

BEFORE THE MONTANA DEPARTMENT
OF LABOR AND INDUSTRY

IN THE MATTER OF HUMAN RIGHTS BUREAU CASE NO. 0131016262:

RONIS BOLLINGER,)	Case No. 1523-2014
)	
Charging Party,)	
)	
vs.)	POST HEARING
)	SEALING ORDER
)	
BILLINGS CLINIC,)	
)	
Respondent.)	

* * * * *

This order defines which documents, evidence and information herein are sealed, with restricted access. This order becomes effective at Noon, M.S.T., on January 14, 2016, the 11th business day after issuance of this order, to give the parties an opportunity to seek a stay of this order for review of it before it becomes effective. Until the effective date of this order, all documents, evidence and information previously sealed by the Hearing Officer or by a designation of confidential information in this proceeding remain sealed.

This order defines the scope of use of sealed documents, evidence and information applicable to the parties, each party's counsel and employees, the court reporter(s) working in this proceeding, employees of the Office of Administrative Hearings ("OAH"), employees, officers and members of the Department of Labor and Industry other than OAH, and/or the Montana Human Rights Commission. The persons and entities named in the preceding sentence are hereafter collectively called "Possessors." Any reviewing administrative or judicial tribunal of the Hearing Officer Decision or of this sealing order presumably will honor the sealing herein unless and until modified or ended by such tribunal.

"Sealed" documents and evidence means documents and evidence which have or which will, during the course of this entire contested case and this entire case includes reviews, appeals or further proceedings, come into the possession of the Possessors. "Sealed" information means information contained in sealed documents and evidence that has only come to the Possessors because of their participation in any of those proceedings named in the preceding sentence. A Possessor who already was or comes into possession of sealed information in a lawful manner outside of those proceedings, from the time of coming into such possession or from the date of

issuance of this order (whichever comes last), is not restricted in disclosure of such sealed information, obtained in a lawful manner outside of these proceedings, by this order.

- I. This order remains in full force and effect permanently, UNLESS
 - a. The person(s) and/or entity(ies) having privacy or confidentiality interests in particular documents and evidence waive(s) and release(s), in writing, any and all such privacy interests and confidentiality interests in all or part of any particular sealed documents and evidence, whereby at that time the released document(s) and information are unsealed to the extent specified in the waiver and release, OR
 - b. A tribunal (judicial or administrative) exercising jurisdiction over the question issues an order modifying or rescinding this order (the modifying order replacing this order to the extent and in accord with the terms and conditions of said modifying order).
- II. "Sealed" under this order requires that Possessors must not reveal or release any of the contents of the sealed documents, evidence and information to any person or entity whatsoever EXCEPT
 - a. As required by law;
 - b. By filings and servings, or either, under seal in whatever administrative or judicial tribunal is exercising jurisdiction over (I) this order or (ii) review or appeal from the Hearing Officer Order in this case or (iii) any proceeding required by a decision on a review or appeal from the Hearing Officer Order;
 - c. In private communications with other Possessors;
 - d. As provided in Section I, above.
- III. Sealed under this order are:
 - a. Exhibits 13-14, 17-19, 38-45, 47-49, 56, 60, 63, 69-75, 81, 114, 125-126, 131, 181, 200, and 201 are sealed in their entirety, counsel having agreed to this sealing;
 - b. A "Settlement Agreement and Release" between the Billings Clinic and Char Kinison, signed by Kinison on July 16, 2013, was sealed.

- c. The portions of the deposition of Ronis Bollinger identified on the top of the next page are sealed pursuant to "Respondent's Designation of Depositions to be Sealed" (Jan. 22, 2015).

Pages	Lines	Page	Lines
89	24	156	20, 23, 25
91	10, 12-13	157	2, 15, 25
92	1, 12-13	158	2
93	11	199	13, 19
94	8, 22	200	23
95	12, 15	201	4-5, 8
96	1	202	4-5, 8, 10, 12, 17
98	11	203	8
107	22	204	2-3, 10, 14
108	2, 6	205	2, 6, 9, 17
109	7, 14, 16, 19	243	23
114	4	244	1, 6-8, 21
129	21, 24		

- d. The following portions of the deposition of Amy Hauschild are sealed pursuant to "Respondent's Designation of Depositions to be Sealed" (Jan. 22, 2015) and "Charging Party's Submission of Deposition Transcript for Hearings File" (Feb. 10, 2015):

Pages	Lines
33	3-4, 16, 21
34	8, 16, 22, 25
36	10, 12-13, 17
37	1, 12-13
38	11, 23-25
45	11-12
46	7-9
48	8, 10, 22
49	2, 12, 15, 20
50	5

- e. Unredacted versions of documents produced to the Hearing Officer in compliance with the Hearing Officer's "Order Granting and Denying Bollinger's First Motion to Compel" (Nov. 20, 2014), rulings on "(3) Bollinger's Request For Production No. 8," pp. 2-3 and "(4) Bollinger's Request For Production No. 9,"

pp. 3-4 (redacted copies in counsels' respective files are not sealed);

- f. Products of discovery (formal or informal) designated as "Protected Information" in compliance with the Hearing Officer's "Amended Protective Order," June 11, 2014 herein;
- g. Filings designated as "Protected Information" in compliance with the Hearing Officer's "Amended Protective Order," June 11, 2014 herein;
- h. The key(s) identifying employees (by name) who are identified only by consecutive numbers in documents and evidence regarding any investigations of, complaints or grievances by and disciplinary actions against Billings Clinic employees from January 1, 2009, to Dec. 11, 2014 (the date of the order compelling), which involved allegations of improper use and disclosure of confidential patient information or other confidential business information, pursuant to "Order Granting and Denying Bollinger's Second Motion to Compel" (Dec. 11, 2014), pp. 1-2, "1. Response to Interrogatory No. 7;"
- i. Documents regarding any investigations of, complaints or grievances by and disciplinary actions against Billings Clinic employees from January 1, 2009, to Dec. 11, 2014 (the date of the order compelling), which involved allegations of improper use and disclosure of confidential patient information or other confidential business information, pursuant to "Order Granting and Denying Bollinger's Second Motion to Compel" (Dec. 11, 2014), pp. 1-2, "1. Response to Interrogatory No. 7," which were not offered into evidence during the contested case hearing;
- j. The key(s) identifying patients (by name) who are identified only by a capital letter (although the order originally dictated their identification by numbers) regarding any investigations of, complaints or grievances by and disciplinary actions against Billings Clinic employees from January 1, 2009, to Dec. 11, 2014 (the date of the order compelling), which involved allegations of improper use and disclosure of confidential patient information or other confidential business information, filed pursuant to "Order Granting and Denying Bollinger's Second Motion to Compel" (Dec. 11, 2014), pp. 1-2, "1. Response to Interrogatory No. 7;"

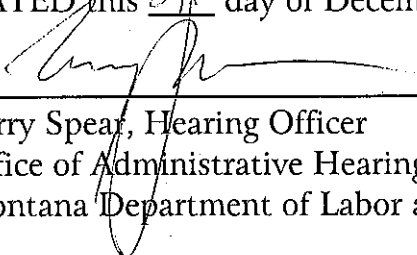
- k. The key(s) identifying employees (by name) who are identified only by consecutive numbers in documents and evidence produced regarding identification of the employees that the Clinic investigated about the alleged breach of Char Kinison's confidential patient information, and identification of the discipline imposed, if any, on these employees for their conduct regarding the alleged breach, pursuant to "Order Granting and Denying Bollinger's Second Motion to Compel" (Dec. 11, 2014), pp. 2-3, "2. Response to Interrogatory No. 9;"
- l. Documents produced regarding identification of the employees the Clinic investigated about the alleged breach of Char Kinison's confidential patient information, and identification of the discipline imposed, if any, on these employees for their conduct regarding the alleged breach, pursuant to "Order Granting and Denying Bollinger's Second Motion to Compel" (Dec. 11, 2014), pp. 2-3, "2. Response to Interrogatory No. 9," which were not offered into evidence during the contested case hearing.

IV. Not Sealed

- a. The entirety of the Transcript of hearing is not sealed.
- b. Any sealed documents, evidence or information not identified herein as sealed are hereby unsealed.
- c. Any documents, evidence or information not specifically sealed herein are not sealed.

V. Any review or modification of this order must be sought from a tribunal with the authority to review or modify this order, but not from OAH.

DATED this 29th day of December, 2015.



Terry Spear, Hearing Officer
Office of Administrative Hearings
Montana Department of Labor and Industry

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CERTIFICATE OF MAILING

True and correct copies today served by U.S. Mail, postage prepaid, to the following addresses and to the following e-mail addresses by e-mail:

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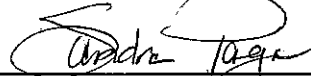
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Signed this 29th day of December, 2015.



Legal Secretary, Office of Administrative Hearings
Montana Department of Labor and Industry