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**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSES OF)
REID H. ACORD, RPH, TO PRACTICE) STIPULATION AND ORDER
PHARMACY AND TO DISENSE)
CONTROLLED SUBSTANCE) CASE NO DOPL-2005-168
IN THE STATE OF UTAH)

REID H. ACORD, RPH ("Respondent"), and the **DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING** of the Department of Commerce of the State of Utah ("Division") stipulate and agree as follows

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action
- 2 Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily
- 3 The Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent is represented by George S Diument, II, of Diument and Edwards

4 Respondent understands that Respondent is entitled to a hearing before the Utah State Board of Pharmacy ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing.

5 Respondent acknowledges receipt of a Petition and a Notice of Agency Action in this matter.

6 Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

7 Respondent admits between December 2004 and April 2005 he appropriated not more than 20 doses of hydrocodone containing medications from his pharmacy employer to administer to himself. Respondent had not been prescribed these medications by a practitioner.

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501 (2)(a), and unlawful conduct as defined in Utah Code Ann. § 58-37-(2)(a)(i), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Therefore, Respondent agrees that an Order shall be entered in this matter as follows:

- (1) Respondent shall pay a fine to the Division in the amount of \$1,500, payable to the Division within 120 days of the effective date the Order in this matter. paid
- (2) The Respondent's licenses shall be revoked. Those revocations shall be immediately stayed and the Respondent's licenses shall be subject to a term of probation for a period of five (5) years. The period of probation shall commence

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on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order. During the periods of suspension and probation, the Respondent shall be subject to all of the following terms and conditions. If the Board/Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.

- a Respondent shall meet with the Board within thirty (30) days of the signing of this Stipulation and Order. Respondent shall then meet with the Board on a quarterly basis or at such other greater or lesser frequency as determined by the Board and Division for the duration of the Stipulation and Order. Respondent agrees to meet with an assigned staff member prior to the first Board meeting.
- b Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.
- c If Respondent leaves the State of Utah, for any reason other than a personal vacation, for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.
- d If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

- e Respondent must maintain a current license at all times during the period of this agreement
- f Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address
- g Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole. If Respondent has not successfully completed all the terms and conditions of Respondent's criminal probation at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all the conditions of Respondent's criminal probation have been successfully completed
- h In the event Respondent does not practice as a Pharmacist for a period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome. Respondent must work at least sixteen (16) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession
- i Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit performance evaluations to the Board on a monthly basis for six months and quarterly thereafter. The receipt of an unfavorable report from an employer may be considered to be a violation of the terms of this Stipulation and Order. If the Respondent is not employed as a [list Occupation], Respondent shall submit the required employer report form to the Board on the date it is due and indicate on that form that Respondent is not currently employed in Respondent's licensed occupation or that Respondent is not currently working
- j Respondent shall provide to Respondent's employer(s) a copy of this Stipulation and Order and cause each employer to acknowledge to the Board in writing, that a copy of this Stipulation and Order has been provided to the employer
- k Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or

possession of alcoholic beverages Respondent agrees to abstain from the personal use or ingestion of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which the substance is intended

i Respondent shall submit to the following course of treatment as part of Respondent's rehabilitation and at Respondent's own expense

/ i Respondent shall successfully complete a physical evaluation provided by a Division-approved licensed provider within ninety (90) days of the effective date of this Stipulation and Order Respondent shall contact the Division-approved licensed professional for an initial appointment within 10 days of the effective date of this Stipulation and Order Respondent shall schedule the initial appointment to be held within 45 days of the effective date of this Stipulation and Order Respondent shall attend all appointments and follow-up appointments in a timely manner Respondent shall cooperate fully with the evaluator to ensure a fair and complete evaluation Respondent shall notify the Division immediately after successfully completing the evaluation and inform the Division that Respondent has successfully completed the physical evaluation Respondent agrees to cause the evaluation report to be sent to the Division within 90 days of the effective date of this Order

ii Respondent acknowledges receiving a current list of the Division-approved licensed providers

iii If Respondent fails to submit the evaluation to the Division within the time stated above, the Division may take any action necessary pursuant to the Utah Administrative Procedures Act, Utah Code Annotated § 63-46b

iv Respondent shall successfully complete all recommendations made or resulting from his psychological and substance abuse evaluation done by Bruce Etringer Ph D

v In the interest of public safety, the Division may impose additional requirements above and beyond those recommended by the evaluator in the chemical dependency, psychological, and physical evaluations set forth above Respondent agrees to comply with these additional requirements

- m Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy. Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner. All prescribing practitioners must be informed of any and all of Respondent's addiction/abuse problems. Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required. Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval. Respondent shall provide the Division with a copy of all Respondent's prescriptions for prescription drugs, controlled substances, or any other mood altering substance, within forty-eight (48) hours after the prescription has been written.
- n Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division within forty-eight (48) hours of being issued. Respondent shall report to the Division within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual. Unless Respondent is hospitalized then Respondent shall report to the Division within forty-eight (48) hours of being release from the hospital.
- o Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source. Except those for which he holds a valid prescription that has been reported to the Division.
- p Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order.
- q Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing. The designated company may also request such samples and Respondent shall comply with such requests. The Division shall determine when and where Respondent is to submit himself for testing. Respondent shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from a drug testing company that indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions. Any drug test result or pattern of results that indicates that the sample provided by Respondent for drug analysis is diluted to

an extent that it cannot be analyzed, will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions

- r Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order
- s Respondent shall participate in any therapy and/or aftercare that the Division and the Board may require. Any therapist from whom Respondent has or will receive treatment must be approved by the Division and Board, and Respondent shall direct and authorize Respondent's therapist to discuss Respondent's diagnosis, treatment, and prognosis with the Division and the Board. Respondent shall direct Respondent's therapist evaluations to the Board that address Respondent's progress in treatment and Respondent's prognosis. Respondent may be subject to reevaluation upon notice and opportunity to be heard.
- t Respondent shall participate in a professional support group to address Respondent's use of controlled substances. Documentation that reflects Respondent's continuing and regular attendance at such support group meetings shall be provided to the Division on a quarterly basis. "Regular attendance" means Respondent shall attend the support group at least two times per month.
- u Respondent shall attend a 12-step program, obtain a 12-step program sponsor, comply with the requirements of the 12-step program, and submit quarterly reports to the Division documenting Respondent's participation. The frequency of Respondent's participation in the 12-step program shall be monitored and approved by the Board. Unless otherwise directed, Respondent shall attend at least two times per month.
- v The Division may take appropriate action to impose sanctions if (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by an administration or prescription by a lawful practitioner for a current medical condition, or (ii) Respondent violates any federal, state or local law relating to Respondent's practice, the Controlled Substance Act, or a term or condition of this Stipulation and Order. Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law.
- w Respondent shall not fill prescriptions for controlled substances for the Respondent or Respondent's immediate family.
- x Respondent shall practice pharmacy only under the on site supervision of a licensed pharmacist who knows of this Stipulation and Order and who is not under an administrative sanction with the Division.

9 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification

10 Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's practice of Pharmacy

11 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order There are no verbal agreements that modify, interpret, construe or affect this Stipulation

12 The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board Failure to complete a term or

condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions

13 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction

14 Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
DIANA BAKER, MSRN
Bureau Manager

DATE 7/2/07

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY 
KARL G. PERRY
Counsel for the Division

DATE 6/28/07

RESPONDENT

BY 
REID H. ACORD, RPH

DATE June 19, 2007

BY 9-5
GEORGE S. DIUMENTI II
Attorney for Respondent

DATE 6-21-07

ORDER

THE ABOVE STIPULATION, in the matter of **REID H. ACORD, RPH**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 5 day of July, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F DAVID STANLEY
Director