

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: LEE ADAM BALAKLAW, M.D.)
) Docket No. MPC 146-0513
)

CESSATION OF PRACTICE AGREEMENT

NOW COME Lee Adam Balaklaw, M.D. and the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and hereby stipulate and agree to the following in the above-captioned matter:

1. Lee Adam Balaklaw, M.D. (“Respondent”) of Louisa, Kentucky, holds Vermont medical license number 042-0008748, first issued on June 2, 1993.
2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 3 V.S.A. §§ 809-814, and other authority.

Background

3. On October 14, 2011, Respondent was indicted on 20 counts of Medicaid Fraud by a Kentucky grand jury. The indictment related to his Medicaid billing and alleged that he had intentionally or wantonly submitted fraudulent and false claims to Medicaid by claiming that he treated multiple patients using pain treatment injections into the tendon. The indictment alleged that Respondent fraudulently billed Medicaid \$90,000 for 29 patients between January 2007 and July 2010.
4. On November 11, 2011, Respondent pleaded not guilty to all charges.
5. On April 27, 2013, Respondent changed his plea to resolve the Kentucky criminal case. Specifically, he entered an Alford guilty plea to 10 misdemeanor counts of theft

by deception. Upon his change of plea, by agreement, he was sentenced to the following:

- a sentence of 12 months on each count to run concurrent, all suspended, and placed on probation for two years;
- payment of restitution of \$135,105.53 and investigative costs of \$5,000.00 (total payment of \$140,105.53), the restitution is payable in quarterly installments over 24 months, with the minimum payment in an amount not less than \$5,000.00;
- the probation may be extended for an additional year (or more) if necessary to accomplish the full payment of restitution; and
- a five year exclusion from federal health care programs as defined under 42 U.S.C. § 1320 a-7b(f).

6. By entering an Alford guilty plea to the Kentucky charges, Respondent maintains his innocence but acknowledges that the prosecution had sufficient evidence to prevail at trial.
7. By letter dated May 6, 2013, Respondent notified the Board that his Kentucky criminal matter had been resolved via plea agreement.
8. By letter dated June 14, 2013, Respondent requested a cessation of practice agreement with the Board.
9. The Board may find that “gross overcharging for professional services on repeated occasions, including filing of false statements for collection of fees for which services were not rendered” constitutes “unprofessional conduct.” 26 V.S.A. § 1354(a)(16).

10. The Board may find that “conviction of a crime related to the practice of the profession” constitutes “unprofessional conduct.” 26 V.S.A. § 1354(a)(30).
11. The Board may find that the “revocation of a license to practice medicine or surgery in another jurisdiction on one or more of the grounds specified [in the unprofessional conduct section of Title 26]” constitutes “unprofessional conduct.” 26 V.S.A. § 1354(a)(23).
12. Effective October 15, 2013, Respondent entered into an agreed order of permanent surrender of his medical license with the Kentucky Board of Medicine and has surrendered or had his license revoked in a number of other jurisdictions, including: New York, Pennsylvania, Virginia, Ohio and Colorado.

Cessation of Practice

13. Respondent acknowledges that he has had the opportunity to seek the advice of counsel regarding this matter before the Board and in reviewing this agreement. He agrees and fully understands that by executing this document he is waiving the necessity of any proceedings, findings, and order by the Board, pursuant to 3 V.S.A. § 814(c), so as to achieve disposition of this matter. Thus, Respondent voluntarily and knowingly agrees to the terms and conditions herein.
14. **It is agreed by the parties that Respondent will cease the practice of medicine in the State of Vermont.** This shall include all practice of medicine, whether physically located in Vermont or via electronic means.
15. The parties agree that Respondent may apply for modification or relief from the terms and conditions of this Cessation of Practice Agreement, so as to permit his to return to the practice of medicine, when he has demonstrated that he is able to resume the

practice of medicine in accord with the laws, rules and standards recognized by the Vermont Board of Medical Practice. The Board agrees that this Cessation of Practice Agreement may be modified or Respondent wholly relieved of its terms and conditions, provided that he has demonstrated to the satisfaction of the Board that he has successfully completed the terms of his Kentucky probation, including the full payment of all restitution and fees due. Respondent shall not be permitted to apply for modification or relief from the terms and conditions of this Cessation of Practice Agreement for at least two (2) years after approval of this Cessation of Practice by the Board.

16. Respondent agrees that he has read and carefully considered all terms and conditions herein and agrees that these may be adopted as an enforceable order of the Board, pursuant to 3 V.S.A. §§ 129(a)(3), 809(d) and 26 V.S.A. § 1353 and agrees to accept and be bound by these until such time as he may be expressly relieved of these or they are modified, in writing, by the Board.

17. The parties agree that this agreement does not constitute disciplinary action. However, the parties acknowledge that this Cessation of Practice Agreement shall be a public document and shall be made a part of Respondent's licensing file. Respondent's license status will be changed to "Cessation of Practice." It is understood and agreed by the parties that this designation does not signify that disciplinary action has been taken by the Board.

18. This Cessation of Practice Agreement 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 agreement, the entire

agreement shall be considered void. The parties agree and request that the Board enter an order adopting the terms and conditions set forth herein. Respondent agrees that the Board of Medical Practice shall retain jurisdiction in this matter and may enforce as necessary the terms set forth herein, pursuant to 26 V.S.A. § 1354(a)(25) or other statutory provisions.

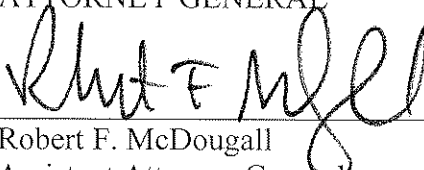
SIGNATURES

DATED at Montpelier, Vermont, this 26th day of November, 2013.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Robert F. McDougall
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

DATED at _____, _____, this ____ day of _____, 2013.
(city) (state)

Lee Adam Balaklaw, M.D.

Respondent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

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SIGNATURES

DATED at Montpelier, Vermont, this ___ day of _____, 2013.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____

Robert F. McDougall
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

DATED at LOUISA, KY, this 26th day of November, 2013.
(city) (state)

Lee Adam Balaklaw, M.D.
Lee Adam Balaklaw, M.D.

Respondent

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ATTORNEY
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109 State Street
Montpelier, VT
05609

FOREGOING, AS TO LEE ADAM BALAKLAW, M.D.

APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

<u>Detran Arky M.D.</u>	<u>W. [Signature]</u>
<u>[Signature]</u>	<u>_____</u>
<u>[Signature]</u>	<u>_____</u>
<u>[Signature]</u>	<u>_____</u>
<u>[Signature]</u>	<u>_____</u>
<u>[Signature]</u>	<u>_____</u>
<u>[Signature]</u>	<u>_____</u>

DATED: December 4, 2013

ENTERED AND EFFECTIVE: December 4, 2013

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