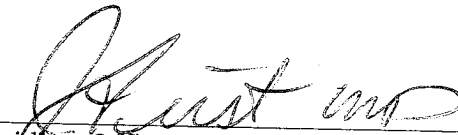


BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF MONTANA

In the Matter of the Proposed Discipline of CHARLES ELLIS, M.D. Medical Doctor, License No. 11196.	Case Nos. 2013-MED-LIC-464 2013-MED-LIC-534 FINAL ORDER
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The Montana Board of Medical Examiners, in consideration of sanctions necessary to protect and compensate the public and rehabilitate Charles Ellis, 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 11 day of March 2016.




Presiding Officer, Adjudication Panel
Montana Board of Medical Examiners

CERTIFICATE OF SERVICE

I certify I served a true and accurate copy of the foregoing *FINAL ORDER* by placing it in the United States Postal Service mail, certified with return receipt requested and postage prepaid, addressed to the following:

TREVOR UFFELMAN
ATTORNEY AT LAW
1410 KNIGHT STREET
HELENA MT 59601

DATED this 11th day of March 2016.



Department of Labor and Industry

Michael L. Fanning
Special Assistant Attorney General
DEPARTMENT OF LABOR AND INDUSTRY
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**BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF MONTANA**

In the Matter of the Proposed Discipline of CHARLES ELLIS, M.D., Medical Doctor, License No. 11196.	Case Nos. 2013-MED-LIC-534 2013-MED-LIC-464. STIPULATION
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The Business Standards Division of the Department of Labor and Industry of the State of Montana (Department), through its legal counsel and Charles Ellis, M.D., (Licensee), with counsel Trevor L. Uffelman, Esq., of Uffelman Law PC, stipulate and agree as follows:

1. Jurisdiction. Licensee is licensed as a Physician by the State of Montana Board of Medical Examiners (Board), Montana License No. 11196. The Board has subject matter jurisdiction in this matter.
2. Waiver of Rights. Licensee 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, the right to present evidence and testify and confront and cross-examine

witnesses at the hearing, the right to be represented by legal counsel, the right to subpoena witnesses, the right to request judicial review and appeal, and all other rights under Montana Code Annotated Title 2, chapter 4, part 6 (Montana Administrative Procedure Act), Title 37, chapters 1 and 3, and other applicable law. Licensee desires to avoid unnecessary expenditure of time and other valuable resources to resolve this matter. Therefore, Licensee 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 Licensee to enter into this Stipulation.

3. Release. This Stipulation is a final compromise and settlement of this contested case proceeding. Licensee, assigns agents and representatives of Licensee, 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 Montana Code Annotated Title 2, chapter 9, part 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.

4. 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.

5. 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.
6. Reservation. This Stipulation does not restrict the Board from initiating disciplinary action concerning allegations of unprofessional conduct that occur after the date Licensee signs this Stipulation or concerning allegations of conduct not specifically mentioned in this Stipulation that are not known to the board or yet to be discovered.
7. Stipulation Subject to Final Approval. This Stipulation is subject to final approval by the Board.
8. 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. Licensee 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 Licensee to request a hearing constitutes a default and allows the Board to enter a Final Order of discipline against Licensee. If, instead, this case proceeds to hearing, Licensee 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.
9. Entry of Final Order – Stipulated Facts and Violations. Licensee consents to the entry of a Final Order in this matter to the extent that it is consistent with this Stipulation and has final approval by the Board. The following are the unconditionally admitted facts and violations that support the disciplinary sanctions specified below.

Dr. Ellis is licensed by the Montana Board of Medical Examiners (Board) to practice as a Medical Doctor, holding Montana License No. 11196. At all times relevant, the license was current and will expire on March 31, 2016, unless renewed.

The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. §§ 37-1-131, 37-1-136, 37-1-307, 37-1-309 and Title 37, ch. 3.

Dr. Ellis is a psychiatrist who formerly operated an outpatient addiction clinic in Helena, Montana, assisted by Linde Hoff. Ms. Hoff holds no licensure offered by the Board, but is a certified behavioral health technician with a specialty in addiction. Her title was clinic director.

Case No. 2013-MED-LIC-534

This matter first came to the attention of the Board's Screening Panel upon the complaint of Dr. Ellis' former patient, D. That complaint, dated April 25, 2013, presented to the June 14, 2013, Screening Panel, alleged D. was a participant in Dr. Ellis' outpatient addiction clinic, and was treated with Subutex,

Among other complaints, D. alleges he wrote a nonsufficient funds check to Dr. Ellis' clinic. When D. tried to fill his Subutex prescription at the Helena K-Mart pharmacy, he was told Ms. Hoff had cancelled his prescription. D. then contacted Ms. Hoff who explained she had cancelled his prescription because of his NSF check. After paying the sum due in cash, Ms. Hoff called the pharmacy and allowed it to fill D.'s prescription.

In February 2013, D. was seriously injured in an automobile accident and was hospitalized. As a result of those injuries, other providers wrote prescriptions for D.'s acute pain. A pharmacist alerted Dr. Ellis' office D. was filling prescriptions for other narcotics. When D. later tried to fill his Subutex prescription at the Helena K-Mart, the pharmacist refused to fill it, saying Dr. Ellis' "nurse" had advised K-Mart not to fill the prescription and it was cancelled.

D. had advised his other providers that he was on a Subutex program, but when he tried to explain that fact to Ms. Hoff he was ordered to leave the office. Ms. Hoff then advised D.'s parole officer that he was diverting drugs.

D. engaged an attorney to help him with a personal injury claim stemming from the motor vehicle accident that hospitalized him. In a recorded voice message reply, Ms. Hoff told the attorney that because D. had filed a complaint against Dr. Ellis she would not supply medical records and intended to file a complaint against D.

Dr. Ellis' office discharged D. from Dr. Ellis' care.

The Screening Panel referred the case for a peer review by a physician studied in outpatient addiction care. Typical of the peer reviewer's comments are the following observations regarding improper input by Dr. Ellis' unlicensed office manager:

Of particular concern in this case was the intrusion by Dr. Ellis' office manager, [Linde] Hoff (apparently also his wife), who makes notations on the chart as to her conjectures about the patient's motives of drug seeking behaviors, or "chattiness" in the office. These remarks are unprofessional and do not belong as part of the formal progress notes. This is an enduring pattern of Ms. Hoff and is seen throughout Dr. Ellis' charting.

He allows his office manager to pepper his progress notes with her own editorials.

Per the usual pattern, Dr. Ellis' office manager continued to make her own entries on the progress notes on dates that did not correspond to the patient's visit.

The peer reviewer concluded that, as the supervising physician, Dr. Ellis was responsible for permitting Ms. Hoff's excessive role in the practice.

Case No. 2013-MED-LIC-464

On April 5, 2013, S. drafted a complaint alleging Dr. Ellis committed unprofessional conduct by engaging in abusive billing practices. S. alleged he had previously filed a complaint against Dr. Ellis for unprofessional conduct. That complaint, 2013-MED-LIC-32, was filed on January 14, 2013, and was heard by the Board's Screening Panel on February 15, 2013. The Screening Panel dismissed

complaint 2013-MED-LIC-32. In Case No. 2013-MED-LIC-464, S. alleged Dr. Ellis retaliated against him for filing the other complaint. S. alleged that shortly after the February 15 2013 Screening Panel meeting, Dr. Ellis and his staff sent him an extraordinary bill and threatened referral to a collection agency.

S.' complaint alleged Dr. Ellis' clinic's policy is to receive full payment for services at the time of each appointment. Consequently, S. had never received a written bill for services. S. first saw Dr. Ellis on April 7, 2012. His final appointment with Dr. Ellis was on September 22, 2012. S. also alleged he had no contact from Dr. Ellis' office from September 22, 2012, until on or about February 20, 2013. When he did receive a written invoice from Dr. Ellis, S. disputed a number of the charges, claiming he paid for some of the dates' visits or the charge may have been for a simple phone call, a brief appearance, or nothing at all and Dr. Ellis' clinic should not have generated a charge for an office visit. Moreover, S. alleged Dr. Ellis delayed sending the billing statement, allowing additional interest charges to accrue which were exorbitant.

Ms. Hoff supplied the Screening Panel with a copy of a billing statement dated February 17-19, 2013. That composite statement included charges for nine visits. Each visit included an "overdue interest charge" calculated at 10% per month with the interest added to the outstanding principal balance for the next month's interest calculation. The clinic charged S. 120% compounded annual interest, greatly in excess of Montana's usurious interest figure. The sum due on each visit was calculated through January to mid-February 2013.

Responding to the Board's investigation, Ms. Hoff asserted that S. regularly appeared at the clinic without a scheduled appointment, disrupting the clinic. Ms. Hoff claimed that the clinic was entitled to payment for a visit for each of the instances when S. appeared without an appointment even if a typical "SOAP" note was not produced by Dr. Ellis. Ultimately, on October 12, 2012, Dr. Ellis discharged S. from the clinic in part due to S's appearance without an appointment and his "inappropriate behavior." That disruption and extra work is was reflected in the interest/service fees charged. Ms. Hoff explained that since billing is not done in the clinic, all fees fell under the heading of "interest."

A Board investigation produced S.'s checks that correspond to some of the disputed visits suggesting payment in full for those dates' visits. Other chart entries did not contain typical "SOAP" notes and included the entry, "Not a scheduled appointment; no formal notes completed."

The Screening Panel determined Dr. Ellis' office committed sanctionable billing practices by billing for visits for which Dr. Ellis did not produce a chart note and for rebilling for visits for which S' had documented proof of payment.

These facts constitute violations of the following Montana Administrative Regulations.

Admin. R. Mont. 24.156.625 UNPROFESSIONAL CONDUCT

(1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 3, MCA:

(n) abusive billing practices;

(y) failing to supervise, manage, appropriately delegate and train medical assistants under the licensee's supervision, according to scope of practice and generally accepted standards of practice;

10. Matters Pertinent to Sanctions. While Dr. Ellis initially denied these allegations, continues to dispute them, and they remain unproven, the peer reviewer found problems with Dr. Ellis' care and chart documentation. Nevertheless, for purposes of settlement, Dr. Ellis completed continuing medical education credits regarding mandatory general compliance regarding staffing professional clinical compliance. Additionally, Dr. Ellis voluntarily obtained board certification in addiction medicine by the American Board of Addiction Medicine on October 17, 2015. Proof of Dr. Ellis' board certification and certificates showing completion of the aforementioned CME courses are attached hereto and incorporated herein.

Dr. Ellis closed his Helena outpatient addiction clinic on June 5, 2015, and is presently working at Eastern State Hospital in Medical Lake, Washington, where he works in an inpatient psychiatric setting. Since he is currently working in Washington, Dr. Ellis does not intend to maintain his Montana medical license, and understands that to renew an expired license he may be required to present sufficient proofs, and to comply with certain conditions, as may be required by the Board in its discretion at the time of his application to renew.

As part of the consideration for this stipulation, the Department agrees:

- a) It will dismiss Complaint No. 2015-MED-LIC-235 now pending against Dr. Ellis; and
- b) It will not initiate any action against Dr. Ellis or Linde Hoff pursuant to Mont. Code Ann. §37-7-1513 with respect to either Complainant S. or Complainant D., the subjects of this action. The Department confirms that no other such cases are pending or are known. This term does not prohibit appropriate license disciplinary action or an action under §37-7-1513 should such a case be presented in the future.

11. Stipulated Disciplinary Sanctions. Upon acceptance of this Stipulation by the Board, Licensee agrees to the following sanction:

- a) Dr. Ellis is ordered to complete at his sole expense CME and gain Board certification, prior completion of which is acknowledged. Mont. Code Ann. §37-1-312(1)(d).
- b) Neither Dr. Ellis, Dr. Ellis' employer, nor a practice group with which Dr. Ellis is associated may employ Linde Hoff or any other member of Dr. Ellis' immediate family. Mont. Code Ann. §37-1-312(1)(c).
- c) Dr. Ellis must make satisfactory arrangements for the security and maintenance of patient records and provide a mechanism for timely responses to patients' requests for their records consistent with the Uniform Health Care Information Act, Title 50, Chapter 15, part 5, Montana Code Annotated. Such arrangements

may not allow Linde Hoff any control over, or access to, patient records and Ms. Hoff may not have a role in responses to requests for patient records.

12. 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.

13. Complying with the Terms of the Stipulation. Licensee's failure to strictly abide by the terms of the Stipulation shall constitute a violation of the Final Order of the Board and may be sanctioned under Mont. Code Ann 37-1-316(8).

14. Cost Recovery. As a material part of this stipulation, Dr. Ellis agrees to reimburse the Montana Board of Medical Examiners the actual costs of pursuing this license disciplinary action. The Board's costs include a fractional share of the compliance officer's preparation work for the screening panel meeting, a fractional share of the screening panel's costs (preparation, travel and per diem), investigation costs, the legal office's costs (lawyer, paralegal, secretary, service of process), and a fractional share of the adjudication panel's costs (preparation, travel and per diem). The parties acknowledge that it is impossible to precisely quantify the actual costs and, therefore, stipulate that the reasonable costs of investigations in this case are **three thousand dollars, \$3,000**. That \$3,000 is be paid by check or money order on the date this matter is presented to the Board's Adjudication Panel, payable to the Montana Board of Medical Examiners, and tendered to the Board office at:

Montana Department of Labor and Industry
Board of Medical Examiners
301 South Park Avenue
PO Box 200514

Helena MT 59620-0514

The costs provided by this paragraph are to be deposited in the Board of Medical Examiner's special revenue account.



Charles Ellis, M.D.
Licensee

2/24/16
DATE



Trevor L. Uffelman
Uffelman Law, P.C.

2/24/16
DATE



Michael L. Fanning
Department Counsel
Montana Board of Medical Examiners

FEB 24, 2016
DATE