

**BEFORE THE BOARD OF MEDICAL EXAMINERS  
STATE OF MONTANA**

---

<p>In the Matter of</p> <p><b>KENNETH OLSON MD,</b></p> <p>Medical Doctor, License No. 7183.</p>	<p>Case No. 2017-MED-597</p> <p><b>STIPULATION</b></p>
--	--

---

The Department of Labor and Industry (Department), through its legal counsel and Kenneth Olson MD (Respondent), enter this Stipulation and agree as follows:

A. **AGREED FACTS**

1. Respondent holds a medical doctor license, number 7183, issued on or about September 19, 1992. Respondent’s license is active through March 31, 2019.

2. On August 25, 2017, the Board received a complaint against Respondent filed by Genevieve Reid (Reid), M.D. Reid posed concerns regarding Respondent’s prescribing practices after receiving one his patients in the Emergency Room.

3. Reid stated that the patient had been prescribed opiate pain medication for chronic back pain in the amounts of 825 mg of morphine equivalents per day. Reid stated that in addition to this, the patient stated that she always filled her prescriptions three days early. Reid believed that the patient was taking unsafe amounts of medication or diverting medication. Reid felt Respondent’s prescribing practices were “irresponsible and dangerous.”

4. Respondent replied in writing to the complaint through legal counsel, Peter Stokstad (Stokstad) and supplied his own letter to the Screening Panel (Panel). Stokstad pointed out that Respondent is a board-certified psychiatrist and has trainings and clinical experience with substance abuse and pain management. Stokstad also stated that a review of the complete

medical records unavailable to the complaining physician would show that Respondent's care of E.K. met the generally accepted standards of care for chronic pain management.

5. Respondent stated that the morphine equivalent scale exists to facilitate a safe conversion from one narcotic to another and does not represent maximum doses that apply to every patient. He further stated that each individual should be titrated to the most effective dose with the least amount of side effects. He stated he was aware of the overdose risk and was attempting to reduce the doses, treat E.K.'s underlying associated problems, and eliminate unnecessary medications and drugs.

6. Respondent further stated he first saw E.K. in May of 2017, for continuous pain. E.K. had previously been treated for pain management for 12 to 14 years by one practitioner prior to Respondent. However, that relationship was severed after E.K. had reported on two occasions that her medication had been either stolen or lost. It had been recommended to E.K. that surgery for scoliosis/kyphosis, numerous vertebral fractures and disc herniation would help with pain but she was reluctant.

7. The Panel met to consider the complaint on January 19, 2018, and Respondent and his counsel were present by phone.

8. The medical records supplied in this matter did not indicate that Respondent had reviewed E.K.'s previous medical records before prescribing opiates. Respondent stated that he "did not" review the patient's previous medical records to determine that the patient needed to be on the medications or had previously been prescribed the amounts as stated by the patient. Respondent stated that he listened to his patients and trusted that what they told him was the truth. The records also do not indicate that Respondent physically examined the patient prior to prescribing opioids.

**Stipulation**

9. The Panel also found Respondent did not coordinate the care of E.K.'s chronic pain with other necessary providers, i.e., a primary care physician.

10. Respondent stated he did not always utilize the Montana Prescription Drug Registry (MPDR) or obtain a urine drug screen prior to prescribing opioids. In this case, Respondent did not utilize a urine drug screen until E.K.'s fourth visit. The urine drug screen indicated the presence of controlled and illegal drugs not prescribed by Respondent.

11. Respondent chose to terminate care with E.K.

12. While the Panel has no concerns with his psychiatric care of patients, the Panel did find Respondent's prescribing of opioids for chronic pain of E.K. did not meet the generally accepted standard of care. The Screening Panel found reasonable cause to believe Respondent committed unprofessional conduct justifying disciplinary proceedings.

#### B. AGREED CONCLUSIONS OF LAW

1. The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. Title 37, ch. 1 and 3, and Admin. R. Mont. Title 24, ch. 101 and 156. For disciplinary purposes, the Board retains jurisdiction over the license for two years after lapse. Mont. Code Ann. § 37-1-141.

2. The Department serves notice on the licensee following a Screening Panel's reasonable cause finding pursuant to Mont. Code Ann. § 37-1-309.

3. A licensee may request a hearing pursuant to Mont. Code Ann. § 37-1-309, or enter a Stipulation with the Department pursuant to Mont. Code Ann. § 2-4-603(1).

#### **Stipulation**

4. Respondent's failure to review medical records, perform a physical examination, coordinate care of previous providers, review the MPDR and collect a urine drug screen, constitute unprofessional conduct as defined by Mont. Code Ann. §37-1-316(18).

5. Upon a decision a licensee has violated Title 37 of the Mont. Code Ann. or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties, the Board may issue an order entering sanctions authorized by Mont. Code Ann. § 37-1-312.

C. AGREED SANCTIONS

1. Respondent's practice shall be restricted in that he shall not prescribe opiates except Suboxone. This practice restriction shall be stayed pursuant to Mont. Code Ann. § 37-1-312(2), provided Respondent submits to the Board evidence of successful completion of the course listed below by December 15, 2018.

2. Respondent shall take the "Prescribing Controlled Drugs" course through the Vanderbilt University Medical Center for Professional Health. The link to the class is <https://ww2.mc.vanderbilt.edu/cph/36620>. Upon completion, Respondent shall provide proof in the form of a certificate to to the Board office at:

Department of Labor and Industry  
Compliance Unit  
301 South Park Avenue  
PO Box 200514  
Helena MT 59620-0514

3. Respondent shall review and obey the provisions of Mont. Code Ann. Title 37, chapters 1 and 3, and Admin. R. Mont. Title 24, chapter 156.

D. ADDITIONAL PROVISIONS

**Stipulation**

1. Waiver of Rights. Respondent has read and understands each term of the *Notice of Proposed Board Action and Opportunity for Hearing* (Notice) and this Stipulation, and understands the various rights provided, including the right to: a hearing before an impartial hearing examiner; present evidence, testify, and confront and cross-examine witnesses at the hearing; be represented by legal counsel; subpoena witnesses; request judicial review and appeal; and all other rights under Mont. Code Ann. Title 2, ch. 4, pt. 6 (Montana Administrative Procedure Act), Title 37, ch. 1 and 3, and other applicable law. Respondent desires to avoid unnecessary expenditure of time and other valuable resources to resolve this matter. Therefore, Respondent voluntarily and knowingly waives the rights listed above and elects to resolve this matter on the terms and conditions of this Stipulation and acknowledges that no promise, other than those contained in this Stipulation, and no threat or improper assertion has been made by the Board or Department or by any member, officer, agent, or representative of the Board or Department to induce Respondent to enter into this Stipulation.

2. Release. This Stipulation is a final compromise and settlement of this contested case proceeding. Respondent, and assigns, agents, and representatives of Respondent, release the Board, its members, officers, agents, or representatives from any and all liability, claim, and cause of action, whether now known or contemplated, including but not limited to, any claims under Mont. Code Ann. Title 2, ch. 9, pt. 3 (Montana Tort Claims Act), as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case, its processing, investigation, litigation, or from the negotiation or execution of this Stipulation.

3. Entire Agreement. This Stipulation contains the entire agreement of the parties. All prior discussions and writings are superseded by this Stipulation, and no discussion by the

Board prior to the approval of this Stipulation may be used to interpret or modify it. Any modification requires a written amendment signed by both parties and final Board approval.

4. Severability. If a court or administrative tribunal declares any term or condition contained in this Stipulation to be unenforceable for any reason, the unenforceable term or condition shall be severed from the remainder of this Stipulation, and the remainder of this Stipulation shall be interpreted and enforced according to its original intent.

5. Reservation. This Stipulation does not restrict the Board from initiating disciplinary action concerning allegations of unprofessional conduct that occur after the date Respondent signs this Stipulation or concerning allegations of conduct not specifically mentioned in this Stipulation that are now known to the Board or yet to be discovered.

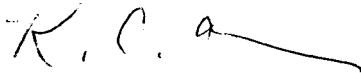
6. Stipulation Subject to Final Approval. This Stipulation is subject to final approval by the Board.

7. Renewed Right to Hearing – Inadmissibility of Stipulation. If the Board considers and does not approve this Stipulation, it is withdrawn and may not be considered as evidence for any purpose. Respondent will have a renewed 20 days from the date of the publicly noticed Board meeting to submit a written request for a hearing in this matter. Failure by Respondent to request a hearing constitutes a default and allows the Board to enter a Final Order of discipline against Respondent. If, instead, this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any record relating to this Stipulation.

8. Public Documents. The Notice and this Stipulation and Final Order issued by the Board are public documents that the Department, at minimum, must make publicly available on

the Department's website and professional databases, and may otherwise distribute to other interested persons or entities.

9. Complying with the Terms of the Stipulation. Respondent's failure to strictly abide by the terms of the Stipulation shall constitute a violation of the Final Order of the Board and may result in a separate disciplinary action against Respondent's license. Mont. Code Ann. § 37-1-316(8). Alternatively, Respondent's failure to strictly abide by the terms of the Stipulation may result in administrative suspension of Respondent's license until Respondent complies with the terms of the Stipulation and pays a reinstatement fee. Mont. Code Ann. § 37-1-321.



Kenneth Olson MD  
Respondent

11-21-18

DATE



Peter Stokstad  
Counsel for Respondent

12-10-18

DATE



Peter Bovington  
Department Counsel  
Montana Board of Medical Examiners

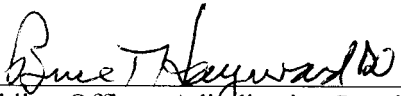
12/17/18

DATE

**FINAL ORDER**

The Montana Board of Medical Examiners, giving primary consideration to sanctions necessary to protect and compensate the public and secondary consideration to sanctions designed to rehabilitate Licensee, approves, adopts, and incorporates all terms and conditions of the fully executed Stipulation as its Findings of Fact, Conclusions of Law, and Final Order.

DATED this 18<sup>th</sup> day of January 2018.

  
\_\_\_\_\_  
Presiding Officer, Adjudication Panel  
Montana Board of Medical Examiners

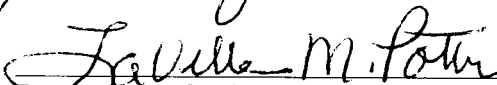
CERTIFICATE OF SERVICE

I certify I served a true and accurate copy of the foregoing ***STIPULATION AND FINAL ORDER*** by placing it in the United States Postal Service mail, first-class postage prepaid, addressed to the following:

KENNETH OLSON MD  
2040 N 22ND AVE 2  
BOZEMAN MT 59718

PETER STOKSTAD  
GARLINGTON LOHN ROBINSON  
PO BOX 7909  
MISSOULA MT 59807-7909

DATED this 18 day of January 2018.

  
\_\_\_\_\_  
Department of Labor and Industry

**Final Order**

In Re Kenneth Olson MD, Case No. 2017-MED-597



Peter Bovingdon  
Special Assistant Attorney General  
DEPARTMENT OF LABOR AND INDUSTRY  
Office of Legal Services  
301 South Park Avenue  
P.O. Box 200514  
Helena, MT 59620-0514  
Telephone: (406) 841-2312  
Fax: (406) 841-23138  
E-mail: [dlibsdllegalservices@mt.gov](mailto:dlibsdllegalservices@mt.gov)

**BEFORE THE BOARD OF MEDICAL EXAMINERS  
STATE OF MONTANA**

In the Matter of  <b>KENNETH OLSON, M.D.</b>  Medical Doctor, License No. 7183.	Case No. 2017-MED-597  <b>NOTICE OF PROPOSED BOARD ACTION AND OPPORTUNITY FOR HEARING</b>
---	---

TO: KENNETH OLSON MD  
2040 N 22ND AVE 2  
BOZEMAN MT 59718

On January 17, 2018, the Screening Panel of the Montana Board of Medical Examiners (the Board), considered information presented by the Montana Department of Labor and Industry (Department), and directed issuance of this *Notice of Proposed Board Action and Opportunity for Hearing* (Notice), to Kenneth Olson, M.D. (Respondent).

A. FACT ASSERTIONS

1. Respondent holds a medical doctor license, number 7183, issued on or about September 19, 1992. Respondent's license is active through March 31, 2019.
2. On August 25, 2017, the Board received a complaint against Respondent filed by Genevieve Reid (Reid), M.D. Reid posed concerns regarding Respondent's prescribing practices after receiving one his patients in the Emergency Room.

3. Reid stated that the patient had been prescribed opiate pain medication for chronic back pain in the amounts of 825 mg of morphine equivalents per day. Reid stated that in addition to this, the patient stated that she always filled her prescriptions three days early. Reid believed that the patient was taking unsafe amounts of medication or diverting medication. Reid felt Respondent's prescribing practices were "irresponsible and dangerous."

4. Respondent replied in writing to the complaint through legal counsel, Peter Stokstad (Stokstad) and supplied his own letter to the Screening Panel (Panel). Stokstad pointed out that Respondent is a board-certified psychiatrist and has trainings and clinical experience with substance abuse and pain management. Stokstad also stated that a review of the complete medical records unavailable to the complaining physician would show that Respondent's care of E.K. met the generally accepted standards of care for chronic pain management.

5. Respondent stated that the morphine equivalent scale exists to facilitate a safe conversion from one narcotic to another and does not represent maximum doses that apply to every patient. He further stated that each individual should be titrated to the most effective dose with the least amount of side effects. He stated he was aware of the overdose risk and was attempting to reduce the doses, treat E.K.'s underlying associated problems, and eliminate unnecessary medications and drugs.

6. Respondent further stated he first saw E.K. in May of 2017, for continuous pain. E.K. had previously been treated for pain management for 12 to 14 years by one practitioner prior to Respondent. However, that relationship was severed after E.K. had reported on two occasions that her medication had been either stolen or lost. It had been recommended to E.K. that surgery for scoliosis/kyphosis, numerous vertebral fractures and disc herniation would help with pain but she was reluctant.

7. The Panel met to consider the complaint on January 19, 2018, and Respondent and his counsel were present by phone.

8. The medical records supplied in this matter did not indicate that Respondent had reviewed E.K.'s previous medical records before prescribing opiates. Respondent stated that he "did not" review the patient's previous medical records to determine that the patient needed to be on the medications or had previously been prescribed the amounts as stated by the patient. Respondent stated that he listened to his patients and trusted that what they told him was the truth. The records also do not indicate that Respondent physically examined the patient prior to prescribing opioids.

9. The Panel also found Respondent did not coordinate the care of E.K.'s chronic pain with other necessary providers, i.e., a primary care physician.

10. Respondent stated he did not always utilize the Montana Prescription Drug Registry (MPDR) or obtain a urine drug screen prior to prescribing opioids. In this case, Respondent did not utilize a urine drug screen until E.K.'s fourth visit. The urine drug screen indicated the presence of controlled and illegal drugs not prescribed by Respondent.

11. Respondent chose to terminate care with E.K.

12. While the Panel has no concerns with his psychiatric care of patients, the Panel did find Respondent's prescribing of opioids for chronic pain of E.K. did not meet the generally accepted standard of care. The Screening Panel found reasonable cause to believe Respondent committed unprofessional conduct justifying disciplinary proceedings.

## B. ASSERTIONS OF LAW

1. The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. Title 37, ch. 1 and 3, and Admin. R. Mont. Title 24, ch. 101 and 156.

For disciplinary purposes, the Board retains jurisdiction over the license for two years after lapse.  
Mont. Code Ann. § 37-1-141.

2. Based on the fact assertions above, the Board found reasonable cause to believe Respondent violated the following statutes, rules, or standards, justifying disciplinary proceedings:

**Montana Code Annotated**

§ 37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(18) conduct that does not meet the generally accepted standards of practice.

**C. STATEMENT OF RIGHTS AND PROCEDURES**

1. You may request a hearing to contest these charges. To exercise the right to a hearing, you must send a written request within 20 days of receipt of this Notice, addressed as follows:

Department of Labor and Industry  
Office of Legal Services  
301 South Park Avenue  
P.O. Box 200514  
Helena, MT 59620-0514

2. Failure to request a hearing within 20 days of the receipt of this Notice constitutes a default and allows the Board to enter a Final Order of discipline against you based on the facts available to it.

3. If you request a hearing within 20 days, the Commissioner of Labor and Industry will appoint an impartial hearing examiner to conduct the hearing. The hearing examiner will notify you and the Department of the time and place of the hearing. You have the right to appear in person or by or with counsel.

4. Procedural and substantive requirements governing this matter may be found at Mont. Code Ann. Title 2, ch. 4, pt. 6 (Montana Administrative Procedure Act) and Title 37, ch. 1, pt. 1 and 3, and ch. 3, including the right to: a hearing before an impartial hearing examiner; present evidence, testify, confront, and cross-examine witnesses at the hearing; be represented by legal counsel; subpoena witnesses; and request judicial review and appeal.

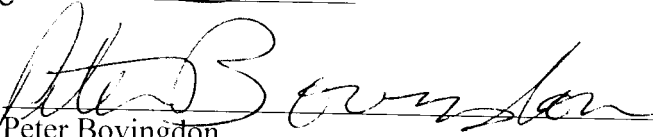
5. After a proposed decision of a hearing examiner, a default, or a stipulated agreement, the Board will issue a Final Order and may impose one or any combination of sanctions under Mont. Code Ann. § 37-1-312 or rules adopted by the Board, including:

- a. revocation of the license;
- b. suspension of the license for a fixed or indefinite term;
- c. restriction or limitation of the practice;
- d. satisfactory completion of a specific program of remedial education or treatment;
- e. monitoring of the practice by a supervisor approved by the disciplining authority;
- f. censure or reprimand, either public or private;
- g. compliance with conditions of probation for a designated period of time;
- h. payment of a fine not to exceed \$1,000.00 for each violation (deposited in the state general fund); and
- i. refund of costs and fees billed to and collected from a customer.

6. You may request judicial review of a Final Order of the Board entered after consideration of a proposed decision of a hearing examiner by filing a petition in district court within 30 days of the issuance of a Final Order.

7. In lieu of a hearing, you may enter into a stipulated agreement resolving potential or pending charges that include one or more sanctions authorized by law.

DATED this 24 day of October 2018.

  
Peter Bovington  
Special Assistant Attorney General  
DEPARTMENT OF LABOR AND INDUSTRY

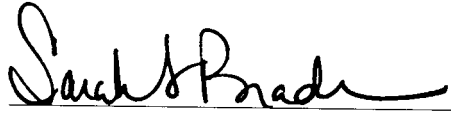
CERTIFICATE OF SERVICE

I certify I served a true and accurate copy of the foregoing **NOTICE OF PROPOSED BOARD ACTION AND OPPORTUNITY FOR HEARING** by placing it in the United States Postal Service mail, certified with return receipt requested and postage prepaid, addressed to the following:

KENNETH OLSON MD  
2040 N 22ND AVE 2  
BOZEMAN MT 59718

PETER STOKSTAD  
GARLINGTON LOHN ROBINSON  
PO BOX 7909  
MISSOULA MT 59807-7909

DATED this 24<sup>th</sup> day of October 2018.

  
\_\_\_\_\_  
Department of Labor and Industry