


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

In the Matter of Todd Alan Shumard, Physician, License No. 19438.	Case No. 2023-MED-00280 ORDER SEALING NOTICE OF PROPOSED BOARD ACTION
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Montana Department of Labor and Industry (Department) filed the *Department's Unopposed Motion to Seal Notice of Proposed Board Action* (Motion) requesting that the original Notice of Proposed Board Action and Opportunity for Hearing (Notice) issued in this case by the Department on October 5, 2023, be sealed pursuant to Mont. Code Ann. § 2-3-203(3).

The Motion having come before the Adjudication Panel of the Montana Board of Medical Examiners (Board) on November 17, 2023, the Board finds that the demands of individual privacy rights exceed the merits of public disclosure and orders that the Notice is hereby sealed pursuant to Mont. Code Ann. § 2-3-203(3).

DATED 12/8/2023 | 1:52:20 PM MST

DocuSigned by:

D9B77163C76F449
 Presiding Officer, Adjudication Panel
 Montana Board of Medical Examiners

CERTIFICATE OF SERVICE

I certify I served a true and accurate copy of the foregoing *Order Sealing Notice of Proposed Board Action* by placing it in the United States Postal Service mail, first-class postage prepaid, addressed to the following:

Todd Alan Shumard, M.D.
c/o Katrina Feller
Moore, Cockrell, Goicoechea & Johnson
P.O. Box 7370
Kalispell, MT 59904-0370

DATED 12/11/2023 | 2:33:57 PM MST .

DocuSigned by:
Jennifer Lane
DC7E52710660478

Department of Labor and Industry

Dylan Gallagher
Agency Counsel
DEPARTMENT OF LABOR AND INDUSTRY
Office of Legal Services
1315 Lockey Avenue
P.O. Box 1728
Helena, MT 59624-1728
Telephone: (406) 444-5466
E-mail: laborlegal@mt.gov

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

In the Matter of Todd Alan Shumard, Physician, License No. 19438.	Case No. 2023-MED-00280 DEPARTMENT'S UNOPPOSED MOTION TO SEAL NOTICE OF PROPOSED BOARD ACTION
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The Montana Department of Labor and Industry (Department) hereby moves the Adjudication Panel of the Montana Board of Medical Examiners (Board) to seal the original Notice of Proposed Board Action and Opportunity for Hearing (Notice) in this matter, issued by the Department on October 5, 2023. Pursuant to Mont. Code Ann. § 2-3-203(3), a meeting is not required to be open or records disseminated to the public when demands of individual privacy clearly exceed the merits of public disclosure.

In this matter, the Department issued the Notice on October 5, 2023, and made fact assertions regarding a patient of Respondent, Todd Shumard, which include the patient's protected healthcare information. The parties have since reached a Stipulation and agreed on facts that support violations of the Board's unprofessional conduct provisions while minimizing the risk of disclosing the patient's protected healthcare information. The parties have agreed that the facts stated in the Stipulation shall amend and replace the fact assertions stated in the Notice.

If the Adjudication Panel adopts and incorporates the Stipulation as its Final Order, the Department requests an order that only the Stipulation and Final Order in this matter will be posted and reported by the Department pursuant to Mont. Code Ann. § 37-1-311(2).

Counsel for Dr. Shumard has been contacted and does not oppose this motion.

DATED this 13th day of November, 2023.



Dylan Gallagher
Agency Counsel

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was sent by electronic mail and United States mail, addressed to the following:

Todd Alan Shumard, M.D.
c/o Katrina Feller
Moore, Cockrell, Goicoechea & Johnson
P.O. Box 7370
Kalispell, MT 59904-0370
kfeller@mcgalaw.com

DATED this 13th day of November 2023.



Department of Labor and Industry

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

In the Matter of Todd Alan Shumard, Physician, License No. 19438.	Case No. 2023-MED-00280 FINAL ORDER
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The Montana Board of Board of Medical Examiners, giving primary consideration to sanctions necessary to protect and compensate the public and secondary consideration to sanctions designed to rehabilitate Todd Alan Shumard, approves, adopts, and incorporates all terms and conditions of the fully executed Stipulation as its Findings of Fact, Conclusions of Law, and Final Order.

12/8/2023 | 1:52:20 PM MST

DATED _____ .

DocuSigned by:
Ana Diaz

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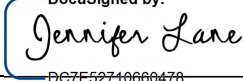
Presiding Officer, Adjudication Panel
Montana Board of Medical Examiners

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:

Todd Alan Shumard, M.D.
c/o Katrina Feller
Moore, Cockrell, Goicoechea & Johnson
P.O. Box 7370
Kalispell, MT 59904-0370

DATED 12/11/2023 | 2:33:57 PM MST.

DocuSigned by:

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Department of Labor and Industry

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

In the Matter	Case No. 2023-MED-00280
Todd Alan Shumard, Physician, License No. 19438.	STIPULATION

The Department of Labor and Industry (Department), through its legal counsel and Todd Alan Shumard (Dr. Shumard or Respondent), enter this Stipulation and agree as follows:

A. AGREED FACTS

1. On or about August 16, 2012, the Montana Board of Medical Examiners (Board) issued Todd Alan Shumard a physician license number 19438. Dr. Shumard's license is renewed through March 31, 2024.

2. Dr. Shumard shares custody of A.S., his thirteen-year-old daughter, with his ex-wife, Jenneka Austin.

3. Dr. Shumard maintained medical records for psychiatric treatment he provided to A.S. dating back to October 7, 2021. The American Medical Association Code of Medical Ethics Opinion 1.2.1 states that physicians should not treat family members except in limited circumstances, such as in emergency or isolated settings or for short-term, minor problems.

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.

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In Re Todd Alan Shumard, Case No. 2023-MED-00280

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).

4. By providing long-term psychiatric care to his daughter, Dr. Shumard committed unprofessional conduct as defined by Mont. Code Ann. § 37-1-316(1)(r).

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. Reprimand. Dr. Shumard is hereby reprimanded for committing unprofessional conduct, as described in this Stipulation. Dr. Shumard understands that he is prohibited from treating family members except in limited circumstances, such as in emergency or isolated settings or for short-term, minor problems. If Dr. Shumard provides treatment to family members in the future, he will consider and comply with the guidance provided by the American Medical Association's Code of Medical Ethics. Dr. Shumard further understands his duty to provide honest and accurate information to a patient's legally designated representative upon request by the representative.

2. Ethics and Boundaries Course. Within 120 days of entry of a Final Order in this

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In Re Todd Alan Shumard, Case No. 2023-MED-00280

matter, Dr. Shumard shall complete, at his cost, the PROBE: Ethics and Boundaries Program offered by the Center for Personalized Education for Professionals, or a substantially similar ethics and boundaries program, subject to approval by the Board. Mont. Code Ann. § 37-1-312(1)(d).

a. Dr. Shumard shall authorize information to be shared with the Department regarding his status in completing the ethics and boundaries program, including all reports and any recommendations made by the program.

b. Dr. Shumard shall ensure that all reports and recommendations from the ethics and boundaries program are sent directly to the Board office at the following address:

Department of Labor and Industry Attn: Compliance Unit
301 South Park Avenue PO Box 200514
Helena MT 59620-0514
DLIBSDMonitoring@mt.gov

c. Dr. Shumard shall retake the ethics and boundaries program at the next available opportunity if his performance is rated less than an unconditional pass.

D. ADDITIONAL PROVISIONS

1. Waiver of Rights. Respondent has read and understands each term of the *Notice of Proposed Board Action and Opportunity/or 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

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In Re Todd Alan Shumard, Case No. 2023-MED-00280

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

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. §

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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.

DocuSigned by:

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Todd Alan Shumard
Respondent


11/15/2023 | 7:51:09 AM MST

DATE

DocuSigned by:

EA2E479C0C7746C...
Katrina Feller
Counsel for Respondent

11/9/2023 | 11:26:33 AM MST

DATE

DocuSigned by:

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Dylan Gallagher
Agency Counsel

11/15/2023 | 7:52:41 AM MST

DATE

Stipulation

In Re Todd Alan Shumard, Case No. 2023-MED-00280