

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE**

PROCEEDINGS  
2019 JUN 27 AM 11:12  
Department of State

**Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs**

**File No.:**

**18-49-010098**

**vs.**

**Marilyn Adam, M.D.,  
Respondent**

**CONSENT AGREEMENT AND ORDER**

**PARTIES**

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Marilyn Adam, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

**APPLICABLE LAW**

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

**LICENSURE STATUS**

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD039815L, which was originally issued on February 15, 1985, and which expired on December 31, 2018.

### **STIPULATED FACTS**

3. The Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known office address, as on file with the Board is:  
1120 Turnberry Lane, York, PA 17403.

c. On or about July 20, 2018, Respondent was charged with 75 § 3802(D)(2) DUI: Controlled Substance – Impaired Ability – 1<sup>st</sup> Offense, based on the following facts:

(1) The police were summoned after a call that a vehicle and parking barrier had been struck in a parking lot and that the female had then exited her vehicle, fell on the sidewalk, and then returned to her vehicle.

(2) The police identified the Respondent as the driver of the vehicle.

(3) Respondent appeared confused and did not remember hitting the vehicle or parking barrier.

(4) The officer then performed a field sobriety test, which Respondent failed. She was arrested and her blood test was positive for Oxazepam, Temazepam and/or Clonazepam, schedule IV Controlled Substances.

d. Respondent has refused participation in the Voluntary Recovery Program.

e. Respondent was scheduled to attend a Mental and Physical exam, on April 11, 2019, following an order from the Pennsylvania Medical Board Probable Cause Screening Committee.

f. Respondent informed undersigned counsel that the Respondent would not be attending the Mental and Physical examination and wished to surrender her license.

#### **ALLEGED VIOLATIONS**

4. The Commonwealth alleges that the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and /or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 41(6) of the Act, 63 P.S. § 422.41(6), by violating a lawful order of the Board when the Respondent indicated that she would not be attending the Mental and Physical examination on April 11, 2019, as required by a Board Order directing the Respondent to receive the Mental and Physical evaluation to determine if the Respondent was able to practice medicine with a reasonable degree of skill and safety to patients.

#### **PROPOSED ORDER**

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

6. The Board finds that it is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or

impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 41(6) of the Act, 63 P.S. § 422.41(6), by violating a lawful order of the Board when the Respondent indicated that she would not be attending the Mental and Physical examination on April 11, 2019, as required by a Board Order directing the Respondent to receive the Mental and Physical evaluation to determine if the Respondent was able to practice medicine with a reasonable degree of skill and safety to patients.

**VOLUNTARY SURRENDER**

a. In consideration for not imposing other disciplinary sanctions (which could include the revocation of Respondent's license to practice as a medical physician and surgeon and the imposition of civil penalties and/or the costs of investigation), the Parties propose, and the Board hereby accepts, the **VOLUNTARY SURRENDER** of Respondent's license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board. Respondent acknowledges that with the permanent voluntary surrender of her authorizations to practice the profession, Respondent is surrendering any and all property rights she may have in those authorizations to practice the profession and will no longer be eligible to renew those authorizations to practice the profession. As further stated consideration for the



Commonwealth not seeking other disciplinary sanctions against Respondent,

Respondent agrees to:

(1) cease practicing as a medical physician and surgeon in the Commonwealth on and after the effective date of this Consent Agreement, and shall not indicate any ability to practice the profession in the Commonwealth in any manner whatsoever in the future,

(2) Unless otherwise specified in this agreement, Respondent agrees to not apply, at any time in the future, for the reactivation, reinstatement, reissuance, or the issuance of any authorization to practice issued by the Board and further directs that the board should not consider, and may deny without hearing, any application for an authorization to practice filed with the Board,

(3) not work as an unlicensed assistant to any person holding an authorization from the Board to practice the profession,

(4) not possess a controlling interest in any organization requiring an authorization from the Board to practice the profession,

(5) not possess a controlling interest in any organization whose employees require an authorization

from the Board to practice the profession when conducting  
the business of the organization,

b. For purposes of this paragraph, the term 'controlling interest' shall include being an owner, officer, manager, director, partner, member, or associate, as well as owning any quantity of outstanding corporate stock sufficient to control or direct the actions of the firm.

c. Respondent shall, within ten (10) days of adoption of this Consent Agreement and Order, surrender Respondent's wall certificate, biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

Nathan C. Giunta  
Prosecuting Attorney  
Bureau of Professional and Occupational Affairs  
P.O. Box 69521  
Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs  
One Penn Center  
2601 North 3rd St.  
Harrisburg, Pennsylvania

d. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

e. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

#### **ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS**

7. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

#### **ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING**

8. Respondent waives the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

#### **ACKNOWLEDGMENT OF RIGHT TO ATTORNEY**

9. Respondent acknowledges that she is aware that she has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

#### **WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS**

10. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for

the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

#### **NO MODIFICATION OF ORDER**

11. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

#### **AGREEMENT NOT BINDING ON OTHER PARTIES**

12. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

#### **EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT**

13. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this

matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

**ENTIRE AGREEMENT**

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

**AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS**

15. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;


**VERIFICATION OF FACTS AND STATEMENTS**

16. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



Nathan C. Giunta  
Prosecuting Attorney

DATED: 3/29/2017



Marilyn Adam, M.D.  
Respondent

DATED: 3/25/17

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**File No.: 18-49-010098**

**Docket No: -49-14**

**ORDER**

*AND NOW*, this 25<sup>th</sup> day of *June* 2019, the **STATE BOARD OF MEDICINE** ("Board") adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**

  
K. Kalonji Johnson  
Acting Commissioner

For the Commonwealth:

Respondent:

Date of mailing: 6/27/19

**BY ORDER:  
STATE BOARD OF MEDICINE**

  
Keith E. Loiselle  
Chair

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