

1 M. Gene Allison  
2 DEPARTMENT OF LABOR & INDUSTRY  
3 Office of Legal Services  
4 301 South Park Avenue,  
5 P.O. Box 200513  
6 Helena, MT 59620-0513

7 Phone: (406)841-2317

8 **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
9 **DEPARTMENT OF LABOR AND INDUSTRY**  
10 **STATE OF MONTANA**

11 **IN THE MATTER OF THE DISCIPLINARY**  
12 **TREATMENT OF THE LICENSE OF**  
13 **Mark Jay Catalanello, MD**  
14 **License No. 7315**

**Docket No. CC-04-0118-MED**

**NOTICE OF PROPOSED**  
**BOARD ACTION AND**  
**OPPORTUNITY FOR**  
**HEARING**

15 **TO:** Mark Jay Catalanello, MD  
16 2010 S. 8<sup>th</sup> St. W., Apt C  
17 Missoula, MT 59801

18 **PLEASE TAKE NOTICE THAT:**

19 The Screening Panel of the Board of Medical Examiners of the State of Montana  
20 (Screening Panel) has considered the complaint against you in case number MED-04-70.  
21 Subsequently, the Screening Panel voted that the disciplinary actions indicate violations of Title  
22 37, Chapter 1 and Chapter 3 of Montana Code Annotated and Administrative Rules of Montana  
23 Title 24, Chapter 156, Sub-Chapter 6.

24 The Screening Panel met to review all documentation regarding the above disciplinary  
25 action and found reasonable cause to believe that you have violated a statute or rule justifying  
26 disciplinary sanctions to be imposed against your Montana license. The Board of Medical

27 Notice of Proposed Board Action and Opportunity for Hearing  
28 In re Mark Jay Catalanello, MD, Docket No. CC-04-0118-MED

**ORIGINAL**

1 Examiners (Board) has such authority pursuant to Montana Code Annotated §§37-1-307 and 37-  
2 1-316 and ARM 24.156.625.

3 The Screening Panel has reason to believe that you committed the following violations:

- 4
- 5 1- Use of a habit-forming drug or controlled substance as defined in Title 50, chapter  
6 32, to the extent that the use impairs the user physically or mentally in violation of  
7 §37-1-316(11) Mont. Code Ann;
  - 8 2. - Having a physical or mental disability that renders the licensee or license applicant  
9 unable to practice the profession or occupation with reasonable skill and safety in  
10 violation of §37-1-316(12) Mont. Code Ann;
  - 11 3. - Conduct that does not meet the generally accepted standards of practice in  
12 violation of §37-1-316(18) Mont. Code Ann;
  - 13 4. - Habitual intemperance or excessive use of an addictive drug, alcohol or any other  
14 substance to the extent that the use impairs the user physically or mentally in  
15 violation of ARM 24.156.625(9);
  - 16 5. - Committing an act, whether specifically enumerated or not, that in fact constitutes  
17 unprofessional conduct in violation of ARM 24.156.625(22); and
  - 18 6. - Failing to comply with an agreement the licensee has entered into with the program  
19 established by the board under 37-3-203(4), MCA in violation of ARM  
20 24.156.625(23).

21  
22 **THEREFORE, pursuant to Montana Code Annotated §37-1-307, the Board**  
23 **proposes to impose against you one or more of the sanctions authorized under Montana**  
24 **Code Annotated §37-1-312.**

25  
26 **REASONS FOR ACTION**

27 There is reasonable cause to believe that the following assertions will be proven and will  
28 justify the imposition of sanctions against your license.

**FACTUAL ASSERTIONS**

1. You are licensed by the Montana Board of Medical Examiners to practice as a  
medical doctor, holding Montana License number 7315.



- 1 4. - Admin. R. Mont 24.156.625 (9), defines unprofessional conduct as habitual  
2 intemperance or excessive use of an addictive drug, alcohol or any other substance  
3 to the extent that the use impairs the user physically or mentally;  
4 5. - Admin. R. Mont 24.156.625 (22), defines unprofessional conduct as committing an  
5 act, whether specifically enumerated or not, that in fact constitutes unprofessional  
6 conduct; and  
7 6. - Admin. R. Mont 24.156.625 (23), defines unprofessional conduct as failing to  
8 comply with an agreement the licensee has entered into with the program  
9 established by the board under 37-3-203(4), MCA.

7 7. As a result of the above information and an investigation into the allegations, the  
8 Board's Screening Panel heard the above matter, determined that there is reasonable cause to  
9 believe that you have violated a statute or rule justifying disciplinary sanctions to be imposed  
10 against your Montana license and so moved to serve you this formal *Notice of Proposed Board*  
11 *Action and Opportunity for Hearing*.

13 **UNIFORM PROFESSIONAL LICENSING AND REGULATION PROCEDURE**

14 You are advised that the law provides:

15 **MCA 37-1-309. Notice -- request for hearing.**

16 (1) If a reasonable cause determination is made pursuant to 37-1-307 that a violation of  
17 this part has occurred, a notice must be prepared by department legal staff and served on the  
18 alleged violator. The notice may be served by certified mail to the current address on file with the  
19 board or by other means authorized by the Montana Rules of Civil Procedure. The notice may not  
20 allege a violation of a particular statute, rule, or standard unless the board or the board's screening  
21 panel, if one has been established, has made a written determination that there are reasonable  
22 grounds to believe that the particular statute, rule, or standard has been violated.

23 (2) A licensee or license applicant shall give the board the licensee's or applicant's  
24 current address and any change of address within 30 days of the change.

25 (3) The notice must state that the licensee or license applicant may request a hearing to  
26 contest the charge or charges. **A request for a hearing must be in writing and received in the  
27 offices of the department within 20 days after the licensee's receipt of the notice.** Failure to  
28 request a hearing constitutes a default on the charge or charges, and the board may enter a  
decision on the basis of the facts available to it.

1 **MCA 37-1-312. Sanctions -- stay --costs --stipulations.**

2 (1) Upon a decision that a licensee or license applicant has violated this part or is unable to  
3 practice with reasonable skill and safety due to a physical or mental condition or upon stipulation  
4 of the parties as provided in subsection (3), the board may issue an order providing for one or any  
5 combination of the following sanctions:

- 6 (a) revocation of the license;
- 7 (b) suspension of the license for a fixed or indefinite term;
- 8 (c) restriction or limitation of the practice;
- 9 (d) satisfactory completion of a specific program of remedial education or treatment;
- 10 (e) monitoring of the practice by a supervisor approved by the disciplining authority;
- 11 (f) censure or reprimand, either public or private;
- 12 (g) compliance with conditions of probation for a designated period of time;
- 13 (h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited  
14 in the state general fund.
- 15 (i) denial of a license application;
- 16 (j) refund of costs and fees billed to and collected from a consumer.

17 (2) A sanction may be totally or partly stayed by the board. To determine which  
18 sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect  
19 or compensate the public. Only after the determination has been made may the board consider  
20 and include in the order any requirements designed to rehabilitate the licensee or license applicant.

21 (3) The licensee or license applicant may enter into a stipulated agreement resolving  
22 potential or pending charges that includes one or more of the sanctions in this section. The  
23 stipulation is an informal disposition for the purposes of 2-4-603.

24 (4) A licensee shall surrender a suspended or revoked license to the board within 24  
25 hours after receiving notification of the suspension or revocation by mailing it or delivering it  
26 personally to the board.

27 **MCA 2-4-631(3). Licenses.**

28 Whenever notice is required, no revocation, suspension, annulment, withdrawal, or  
amendment of any license is lawful unless the agency gave notice by mail to the licensee of facts  
or conduct which warrant the intended action. If the agency finds that public health, safety, or  
welfare imperatively requires emergency action and incorporates a finding to that effect in its  
order, summary suspension of a license may be ordered pending proceedings for revocation or  
other action. These proceedings shall be promptly instituted and determined.

**STATEMENT OF RIGHTS**


You are entitled to a hearing, promptly instituted and determined, as provided for by the  
Montana Administrative Procedure Act (§ 2-4-601, MCA, and following, including 2-4-631,

1 MCA) and by §37-1-121(1), MCA. You have a right to be represented by an attorney at such  
2 hearing and during related proceedings. If you desire to have a hearing and to resist the proposed  
3 action taken under the jurisdiction of the Board, you must so advise Lisa Addington, Bureau  
4 Chief, Health Care Licensing Division, Department of Labor and Industry, 301 South Park, P.O.  
5 Box 200513, Helena, Montana 59620-0513, in writing within **twenty (20)** days of your receipt of  
6 this notice. Formal proceedings may be waived pursuant to MCA 2-4-603.  
7

8 **POSSIBILITY OF DEFAULT**

9 Failure to give notice or to advise the Board of your request for a hearing within the time  
10 specified will result in the entry of a default order pursuant to § 37-1-309, MCA, and the Board  
11 may enter a decision on the basis of the facts available to it without additional prior notice to you.  
12

13 **DATED** March 2, 2004.

14   
15 M. Gene Allison  
16 Attorney for Department of Labor & Industry

17 **CERTIFICATE OF SERVICE**

18 This is to certify that a true and correct copy of the foregoing Notice of Proposed Board  
19 Hearing and Opportunity for Hearing was sent certified mail#  
20

21 70012510 0001 12232980, postage prepaid, on Mar. 2, 2004 to the

22 following:

23 Mark Jay Catalanello, MD  
24 2010 S. 8<sup>th</sup> St. W., Apt C  
25 Missoula, MT 59801  
26  
27  
28



RECEIVED

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LEGAL SERVICES

**BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA**

**IN THE MATTER OF THE  
DISCIPLINARY TREATMENT OF THE  
LICENSE OF Mark Jay Catalanello, MD  
License No. 7315**

**Docket No. CC-04-0118-MED**

**STIPULATION AND FINAL ORDER**

The Health Care Licensing Bureau, Business Standards Division of the Department of Labor and Industry of the State of Montana (Department), by and through its legal counsel, and Mark Jay Catalanello, MD, (Licensee), hereby stipulate and agree as follows:

STIPULATION

1. Licensee is licensed by the State of Montana Board of Medical Examiners, holding Montana license number 7315

2. The Montana Board of Medical Examiners has a statutory obligation to protect the public health, welfare and safety under Mont. Code Ann. §37-3-101.

3. Licensee admits the jurisdiction of the Board of Medical Examiners over the subject matter of the above-entitled proceeding. Licensee desires to avoid unnecessary expenditure of time and other valuable resources in resolving the issues in this action. Therefore, Licensee specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, and elects to resolve this matter on the terms and conditions set forth herein.

4. Licensee acknowledges that Licensee has read and understands each term of this Stipulation, Final Order, and the Notice of Proposed Board Action issued in this matter. Licensee acknowledges that Licensee enters into this Stipulation voluntarily, and without reservation. Licensee acknowledges that no promise, other than those contained herein, and no threat has been

1 made by the Department or by any member, officer, agent or representative of the Department to  
2 induce Licensee to enter into this Stipulation.

3 5. Based upon the information received, the Department contends as set forth in the  
4 Assertion of Facts section of the Notice of Proposed Board Action herein issued in this matter.  
5 Licensee admits the Department's contentions.

6 6. The Department and the Licensee agree that this Stipulation shall be a final  
7 compromise and settlement of grounds for license denial and/or discipline as a result of Licensee's  
8 conduct.

9 7. The Department and the Licensee agree that this Stipulation shall be incorporated and  
10 made a part of the final order issued by the Montana Board of Medical Examiners herein.

11 8. The Department and the Licensee agree that this stipulation and the attached final order  
12 are public documents.

13 9. The Board of Medical Examiners will enter an order suspending Licensee's license to  
14 practice medicine in the state of Montana for an indefinite period of time. Dr. Catalanello must  
15 be sober at least for a year prior to any new application or request for reinstatement of his medical  
16 license. In the event that Licensee applies for a new Montana Medical license or petitions the  
17 Board for reinstatement of his license to practice medicine in the state of Montana, he shall be  
18 required to present sufficient proofs and to comply with certain conditions as may be required by  
19 the Board in its discretion at the time of application or petition for reinstatement. It is understood  
20 that the Board may prohibit Licensee from re-applying or petitioning for reinstatement for a  
21 specified period of time.

22 10. In the event the Board of Medical Examiners, in its discretion, does not approve this  
23 settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be  
24 relied upon nor introduced in any disciplinary action by either party hereto except that Licensee  
25 agrees that should the Board reject this Stipulation, and if this case proceeds to hearing, Licensee  
26 will assert no claim that the Board of Medical Examiners was prejudiced by its review and  
27 discussion of this Stipulation or of any records relating hereto.




1 11. If applicable, the consequence for violating a probationary license condition shall be  
2 revocation of the license. The Department shall prove a violation of a probationary license  
3 condition listed under this agreement by a preponderance of the evidence using MAPA contested  
4 case procedures. Licensee reserves all rights under MAPA to contest Department actions to prove  
5 a probationary license condition violation. However, Licensee agrees to the consequence of  
6 revocation of the license, if the violation is proven and upheld through the normal administrative  
7 and judicial review appeal processes.

8 12. If at any time during the term of this Stipulation, the Board finds reasonable cause  
9 to believe that the Licensee has violated any of the terms and conditions of this Stipulation or any  
10 statutes and rules governing the conduct of medical licenses in the State of Montana, and if the  
11 Board determines that such violation constitutes an imminent threat to the public health, safety or  
12 welfare, Licensee's license shall be automatically and summarily suspended pending a prompt  
13 post- suspension hearing. Further action will be taken depending upon the results of a contested  
14 case hearing on any factual disputes as to whether the Licensee violated the terms and conditions  
15 of this Stipulation or any statutes and rules governing the conduct of medical licensees in the State  
16 of Montana.

17 13. The Department and the Licensee agree that any petition for reinstatement must be  
18 made according to certain conditions which will be determined by the board at the time of petition  
19 for reinstatement.

20 **This agreement is subject to final approval by the Montana Board of Medical Examiners.**

21   
22 M. Gene Allison  
23 Department Counsel  
24 Montana Board of Medical Examiners

DATE

4/11/04

25   
26 Mark Jay Catalanello, MD  
27 Licensee

DATE

3/31/04

28 Stipulation and Final Order  
In re Mark Jay Catalanello, MD, Docket No. CC-04-0118-MED

1  
2  
3 **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
4 **DEPARTMENT OF LABOR AND INDUSTRY**  
5 **STATE OF MONTANA**

6 **IN THE MATTER OF THE**  
7 **DISCIPLINARY TREATMENT OF THE**  
8 **LICENSE OF Mark Jay Catalanello, MD**  
9 **License No. 7315**

} **Docket No. CC-04-0118-MED**  
}  
}  
}

10 **FINAL ORDER**

11 Based upon the foregoing Stipulation, and good cause appearing therefore,

12 **IT IS HEREBY ORDERED** that Licensee's license to practice medicine in the state of  
13 Montana is suspended for an indefinite period of time. Respondent shall immediately return his  
14 license to the Board of Medical Examiners, to the Board office at the following address:

15 Board of Medical Examiners  
16 301 South Park  
17 P.O. Box 200513  
18 Helena, MT 59620-0513

19 **IT IS FURTHER ORDERED** that in the event that Licensee applies for a new Montana  
20 Medical license or petitions the Board for reinstatement of his license to practice medicine in the  
21 state of Montana, he shall be required to present sufficient proofs and to comply with certain  
22 conditions as may be required by the Board in its discretion at the time of application or petition  
23 for reinstatement. Dr. Catalanello must be sober at least for a year prior to any new application or  
24 request for reinstatement of his medical license.

25 **IT IS FURTHER ORDERED** that any petition for reinstatement must be made according  
26 to certain other conditions which will be determined by the board at the time of petition for  
27 reinstatement.

28 **IT IS FURTHER ORDERED** that Licensee may not re-apply or petition for reinstatement for a  
period of one year.

Stipulation and Final Order  
In re Mark Jay Catalanello, MD, Docket No. CC-04-0118-MED

1  
**ORIGINAL**

**NOTICE**

YOU ARE HEREBY NOTIFIED that you have the right to request judicial review of this final order by filing a petition for judicial review within thirty days of service of this final order in a district court of the State of Montana, as provided in § 2-4-702, MCA.

DATED this 21 day of May, 2004.

[Redacted Signature]

President  
Board of Medical Examiners

ATTEST:

[Redacted Signature]

Jeanne Worsch  
Board Administrator

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of May June, 2004, I caused a true and accurate copy of the foregoing Final Order to be served upon Respondent by placing it in the U.S. mail, postage prepaid, addressed as follows:

Mark Jay Catalanello, MD  
2010 S. 8<sup>th</sup> St. W., Apt C  
Missoula, MT 59801

By [Redacted Signature]

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
2 **DEPARTMENT OF LABOR AND INDUSTRY**  
3 **STATE OF MONTANA**

4 IN THE MATTER OF THE )  
5 DISCIPLINARY TREATMENT OF THE )  
6 LICENSE OF MARK JAY CATALANELLO, )  
M.D., LICENSE NO. 7315 )

DOCKET NO. CC-04-0118-MED  
FINAL ORDER  
REINSTATING LICENSE

7  
8 WHEREAS, MARK JAY CATALANELLO, M.D., Licensee herein, has been, and is in  
9 compliance with the terms and conditions set forth in the Final Order dated May 25, 2004; and


10 WHEREAS, the Board of Medical Examiners has considered Licensee's request to have  
11 his license to practice medicine reinstated;

12 IT IS HEREBY ORDERED that the Final Order is set aside and License No. 7315 is  
13 reinstated as an unrestricted license to practice medicine in Montana.  
14

15  
16 Dated: 25 MAY 2007

  
17 Arthur K. Fink, D.O.  
18 President, Montana Board of  
19 Medical Examiners  
20

21 ATTEST:

22   
23 Jeannie Worsch, Executive Director  
24 Board of Medical Examiners  
25  
26  
27  
28

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JUN 20 2007  
MT MEDICAL BOARD

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 21<sup>st</sup> day of June, 2007, I served a true and accurate copy of the foregoing Final Order Reinstating License, by U.S. mail, upon the Licensee addressed as follows:

Mark Catalanello  
11 Paradox Lane  
Plains, MT 59859

By:  \_\_\_\_\_