

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 .
MICHAEL COREY SOMERVILLE : **ORDER REINSTATING LICENSE**
TO PRACTICE AS A :
RESPIRATORY CARE PRACTITIONER :
IN THE STATE OF UTAH : Case No. DOPL-2006-261
.

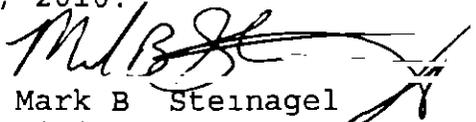
BY THE DIVISION

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated December 11, 2006, in the above-referenced case number

IT IS HEREBY ORDERED the probation on the license of MICHAEL COREY SOMERVILLE to practice as a respiratory care practitioner is terminated and said license be reinstated with full privileges effective the date of this Order.

Dated this 18 day of October, 2010.




Mark B Steinagel
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 LICENSE OF
MICHAEL COREY SOMERVILLE
TO PRACTICE AS A
RESPIRATORY CARE PRACTITIONER
IN THE STATE OF UTAH

:
:
: **AMENDED ORDER**
:

Case No. DOPL-2006-261
:

BY THE DIVISION

The Division's Stipulation and Order, dated December 11, 2006, in the above-referenced case is hereby amended as follows:

IT IS HEREBY ORDERED the probationary condition requiring Respondent to participate in the support group Professionals in Recovery (PIR) is amended to allow Respondent to participate in either Professionals in Recovery or Alcoholics Anonymous (AA) meetings.

All other conditions and restrictions identified in the December 11, 2006 Stipulation and Order shall remain the same and in effect

Dated this 10 day of September, 2007,



F. David Stanley
F. David Stanley
Director

I
L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
Heber M Wells Building
Box 146741
Salt Lake City, UT 84114-6741
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 LICENSE OF)
MICHAEL COREY SOMERVILLE) **STIPULATION AND ORDER**
TO PRACTICE AS A)
RESPIRATORY CARE PRACTITIONER) **CASE NO DOPL 2006-- 261**
IN THE STATE OF UTAH)

MICHAEL COREY SOMERVILLE ("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

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3 Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter

4 Respondent understands that Respondent is entitled to a hearing before the Utah State Board of Respiratory Care Practitioners ("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 entered into a Stipulation and Order with the Division on or about April 24, 2006 in DOPL Case No 2006-97 A copy of the Stipulation and Order in DOPL Case No 2006-97 is attached and incorporated by reference to this Stipulation and Order as Exhibit A Pursuant to Exhibit A, Respondent's license was indefinitely suspended
- b Respondent has recently made application that the indefinite suspension against Respondent's license be lifted Respondent has submitted a psychosocial assessment report from a professional counselor addressing Respondent's condition and recommending that Respondent could safely practice as a Respiratory Care Practitioner Respondent has also submitted a psychological evaluation report with the recommendation that Respondent may safely practice as a Respiratory Care Practitioner

- c Respondent desires to enter into this subsequent Stipulation and Order in order that the suspension on Respondent's license be lifted

8 Respondent admits that Respondent's conduct as set forth in the Stipulation and Order in DOPL Case No 2006-97 above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(f), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-501(2)(a) Respondent agrees that an Order, which constitutes disciplinary action, shall be entered in this matter as follows

- (a) The suspension of Respondent's license is hereby lifted The Division may take action to suspend or take any other lawful action against Respondent's license in the future
- (b) Respondent's license is hereby revoked The revocation is immediately stayed and Respondent's license is placed on probation, subject to the terms and conditions below, for a period of three (3) years Respondent may request early termination of probation one year after the effective date of this Stipulation and Order Probation will not be terminated early unless Respondent proves to the satisfaction of the Division and Board that Respondent has fully complied with the terms and conditions of this Stipulation and Order The period of probation shall begin on the effective date of this Stipulation and Order, which is the date that the Division Director approves the Stipulation and Order as signified by his signature
- (c) Respondent shall meet with the Board and Division at the first scheduled Board meeting following the effective date of this Stipulation and Order Respondent shall provide the Board and Division with a plan for Respondent's treatment including the name(s) of the evaluators, prescribing practitioner, and dispensing pharmacy
- (d) Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or possession of alcohol in any form Respondent agrees to abstain from the personal use or possession of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which

the substance is intended

- (e) Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy. Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner. All prescribing practitioners must be informed of any and all of Respondent's addiction/abuse problems. Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required. Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval. Respondent shall 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 prescription has been written.
- (f) Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division within forty-eight (48) hours of being issued. Respondent shall report to the Division within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual.
- (g) Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source.
- (h) Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order.
- (i) Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing. The designated company may also request such samples and Respondent shall comply with such requests. The Division shall determine when and where Respondent is to submit himself for testing. Respondent shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from a drug testing company that indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions. Any drug test result or pattern of results that indicates that the

sample provided by Respondent for drug analysis is diluted to an extent that it cannot be analyzed, will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions

- (j) Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order
- (k) Respondent shall participate in any therapy and/or aftercare that the Division and the Board may require after completion of Respondent's treatment program. Any treatment program or therapist from whom Respondent has or will receive treatment must be approved by the Division and Board, and Respondent shall direct and authorize Respondent's therapist to discuss Respondent's diagnosis, treatment, and prognosis with the Division and the Board. Respondent shall direct Respondent's therapist or aftercare provider to submit quarterly evaluations to the Board that address Respondent's progress in treatment and Respondent's prognosis
- (l) Respondent shall participate in any therapy, counseling or aftercare that the Division or Board may require, even if no therapy, counseling or aftercare was recommended by an evaluator
- (m) Respondent shall participate in the support group Professionals in Recovery ("PIR") to address Respondent's use of controlled substances. Documentation that reflects Respondent's continuing and regular attendance at PIR meetings shall be provided to the Division on a quarterly basis. "Regular attendance" means Respondent shall attend PIR at least two times per month
- (n) The Division may take appropriate action to impose sanctions if (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by an administration or prescription by a lawful practitioner for a current medical condition, or (ii) 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
- (o) Respondent shall practice only under the supervision of a Division and Board pre-approved supervisor during the term of Respondent's probation. Any changes in supervision may be made only with the consent of the Division and Board. Respondent shall deliver a copy of this Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division in

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writing that a copy has been received

- (p) In the event Respondent does not practice as a Respiratory Care Practitioner 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 twelve (12) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession.
- (q) Respondent shall cause Respondent's supervisor to submit reports to the Board and Division assessing Respondent's compliance with the terms of Respondent's probation and ethics. The reports shall be submitted monthly for the first six months, and quarterly thereafter, or at such frequency as directed by the Board and Division. The receipt of an unfavorable report may be considered to be a violation of probation.
- (r) If Respondent is not currently employed in Respondent's licensed profession, Respondent shall submit the supervisor report form on the date it is due and indicate on the form that Respondent is not currently employed in Respondent's licensed profession, or that Respondent is not currently working.
- (s) Respondent shall notify any employer of Respondent's restricted status and the terms of this Stipulation and Order. Respondent shall provide a copy of this Stipulation and Order to Respondent's employer and cause Respondent's employer to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the employer. The employer shall submit employer reports to the Division and Board on a quarterly basis to the Division, or at such frequency as directed by the Division or Board. The employer shall write the Division and indicate whether the employer will comply with the reporting requirements.

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,

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except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification

10 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

11 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 Respiratory Care Practitioner Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address

12 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

13 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*

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DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

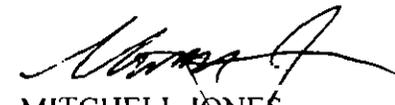
BY 
NOEL TAXIN
Bureau Manager

BY 
MICHAEL COREY SOMERVILLE

DATE *12/6/06*

DATE *12/6/06*

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

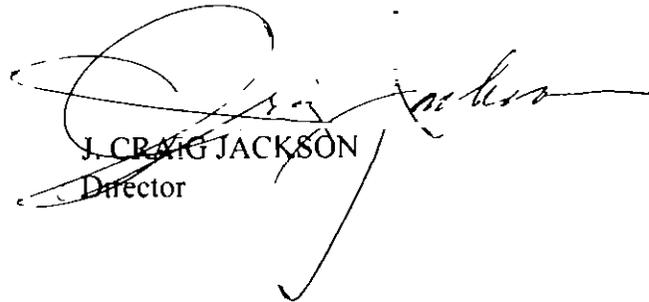
DATE *6 Dec 2006*

ORDER

THE ABOVE STIPULATION, in the matter of **MICHAEL COREY SOMERVILLE**, 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 17th day of December, 2006

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


J. CRAIG JACKSON
Director

INVESTIGATOR NOFI TAXIN