

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

IN THE MATTER OF THE LICENSE OF
MELANIE S. BERRY
TO PRACTICE AS A
MESSAGE THERAPIST
IN THE STATE OF UTAH

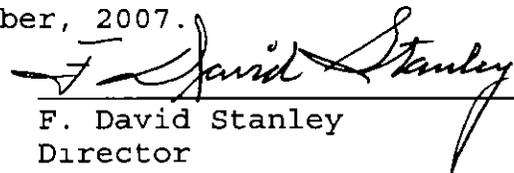
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: **ORDER REINSTATING LICENSE**
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: Case No. DOPL-2006-100
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BY THE DIVISION.

Respondent has satisfied the terms and conditions as set forth in the Division's Memorandum of Understanding and Order, dated April 25, 2006, in the above-referenced case number.

IT IS HEREBY ORDERED the probation on the license of MELANIE S BERRY to practice as a massage therapist is terminated and said license be reinstated with full privileges effective the date of this Order

Dated this 6 day of September, 2007.


F. David Stanley
Director



L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE ISSUANCE)
OF A PROBATIONARY LICENSE) **MEMORANDUM OF**
TO **MELANIE BERRY** TO PRACTICE) **UNDERSTANDING AND ORDER**
AS A MASSAGE THERAPIST)
IN THE STATE OF UTAH) **CASE NO. DOPL 2006-** 100

Melanie Berry ("Respondent") submitted an application for renewal of licensure as a Massage Therapist on or about July 13, 2005 after her license had expired on May 31, 2005. On the Qualifying Questionnaire Respondent answered "Yes" to the question on the internet renewal form which queries, "During the last two years have you surrendered a license or had disciplinary action taken against a license to practice in a regulated profession." Documentation has been received by the Division of Occupational and Professional Licensing ("Division") showing that Respondent entered into a stipulated agreement with the State of Washington's Department of Health, in which Respondent admitted that she had misrepresented the nature of a Washington counseling license to a Washington municipal court. A copy of the Washington agreement is attached and incorporated by reference to this Memorandum of Understanding and Order as Exhibit A. Respondent admitted to unprofessional conduct and agreed to a stayed suspension of her license.

Based upon the conduct described above, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued a probationary license to practice as a Massage Therapist in the State of Utah subject to the following terms and conditions, which shall be in effect for a period of two years, commencing upon the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature.

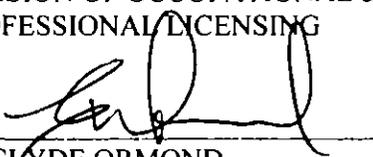
- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action. Respondent admits the conduct described above is unprofessional conduct as defined in Utah Code Annotated § 58-1-501(2)(d).
- 2 Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division to induce Respondent to enter into this agreement.
- 3 Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter.

- 4 Respondent acknowledges that this Memorandum of Understanding 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
- 5 Respondent shall successfully complete and satisfy the following terms and conditions
 - a Respondent shall meet with the Board within 30 days of the signing of this Memorandum of understanding and on a quarterly basis or at such other greater or lesser frequency as determined by the Board and the Division for the duration of the probationary period or at the Board's request thereafter Respondent agrees to meet with an assigned staff member prior to the first Board meeting for the purposes of education regarding this Memorandum of Understanding and Order
 - b Respondent shall submit quarterly "Employer Reports" to the Division documenting her work performance, if Respondent is employed as a Massage Therapist If Respondent is not employed as a Massage Therapist, Respondent shall submit the employer report form on the date it is due and indicate on the form that current employment is not in Massage Therapy or that she is not currently working
 - c Respondent shall work as a Massage Therapist only under the direct supervision of a supervisor
 - d Respondent shall provide to her employer (s) a copy of this Memorandum of Understanding and the terms and conditions relevant to her employment
 - e Respondent shall maintain her license as a Massage Practitioner in the State of Washington and comply with all the terms and conditions of the Washington agreement Respondent shall provide the Division with evidence that Respondent's licenses are in good standing with the State of Washington and that Respondent is complying with the all the terms and conditions of the Washington agreement ("Exhibit A")
- 6 Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's practice as a Massage Therapist
- 7 Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure
- 8 If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license to practice as a Massage Therapist will be lifted and Respondent's license will not be subject to further restriction
- 9 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
- 10 The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately after the Division Director signs the Order page of this Memorandum of Understanding and Order The Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner If a time period for completion of a term or condition is not specifically set forth in this Memorandum of Understanding 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 Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions

- 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. There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order.
- 12 Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order. The Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. The Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY

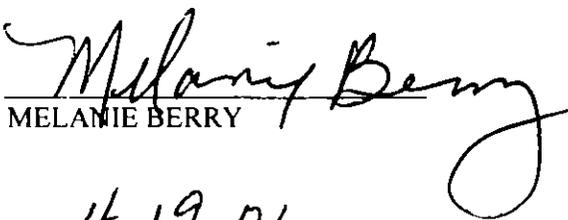

CLYDE ORMOND
Bureau Manager

DATE

4/25/06

RESPONDENT

BY

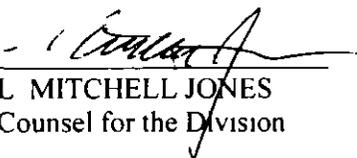

MELANIE BERRY

DATE

4.19.06

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY


L. MITCHELL JONES
Counsel for the Division

DATE

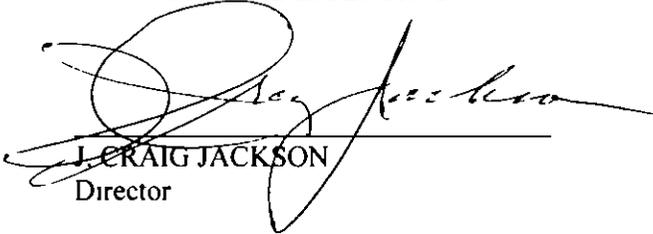
7 Feb 2006

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of MELANIE BERRY, is hereby approved by the Division of Occupational and Professional Licensing. The terms and conditions of the Memorandum of Understanding are incorporated herein and constitute my final Order in this case.

DATED this 25th day of April, 2006

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



J. CRAIG JACKSON
Director