

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: ELY ZASLOW, M.D.

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Docket No.
MPC 84-0507

STIPULATION AND CONSENT ORDER

NOW COMES Ely Zaslow, M.D. (“Respondent”) and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and agree and stipulate as follows:

1. Ely Zaslow, M.D., Respondent, a family physician in the State of North Carolina and holds Vermont Medical License No.042-0011404, issued by the Vermont Board of Medical Practice on 07/11/2007.
2. Jurisdiction rests in the Vermont Board of Medical Practice (the “Board”) pursuant to 26 V.S.A. §§ 1353 and 1354.

I. FACTUAL BASIS

3. In August of 2008, Respondent informed the Board that he had entered into a Consent Order with the North Carolina Medical Board. (See Attachment A Consent Order)
4. In the Consent Order Respondent acknowledged that on or about May 2007, Respondent as an independent contractor, provided limited medical services for a period of three days through Secure Telemedicine, a business corporation located in Miami, Florida that renders medical services in North Carolina, including prescriptions, via telephone conferences between physicians and patients.

5. Respondent admitted that he also provided medical services through CallMD a business corporation located in Frisco, TX that renders medical services, including prescriptions, via telephone conferences between physicians and patients.

6. As an independent contractor for CallMD, Respondent issued prescriptions for non controlled substances for a limited number of patients without a physical examination and without any prior physician-patient relationship between Respondent and the patients.

7. In mitigation, Respondent did deny prescriptions to some of the CallMD patients, referred patients to the Emergency Department or to other providers, issued prescriptions only for non-controlled substances to treat chronic and non-acute conditions for which the patients had prior prescriptions through their primary or other care providers, and Respondent did evaluate the patients' presenting set of symptoms through a teleconference to determine the source of the problem and the need for a particular drug.

8. As an independent contractor for Secure Telemedicine for a three day period, Respondent issued prescriptions for a few controlled substances, for a limited number of patients, but without a physical examination and without any prior physician-patient relationship between Respondent and the patients.

9. In mitigation, Respondent did deny prescriptions to some of the Secured Telemedicine patients, referred patients to the Emergency Department or to other providers, issued prescriptions to treat chronic and non-acute conditions for which the patients had prior prescriptions through their primary or other care providers, and Respondent did evaluate the patients' presenting set of symptoms through a teleconference to determine the source of the problem and the need for a particular drug.

10. Respondent did rely on certain representations made by CallMD and Secure Telemedicine that led him to believe that a telephone patient evaluation and subsequent prescriptions were consistent with the Board's position regarding prescribing and professional standards generally.

11. On July 18, 2008, Respondent entered into a Consent Order with the North Carolina Medical Board for the conduct outlined in paragraphs 4-10. Respondent did not contest the finding of unprofessional conduct as it was construed under the North Carolina Medical Board's position statements, and voluntarily agreed to conditions placed upon his medical license for continuing medical education and compliance with the North Carolina Medical Board's position on prescribing.

II. PUBLIC REPRIMAND

12. Respondent recognizing the responsibility of the Vermont Board of Medical Practice in its investigation of this matter, does not contest the facts set forth above in paragraphs 4 through 10 above, and agrees that the Board of Medical Practice may adopt and enter paragraphs 4 through 10 as uncontested findings of fact in this matter.

13. Respondent agrees that Vermont Board of Medical Practice approved its Policy for the Use of Controlled Substances for the Treatment of Pain on December 7, 2005. The policy states that when prescribing controlled substances "within the usual course of professional practice, a physician-patient relationship must exist and be appropriately documented and the prescribing should be based on a diagnosis and documentation of unrelieved pain."

14. Respondent admits that by prescribing controlled substances over a three day period to patients without a physical examination and in the absence of a prior physician-patient relationship, Respondent's actions constitute a violation of 26 V.S.A. 1354 (b) and 1398.

15. Respondent agrees that the Board of Medical Practice may adopt and enter as its findings and conclusions this paragraph, paragraphs 4 through 10, and paragraph, above. Respondent agrees that by violating 26 V.S.A. 1354 and 1398 he has engaged in unprofessional conduct under Vermont law.

16. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges that he has had advice of counsel regarding the matter before the Board and advice of counsel in reviewing this Stipulation and Consent Order. He agrees and understands that, by executing this document, he is waiving any right to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with the evidence against him, to cross-examine adverse witnesses, and to offer evidence of his own to contest the State's charges. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, & 814.

17. No provision of this consent order shall constitute an admission by Dr. Zaslow for any purpose other than for this and any other proceedings before the Vermont Board of Medical Practice, and shall not be admissible against Dr. Zaslow in any proceeding outside this Board's proceedings.

18. The parties to this Stipulation and Consent Order agree that appropriate disciplinary action against Respondent shall consist of the following:

19. Respondent shall be publicly **REPRIMANDED** by the Vermont Board of Medical Practice for the conduct set forth above.

III. Other Terms and Conditions as to Implementation

20. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and shall be reported to other licensing authorities and/or entities, including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

21. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order that Respondent be publicly **REPRIMANDED** by the Vermont Board of Medical Practice for the unprofessional conduct set forth herein.

22. Respondent agrees that, if the State were to satisfy its burden at hearing as to the State's allegations, a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. § 1354. In the interest of resolving this matter expeditiously and continuing his full cooperation in this matter, Respondent agrees to enter into this Stipulation, in lieu of the State filing formal charges. Respondent acknowledges that his acceptance of this Stipulation is appropriate and in the best interest of all parties.

Dated at Montpelier, Vermont, this 22 day of January, 2009.

STATE OF VERMONT

WILLIAM H. SORRELL

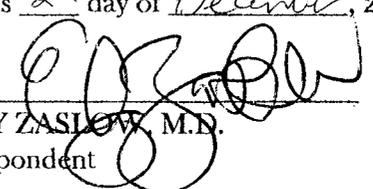
ATTORNEY GENERAL

by: Margaret O. Vincent

MARGARET O. VINCENT

Assistant Attorney General

Dated at Asheville ^{N.C.}, Vermont, this 24 day of December, 2008 ^{mu}


ELY ZASLAV, M.D.

Respondent

FOREGOING, AS TO ELY ZASLOW, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Thomas L. Reed

Margaret Fink Martin

William H. Stouch, MD

Janice E. Ryan RSN

Peterson A. King M.D.

Solrye Dadek MD

Jane Cahill MD

Ely Zaslow

W. H. Stouch

DATED: Feb 4, 2009

ENTERED AND EFFECTIVE: Feb. 4. 2009