

Ron R. Kunzler (# 4360)
Assistant Attorney General
Mark L. Shurtleff (# 4666)
Utah Attorney General
Commercial Enforcement Division
Heber M. Wells Building
160 East 300 South, 5th Floor
Box 140872
Salt Lake City, UT 84114-0872
Telephone (801) 366-0310

**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
STEVEN RICHARD PACK, M.D.
TO PRACTICE AS A PHYSICIAN AND
SURGEON AND TO ADMINISTER AND
PRESCRIBE CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

STIPULATION AND ORDER

Case No. DOPL 2005-288

STEVEN RICHARD PACK, M.D. ("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's signature below signifies that Respondent has consulted with his

attorney, Robert Harrison, and is satisfied with his attorney's advice

4 Respondent understands that Respondent is entitled to a hearing before the Utah State Physician Licensing Board ("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 waives the right to the issuance 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 the following facts

- a Respondent failed to maintain controls over controlled substances which would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances,
- b Respondent was unable to account for shortages of controlled substances in the controlled substance inventory for Respondent's office
- c On at least two occasions, Respondent wrote prescriptions in employee's names, telling the employees they were for office use After the employee returned with the medications, Respondent was unable to account for the medications
- d Respondent failed to maintain records of the receipt and distribution of office use medications

- e On or about September 11, 2006, Respondent entered a plea of guilty, to be held in abeyance and dismissed within twenty-four months, to two counts, a Third Degree Felony, of Controlled Substances, Prohibited Acts C, issuing an improper prescription in violation of Utah Code Ann § 58-37-8(3)(a)(iii)(2004)

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501 (2) (c) and Utah Administrative Code R156-37-502 (2) (4) and (5) and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401 (2) (a) Therefore, Respondent agrees that an Order shall be entered in this matter as follows

- a Respondent's license to practice as a physician/surgeon shall be suspended
However, the suspension on his license to practice as a physician/surgeon shall be stayed and said license shall be placed on a five (5) year probation subject to the terms and conditions of this Stipulation and Order Respondent shall identify a supervising physician who is not related to the Respondent, who has no financial, business, or personal relationship with the Respondent and who is in good standing with the Division on or before his initial meeting with the Division and the Board as provided in paragraph 8 d Respondent shall cause the supervising physician to meet with the Board at the first meeting with the Board following the effective date of the Order, to discuss oversight issues and the responsibilities expected of the supervising physician The supervision physician must be approved by the Board and upon reinstatement of Respondent's license to administer and prescribe controlled substances, the supervising physician will agree to supervise controlled substance prescribing practice issues with the

Respondent, consult with the Respondent on a weekly basis, review 10% of his charts each month to determine appropriate compliance with standards and ethics of care as to controlled substance practice issues and submit performance evaluations for the Respondent to the Board on a quarterly basis with regard to those patients who require controlled substances. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a physician, Respondent shall submit the employer performance report form on the date it is due and indicate on the form that the Respondent is not currently practicing as a physician or that the Respondent is not currently working. Any cost of supervision shall be the Respondent's responsibility.

- b Respondent's license to administer and prescribe controlled substances shall be revoked. However, the revocation on his license to administer and prescribe controlled substances shall be stayed and the license shall be suspended until Respondent has complied with all of the terms and conditions of this stipulation and paragraphs 8 d f g h. Upon completion of the required education courses and compliance with the terms and conditions of this stipulation and upon verification and review by the Division and Board that the terms and conditions of this stipulation have been satisfied, Respondent's license to administer and prescribe controlled substances shall be reinstated and placed on probation for a period to be concurrent with the remaining probationary term of Respondent's license to practice as a physician and surgeon.
- c During the period of probation on Respondent's license to administer and prescribe controlled substances, Respondent shall maintain a log documenting all

controlled substances that Respondent directly administered to patients or used in conjunction with any treatment or procedure of Respondent's practice. The log shall document the name of the patient to whom the controlled substance was administered or used, the procedure performed, the date of administration or use, the type of medication used, and the amount of medication used. The information recorded in the log shall also be documented in the patient chart. Respondent shall present this log to the Board for its review at each quarterly meeting or as otherwise directed. Respondent shall issue controlled substance prescriptions only on sequentially numbered triplicate prescription forms. The triplicate copies of all such prescriptions shall be provided to the Division monthly by Respondent.

- d Respondent shall meet with the Board within thirty[✓] days of the signing of this Stipulation and Order. Respondent shall cause the supervising physician to meet with the Board at this meeting to discuss oversight issues and the responsibilities expected of the supervising physician regarding Respondent's controlled substance prescribing practice. 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.
- e Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- f Respondent shall attend a national ethics course[✓] approved by the Board and provide proof of completion to the Division and Board within 8 months of the effective date of this Order.

g Respondent shall attend a controlled substances prescribing course approved by the Board and provide proof of completion to the Division and Board within 6 months of the effective date of this Order. Respondent shall also complete an additional 5 hours of Continuing Medical education, category 1 credits regarding the legal aspects of prescribing controlled substances within 12 months of the effective date of this Order.

h Respondent shall attend a medical records course approved by the Board and provide proof of completion to the Division and Board within 12 months of the effective date of this Order.

i The Division may take appropriate action to impose sanctions if 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.

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 prejudice 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 as a Physician/Surgeon.

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*
DIANA BAKER
Bureau Manager

DATE 6/14/07

MARK L SHURTLEFF
ATTORNEY GENERAL

BY *Ron R. Kunzler*
RON R KUNZLER
Counsel for the Division

DATE 6 14 07

RESPONDENT

BY *Steven R. Pack*
STEVEN R PACK, M D 6/11/07

DATE 6/11/07

APPROVED AS TO FORM

BY *Robert Harrison*
ROBERT HARRISON
Counsel for the Respondent

DATE June 12, 2007

ORDER

THE ABOVE STIPULATION, in the matter of **STEVEN RICHARD PACK, M.D.**, 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 15 day of June, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



DAVID STANLEY
Director

INVESTIGATOR CHERYL PULSIPHER