New York, New York

REDACTED

ROY NEMERSON  
Deputy Counsel  
Bureau of Professional Medical Conduct



## EXHIBIT "B"

### **Terms of Probation**

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

8. Respondent shall maintain a log of all drugs prescribed, administered or dispensed (hereafter "prescribed"), in a form acceptable to OPMC. This log shall include each patient's name, the drug prescribed to the patient, the date the drug was prescribed, and the name, strength, dosage and quantity for each drug prescribed. The log shall be maintained separately from the medical records referred to in paragraph 9 below, and shall be forwarded to OPMC monthly for review. Respondent shall produce the prescribing log for review by OPMC, upon demand of the Director.
9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients (including but not limited to any individual for whom Respondent prescribes any drug), and contain all information required by State rules and regulations concerning controlled substances. Respondent shall produce any medical record for review by OPMC, upon demand of the Director.
10. Respondent shall comply with this Consent Agreement and Surrender Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

**EXHIBIT "C"**

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

1. Respondent shall cease the practice of medicine in compliance with the terms of this Order. Upon his surrender of license, Respondent shall not represent eligibility to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of his surrender of license, Respondent shall notify all patients that he has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for continued care, as appropriate.
3. Within 30 days of his surrender of license, Respondent shall deliver his original license to practice medicine 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 his surrender of license, 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 his surrender of license, 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 his surrender of license, 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 his surrender of license, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, 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 medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, before his surrender of license.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for 6 months or more pursuant to this Consent Agreement and Surrender Order, Respondent shall, within 90 days of his surrender of license, 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 his surrender of license.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical 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.