

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
ALEXANDER THEODORE, MD
TO PRACTICE AS A PHYSICIAN/SURGEON
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

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AMENDED ORDER

: Case No. DOPL-2005-53

BY THE DIVISION:

The Division's Stipulation and Order, dated May 9, 2005, is hereby amended as follows:

IT IS HEREBY ORDERED the probationary condition requiring Respondent to meet with the Physicians Licensing Board on a quarterly basis be amended to require meetings with the Board once a year unless Respondent intends to return to the practice of medicine in Utah.

All other conditions and restrictions identified in the May 9, 2005 Stipulation and Order shall remain the same and in effect

Dated this 22 day of February, 2007.


F. David Stanley
Director



DAVID W. GEARY (#6878)

Assistant Attorney General

MARK L. SHURTLEFF (#4666)

Utah Attorney General

Counsel for the Division of

Occupational and Professional Licensing

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THE MATTER OF THE LICENSES OF
ALEXANDER THEODORE, MD, TO
PRACTICE AS A PHYSICIAN AND TO
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STATE OF UTAH

STIPULATION AND ORDER

Case No DOPL-2005-53

Judge Steven Eklund

ALEXANDER THEODORE, (“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 is represented

by Peter Stirba and Meb Anderson of Stirba and Associates, and that Respondent has consulted with his attorneys and is satisfied with their counsel and advice

4 Respondent understands that Respondent is entitled to a hearing before the Utah State Physicians 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 provided medical services in the area of chronic pain management without any specialized training or knowledge in chronic pain management.**
- b. **Respondent’s practice in chronic pain management was beyond the scope of the licensee’s abilities and/or education.**

8 Respondent admits that Respondent’s conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501 (2)(a), 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 The Respondent's license 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 shall not engage in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation pending his participation in an Assessment of clinical competence provided by CPEP and review of the Assessment by the licensing Board and the Division. Respondent is then required to complete the Educational Intervention plan, if any, developed by the CPEP program based upon the Assessment. Respondent shall not engage in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation until further Order as recommended by the licensing Board and adopted by the Division.
- c Respondent's license to administer and prescribe controlled substances shall be revoked. The revocation is immediately stayed and Respondent's license to administer and prescribe controlled substances is suspended.
- d Respondent's license to administer and prescribe controlled substances is suspended for a minimum of two years. The Respondent may apply for reinstatement of Respondent's controlled substance license not sooner than two years from the effective date of this Stipulation and Order, and after completion of an appropriate prescribing course as approved by the Board. At that time, the Division and Board will consider Respondent's compliance and progress with this Stipulation and Order and may approve or deny Respondent's application for reinstatement, restricted as deemed appropriate by the licensing Board.
- e If Respondent administers or prescribes any legend drugs, respondent shall immediately notify the licensing Board and Division of the administration and/or prescription, and shall provide copies of any prescriptions immediately to the licensing Board and Division. Respondent shall appear at the next licensing Board meeting after administration or prescription of any legend drug to review the circumstances of the administration or prescription.

- f If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation, Respondent shall identify a supervising physician who is in good standing with the Division. The supervising physician will agree to co-manage practice care issues with Respondent, at the expense of Respondent, especially with regard to those patients who require controlled substances upon issuance to Respondent of a license to administer and prescribe controlled substances. The supervising physician must be approved by the Board and shall consult with Respondent on a weekly basis regarding practice issues. Respondent shall cause the supervising physician to meet with the Board at the first meeting 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, initially on a monthly basis, with an option to reduce the frequency to a quarterly basis as deemed appropriate by the Board. 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 Respondent is not current practicing as a physician or that Respondent is not currently working. Any cost of supervision shall be Respondent's responsibility.
- g If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation, Respondent shall have chart reviews of 10 % of his active charts, and reports on the reviews to the Board, initially on a monthly basis. The physician reviewing the chart cannot have any financial, business, or personal relationship with Respondent and any cost of chart reviews shall be the responsibility of Respondent.
- h 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.
- i 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.

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- j 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.
- k 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.
- l If Respondent is found to be criminally culpable based on the facts related to his practices providing chronic pain management, either by a conviction, a plea of no contest, or a plea of guilty or no contest which is held in abeyance pending the successful completion of probation, the stays on the revocation of respondent's license to practice medicine and license to administer and prescribe controlled substances shall be lifted.
- m Respondent must maintain a current license at all times during the period of this agreement.
- n Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- o 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

p In the event Respondent does not practice as a physician 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.

q If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation, 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 physician], 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.

r If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation, 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.

s If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in either a commercial or non-profit situation, Respondent shall complete an additional 5 hours of CE each quarter in excess of his regular CE Requirement for renewal during the probationary period with a focus on controlled substance prescribing, substance abuse, professional ethics, and/or legal aspects of practice.

t If Respondent intends to return to engaging in the practice of medicine as defined by Utah Code Annotated § 58-67-102(8) in

either a commercial or non-profit situation, Respondent shall complete a professional ethics course as approved by the licensing Board within one year of the date of the stipulation

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 of medicine

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.

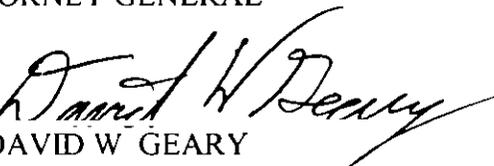
14 Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
DIANA BAKER
Bureau Manager

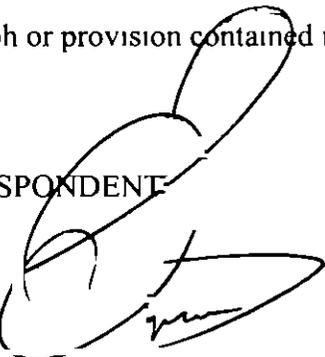
DATE *5/9/05*

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY 
DAVID W. GEARY

Counsel for the Division
DATE *May 9, 2005*

RESPONDENT

BY 
ALEXANDER THEODORE

DATE *May 6, 2005*

BY 
PETER STIRBA
MEB ANDERSON

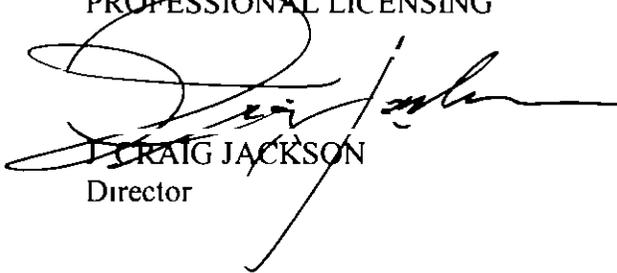
Counsel for the Respondent
DATE *May 6, 2005*

ORDER

THE ABOVE STIPULATION, in the matter of Alexander Theodore, 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 9th day of May, 2005

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



CRAIG JACKSON
Director