

**NEW YORK**  
state department of  
**HEALTH**

Public

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

January 25, 2012

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

Udell Lawrence Bernstein, M.D.  
REDACTED ADDRESS

Re: License No. 098082

Dear Dr. Bernstein:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 11-270. This order and any penalty provided therein goes into effect February 1, 2012.

**If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: Office of Professional Medical Conduct, c/o Physician Monitoring Unit, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299.**

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor. New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED SIGNATURE

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

Enclosure

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

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IN THE MATTER  
OF  
UDELL LAWRENCE BERNSTEIN, M.D.

MODIFICATION/  
SURRENDER ORDER  
BPMC # 11-270

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Upon the application of UDELL LAWRENCE BERNSTEIN, M.D., (Respondent) to modify a prior order and to surrender his license as a physician in the State of New York, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are adopted; it is further

ORDERED, that Order BPMC No. 11-270 is modified to replace the sanction imposed with the surrender of Respondent's license to practice medicine in the State of New York; it is further

ORDERED, that Respondent's name shall be stricken from the roll of physicians in the State of New York; and it is further

ORDERED, that this Modification/Surrender Order shall be effective upon issuance by the Board, either by mailing, by first class mail, a copy of the Modification/Surrender to Respondent at the address in the attached Application or by certified mail to Respondent's attorney or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

Dated: 1/25/2012

REDACTED SIGNATURE

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

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

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IN THE MATTER  
OF  
UDELL LAWRENCE BERNSTEIN, M.D.

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APPLICATION TO  
MODIFY ORDER  
and  
SURRENDER LICENSE

BPMC # 11-270

UDELL LAWRENCE BERNSTEIN, M.D., Respondent, states that I was authorized to practice medicine in New York State on January 10, 1967, by the issuance of License No. 098082 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice medicine in the State of New York. My current address is REDACTED ADDRESS

I am the subject of BPMC Order No. 11-270 annexed hereto, made a part hereof, and marked as Exhibit "A". I am applying to the State Board for Professional Medical Conduct (hereinafter "Board") for an Order (henceforth "Modification/Surrender Order"), modifying the original order with the surrender of my license to practice medicine in the State of New York. This application to modify the prior order is based upon the fact that I do not intend to return to medical practice in the State of New York, and upon the understanding that this modification/surrender order will be a revision of the original order, with the surrender predicated upon the same matter as was the original order. The modification/surrender order to be issued will not constitute a new disciplinary action against me, but will substitute license surrender for the sanction imposed by the original order.

I ask the Board to accept surrender of my license, and I agree to be bound by all of the terms set forth in attached Exhibit "B."

I make this application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Surrender and Modification 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.

DATE: 1/4/, ~~2011~~  
2012

REDACTED SIGNATURE

~~UDELL LAWRENCE BERNSTEIN, M.D.~~  
Respondent

The undersigned agree to the attached application of the Respondent to modify the original order and to surrender her license to practice medicine in the State of New York.

Date: 1/4, ~~2011~~ <sup>2012</sup>

REDACTED SIGNATURE

ROBERT RUDDY, ESQ.  
Attorney for Respondent



Date: 1/11, ~~2011~~ <sup>2012</sup>

REDACTED SIGNATURE

MICHAEL G. BASS  
Assistant Counsel  
Bureau of Professional Medical Conduct

Date: 1/24, ~~2011~~ <sup>2012</sup>

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

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IN THE MATTER

CONSENT

OF

ORDER

UDELL LAWRENCE BERNSTEIN, M.D.  
CO-11-01-0059-A

BPMC No. 11-270

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Upon the application of UDELL LAWRENCE BERNSTEIN, M.D., (Respondent), in the attached Consent Agreement, that is made a part of this Consent Order, it is

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

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 11/10/11

REDACTED SIGNATURE

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

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

IN THE MATTER

CONSENT

OF

AGREEMENT

UDELL LAWRENCE BERNSTEIN, M.D.  
CO-11-01-0059-A

UDELL LAWRENCE BERNSTEIN, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about January 10, 1967, I was authorized to practice medicine in the State of New York and issued license number 098082 by the New York State Education Department.

My current address is REDACTED ADDRESS, and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two (2) Specifications of professional misconduct.

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

I do not contest the two (2) Specifications, and agree to the following sanction:

Censure and Reprimand;

Respondent shall pay a \$5,000.00 fine, to be paid within thirty (30) days of the effective date of the Consent Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1717, Albany, NY 12237-0016.

I agree, further, that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay

all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Agreement. Respondent shall meet with a person designated by the Director, OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement 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 New York Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that the Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent 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 of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, 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 Order for which I apply, administratively and/or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent 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.

AFFIRMED:

DATED: 16 November, 2011

REDACTED SIGNATURE

UDELL LAWRENCE BERNSTEIN, M.D.  
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: November 4, 2011

REDACTED SIGNATURE

MICHAEL G. BASS  
Assistant Counsel  
Bureau of Professional Medical Conduct

DATE: 11/9, 2011

REDACTED SIGNATURE

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

EXHIBIT A

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER  
OF  
UDELL LAWRENCE BERNSTEIN, M.D.  
CO-11-01-0059-A

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STATEMENT  
OF  
CHARGES

UDELL LAWRENCE BERNSTEIN, M.D., Respondent, was authorized to practice medicine in New York state on January 10, 1967, by the issuance of license number 098082 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 9, 2010, the Colorado Medical Board (hereinafter "Colorado Board"), by STIPULATION AND FINAL AGENCY ORDER (hereinafter "Colorado Order"), imposed a LETTER OF ADMONITION on Respondent. The Colorado Order states that Respondent performed a second cryotherapy procedure on a patient with no documented explanation for the procedure, and in several instances, did not legibly or adequately document Respondent's examination, assessment, plan of care, or justification for labs, prescriptions, or procedures.

B. The Colorado Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law Section 6530(3) (negligence on more than one occasion) and/or;
2. New York Education Law Section 6530(32) (failure to maintain a record).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law Sec. 6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in

New York state, constitute professional misconduct under the laws of New York state, in that  
Petitioner charges:

1. The facts in Paragraphs A and B.

**SECOND SPECIFICATION**

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary  
action taken by a duly authorized professional disciplinary agency of another state, where the  
conduct resulting in the disciplinary action would, if committed in New York state, constitute  
professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *October 27*, 2011  
Albany, New York

REDACTED SIGNATURE

PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct

## EXHIBIT "B"

### **REQUIREMENTS FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine (in New York State) in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered, to OPMC at Hedley Park Place, 433 River Street Suite 303, Troy, NY 12180-2299, Respondent's original license to practice medicine in New York State and current biennial registration within five (5) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order, notify all patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three 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 include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient and/or his/her authorized representative requests a copy of the patient's medical record, or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five 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 his/her inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate for New York State, Respondent shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Respondent shall within fifteen (15) days of the Order's effective date, return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement, New York State Department of Health at 433 River Street, Suite 303, Troy, NY 12180-2299. Respondent shall cause all prescription pads bearing his/her name to be destroyed. If

no other licensee is providing services at Respondent's practice location, all medications shall be properly disposed of.

7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories, on the internet or otherwise, professional stationery or billings by which his/her eligibility to practice is represented.
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 engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if Respondent's license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself/herself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within ninety (90) days of the effective date of this Order. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.
10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in Section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which Respondent is found guilty and may include revocation of a suspended license.