

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
DAVID NELSON DODD
TO PRACTICE AS A PHYSICIAN ASSISTANT
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

:
:
: **ORDER REINSTATING LICENSE**
:
:
: Case No. DOPL-2005-52
:

BY THE DIVISION:

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated November 30, 2005, and Amended Order, dated April 9, 2009, in the above-referenced case number.

IT IS HEREBY ORDERED the probation and conditions on the licenses of DAVID NELSON DODD to practice as a physician assistant and to administer and prescribe controlled substances are terminated and said licenses be reinstated with full privileges effective the date of this Order.

Dated this 31 day of August, 2009.



MTB
Mark B. Steinagel
Director

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
DAVID NELSON DODD : **AMENDED ORDER**
TO PRACTICE AS A PHYSICIAN ASSISTANT : Case No.
AND TO ADMINISTER AND PRESCRIBE : DOPL-2005-52
CONTROLLED SUBSTANCES :
IN THE STATE OF UTAH :

BY THE DIVISION:

The Division's Stipulation and Order, dated November 30, 2005, in the above-referenced case is hereby amended as follows:

IT IS HEREBY ORDERED that a license to administer and prescribe controlled substances Schedules II-V is reissued to Respondent effective the date of this Amended Order. Said controlled substance license is placed on probation for the remainder of the probationary period that currently applies to his physician assistant license and consistent with the conditions identified in the November 30, 2005 Stipulation and Order, paragraph (8)(b) and the following conditions:

1 Respondent shall complete a prescribing course to familiarize himself with the categories of drugs. The prescribing course may count toward the continuing education requirement for his physician assistant license.

2. Respondent shall read the book "Responsible Opioid Prescribing" and the FSMB Model Practice Policy for controlled substances to assist him as he has been out of prescriptive practice since 2005. Respondent is to report to the Board upon the successful completion of this requirement.

All other conditions and restrictions identified in the November 30, 2005 Stipulation and Order shall remain the same and in effect, unless previously amended

Dated this 9 day of April, 2009



F. David Stanley
Division Director



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
DAVID NELSON DODD
TO PRACTICE AS A PHYSICIAN ASSISTANT
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

:
:
: **AMENDED ORDER**
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:
:
: Case No. DOPL-2005-52
:

BY THE DIVISION:

The Division's Stipulation and Order, dated November 30, 2005, in the above-referenced case number is hereby amended as follows:

IT IS HEREBY ORDERED the probationary condition requiring Respondent to work a minimum of 16 hours per week as a physician assistant to be counted toward his probationary period be amended to allow Respondent work 10 to 12 hours per week as a physician assistant and have those hours count toward the probationary period

All other conditions and restrictions in the November 30, 2005 Stipulation and Order shall remain the same and in effect.

Dated this 5 day of January, 2009


F David Stanley
Division Director

DAVID W GEARY (6878)
Assistant Attorney General
MARK L SHURTLEFF (4666)
Utah Attorney General
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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

THE MATTER OF THE LICENSES OF
DAVID NELSON DODD TO PRACTICE
AS A PHYSICIAN ASSISTANT AND TO
ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES IN THE
STATE OF UTAH

STIPULATION AND ORDER

Case No DOPL-2005- 52

DAVID NELSON DODD ("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 attorneys, Richard Van Wagoner and Robert Harrison regarding this matter
- 4 Respondent understands that Respondent is entitled to a hearing before the Utah State Physician Assistant 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 was involved in a shared office space arrangement with Dr Alexander Theodore, MD
 - b Respondent renewed prescriptions for Oxycontin for Dr Theodore's patients in reliance upon Dr Theodore's assertion of a legitimate medical purpose and a proper diagnosis indicating use of that drug in the amounts prescribed or provided, but without conducting his own independent assessment,

- c Respondent engaged in practice as a licensed physician assistant while not under the appropriate supervision of a supervising physician or substitute supervising physician. The supervising physician was not competent to supervise Respondent in the area of Respondent's practice providing weight loss services.
- d Respondent further provided pain management services to Dr. Theodore's patients without special training in the area of pain management and without appropriate supervision by a supervising physician.
- e On the advice of counsel, Respondent surrendered his DEA registration to administer and provide controlled substances while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress.

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501 (2)(a) and § 58-70a-503, and unlawful conduct as defined in Utah Code Ann. § 58-70a-502, and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401 and § 58-70a-401. Therefore, Respondent agrees that an Order shall be entered in this matter as follows:

- a The Respondent's license to practice as a licensed physician assistant shall be revoked. That revocation shall be immediately stayed and the Respondent's license shall be subject to a term of probation for a period of five (5) years. The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order. During the period of 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.

- b. Respondent's license to administer and prescribe controlled substances in the State of Utah shall be revoked. The Board may consider reinstatement of Respondent's license to administer and prescribe controlled substances upon the conclusion of the probationary period of Respondent's license to practice as a Licensed Physician Assistant, verification that Respondent is eligible for a DEA registration, and successful completion of a PACE prescribing course on proper prescription practice. If the Board and the Division reinstates Respondent's license to administer and prescribe controlled substances during the probationary period, Respondent shall issue controlled substances prescriptions only on preprinted sequentially numbered triplicate prescription forms. The Respondent shall provide the original copy to the patient, the second copy shall be affixed to the patient record, and the third copy shall be provided to the Division on a monthly basis. Respondent shall, at Respondent's own expense, make arrangements to have a reviewing physician, who must be approved by the Board and the Division, monitor Respondent's controlled substance prescribing and to submit quarter reports regarding the appropriateness of Respondent's prescribing practices.

- c. The Respondent shall pay a fine of \$2,000.00 (two-thousand dollars) within 30 days of the effective date of this Stipulation and Order.

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- d The Respondent shall cooperate in the investigation and prosecution of other licensees and be defendants in criminal actions arising from the events described herein
- e 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
- f 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
- g If Respondent leaves the State of Utah 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
- h 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.

i Respondent must maintain a current license to practice as a licensed physician assistant at all times during the period of this agreement.

j Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

k 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.

l In the event Respondent does not practice as a Licensed Physician Assistant 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.

n 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, or at greater or lesser time as decided by the Board and the Division. 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 Licensed Physician Assistant, 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.

n 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.

o Respondent shall identify a supervising physician who is in good standing with the Division. Respondent shall work only under the direct supervision of an

approved supervising or substitute supervising physician in accordance with a delegation of services agreement, and 100 % of all inpatient and outpatient charts shall be reviewed and countersigned by the supervising or substitute supervising physician. The supervising physician must be approved by the Board and shall consult with Respondent at minimum on a weekly basis regarding practice issues. Respondent shall cause the supervising physician to meet with the Board at the first meeting with the Board following the effective date of this Order, to discuss oversight issues and the responsibilities expected of a supervising physician. Respondent shall further cause the supervising physician to submit performance evaluations to the Board on a quarterly basis. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a Licensed Physician Assistant, Respondent shall submit the employer performance report form on the date it is due and indicate on the form that Respondent is not current practicing as a physician or that Respondent is not currently working.

p "Direct supervision" means the supervising physician is:

- i Physically present at the point of patient treatment on site where the physician assistant he is supervising is practicing, and
- ii Immediately present onsite and available for consultation with the physician assistant

q Respondent shall provide a copy of the "Delegation of services agreement" developed with the supervising physician to the Board at the first meeting with the

Board following the effective date of this Order. The "Delegation of services agreement" shall specifically exclude Respondent from administering or prescribing controlled substances.

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 licensed Physician Assistant.
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

RESPONDENT

By 
DIANA BAKER
Bureau Manager

By 
DAVID NELSON DODD

DATE 11/24/05

DATE 11/11/05

MARK L. SHURTLEFF
ATTORNEY GENERAL

By David W. Geary
DAVID W GEARY
Counsel for the Division

By Richard Van Wagoner
RICHARD VAN WAGONER
ROBERT HARRISON
Counsel for the Respondent

DATE 11/28/05

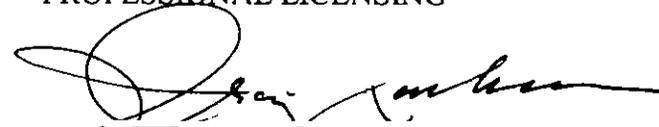
DATE 11/17/05

ORDER

THE ABOVE STIPULATION, in the matter of **DAVID NELSON DODD**, 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 30th day of November, 2005

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


J CRAIG JACKSON
Director