

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P O Box 146741
Salt Lake City UT 84114-6741
Telephone (801) 530-6628

**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	:	NOTICE OF AGENCY ACTION
GREGORY JAMES MCSHERRY	:	AND ORDER TO
TO PRACTICE AS A LICENSED	:	SHOW CAUSE HEARING
SUBSTANCE ABUSE COUNSELOR	:	
IN THE STATE OF UTAH	:	Case No DOPL-OSC-2006-166

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Gregory James McSherry ("Respondent"),
Westerville OH 43081-4440.

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action and Order to Show Cause Hearing. Said action is based upon the Division's Verified Motion for Order to Show Cause, a copy of which is attached hereto and incorporated herein by reference.

The adjudicative proceeding designated herein shall be conducted on a formal basis. It is maintained under the jurisdiction and authority of the Division as set forth in §58-1-401(2). Pursuant to Utah Code Ann. §§ 63-46b-6(1) and 63-46b-1(9), and for good cause appearing, **you are required to file a written response with the Division within twenty (20) days of the mailing date of this notice.** The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Verified Petition.

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance of Counsel and until that Entry of Appearance is filed, the presiding officer will deal directly with you.

Based upon the allegations in the Division's Verified Motion for Order to Show Cause that you have violated an Order of the Division and have thereby engaged in unprofessional conduct, and good cause appearing, you are hereby ordered to appear at the date, time and place set forth below to show cause why your license to practice as a licensed substance abuse counselor in the State of Utah should not be suspended, revoked, or subjected to further disciplinary action.

You are entitled by law to an evidentiary hearing regarding this Order to Show Cause as to why your license to practice as a licensed substance abuse counselor in the State of Utah should not be suspended, revoked or subjected to further disciplinary action. Unless otherwise specified by the Director of the Division, the Substance Abuse Counselor Licensing Board will serve as fact finder in the evidentiary hearing.

Notice is hereby given that said hearing will be held on the following date and time in Conference Room 475, of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

October 3, 2007

9:00 a.m.

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder. After the hearing, unless otherwise specified by the Director of the Division, the fact finder will issue findings of fact, conclusions of law and a recommended order to the Director of the Division of Occupational and Professional Licensing for his review and action.

The presiding officer for purposes of conducting hearings will be J. Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701. His telephone number is (801) 530-6648.

Upon your timely filing of a written response to this Notice of Agency Action and Order to Show Cause as set forth above, Judge Eklund will conduct a prehearing conference with you or your attorney and counsel for the Division at the request of either party. At that prehearing conference Judge Eklund will determine the extent to which this action is contested and will make such orders as deemed appropriate.

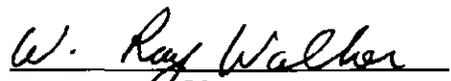
Counsel for the Division is Judith Jensen, Assistant Attorney General, at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872

You or your attorney may attempt to negotiate a settlement of this case without proceeding to a hearing by contacting Ms. Jensen.

Should you fail to timely file a written response as set forth above, or fail to attend or participate in any scheduled hearing in this case, including any prehearing conference(s), you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of this Order to Show Cause may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly.

Dated this 14th day of August, 2007


W. Ray Walker
Regulatory & Compliance
Officer

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Assistant Attorney General
MARK L SHURTLEFF (4666)
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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 LICENSE OF GREGORY JAMES MCSHERRY TO PRACTICE AS A LICENSED SUBSTANCE ABUSE COUNSELOR IN THE STATE OF UTAH	VERIFIED MOTION FOR ORDER TO SHOW CAUSE Case No DOPL OSC 2006-166
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The State of Utah, Department of Commerce, Division of Occupational and Professional Licensing (the "Division"), through Judith A Jensen, Assistant Attorney General, moves for an order requiring Gregory James McSherry ("Respondent"), to appear at a time and date certain and to show cause, if any, as to why the probation of Respondent's license should not be terminated and why Respondent's license to practice as a Licensed Substance Abuse Counselor in the State of Utah should not be revoked upon Respondent's failure to comply with the terms and conditions of the Stipulation and Order entered in the above-entitled matter on August 7, 2006. This motion is based on the factual allegations and legal argument set forth below.

FACTUAL ALLEGATIONS

1 Pursuant to a Stipulation and Order ("Stipulation") entered on August 7, 2006, the Division revoked Respondent's license, stayed revocation, and issued Respondent a probationary license to act as a Licensed Substance Abuse Counselor in the State of Utah, subject to specified terms and conditions in effect for a period of three (3) years. A copy of that Stipulation is attached as "Exhibit A" and incorporated herein by reference.

2 The Stipulation provides that failure to complete a term or condition of the Stipulation in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

3 During the period of probation, Respondent failed to complete terms and conditions of the Stipulation in a timely manner including the following:

- a Respondent failed to submit information as directed by the Licensed Substance Abuse Counselor Licensing Board (the "Board") on October 31, 2006 and on March 27, 2007 as follows:
 - (1) Respondent's new residential address and phone number,
 - (2) Documentation of medications Respondent is currently taking,
 - (3) Documentation of the outcome of medical tests,
 - (4) Reports from Respondent's treating physicians,
 - (5) A copy of UA reports,
 - (6) A letter from Respondent's long-term physician confirming Respondent's current medical diagnosis and all recommended treatment which includes any opinion regarding substance abuse issues, and
 - (7) A letter from Respondent's physician explaining the reason for prescribing suboxone instead of duprenorphone
- b Respondent failed to attend his probationary interview with the Board scheduled for February 21, 2007.

- c Respondent failed to submit the names of his prescribing practitioner and pharmacy to the Division and Board for approval
- d Respondent failed to 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 prescriptions had been written
- e Respondent failed to report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source
- f Respondent failed to register with the Division to initiate urinalysis drug screening and failed to submit to said urinalysis drug screening
- g Respondent failed to participate in a professional support group, to attend such support group at least twice per month, and to submit documentation monthly that reflects Respondent's continuing and regular attendance at such support group meetings
- h Respondent failed to cause Respondent's employer and/or clinical supervisor to verify in writing that the employer received and read a copy of the Stipulation
- i Respondent failed to cause Respondent's employer to submit monthly performance evaluations to the Board, or, in the alternative, to submit monthly employer report forms indicating either that Respondent is not currently employed in Substance Abuse Counseling or that Respondent is not currently employed
- j Respondent moved to the State of Ohio for a period longer than sixty (60) days and failed to notify the Division and Board in writing of the dates of Respondent's departure and return and failed to notify the licensing authorities of Ohio in writing of the provisions of this Stipulation and Order
- k Respondent ceased practice as a Licensed Substance Abuse Counselor for a period of sixty (60) days or longer and failed to notify the Board in writing of the date that Respondent ceased practice
- l Respondent failed to notify the Board in writing within one (1) week of any change of employer, employment status, and/or practice status

LEGAL ARGUMENT

Because Respondent is in violation of the terms and conditions of the Stipulation, he has engaged in "unprofessional conduct" as provided in Utah Code Ann § 58-1-501(2)(a) The law provides that the Division may revoke, suspend, restrict, place on probation, or otherwise act upon the license of an individual who has engaged in "unprofessional conduct " Utah Code Ann § 58-1-401(2)(a)

The Division has shown good cause for this motion. If Respondent fails to show why Respondent's probation and license to practice as a Licensed Substance Abuse Counselor in the State of Utah should not be revoked, the Division requests that a subsequent order be issued revoking Respondent's license

DATED this 11th day of July, 2007

MARK L SHURTLEFF
ATTORNEY GENERAL


JUDITH A. JENSEN
Assistant Attorney General

VERIFICATION

STATE OF UTAH)
 ss
COUNTY OF SALT LAKE)

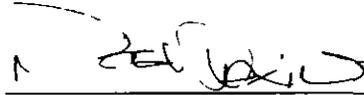
Noel Taxin, first being duly sworn, states as follows

1 I am a Bureau Manager for the Utah Division of Occupational and Professional Licensing and, as part of the responsibilities of this position, oversee the administration and regulation of licenses of Licensed Substance Abuse Counselors in

1
the State of Utah

2 I have read the foregoing motion including the section entitled "Factual Allegations " All of the factual allegations contained in the "Factual Allegations" section are true to the best of my knowledge, information, and belief

DATED this 12 day of July, 2007



NOEL TAXIN
Bureau Manager
Division of Occupational and
Professional Licensing

Subscribed and sworn to before me this 12 day of JULY, 2007



NOTARY PUBLIC

