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

IN THE MATTER OF)
HEATHER DAWN FIVAS) **STIPULATION AND ORDER**
PRACTICING AS A REGISTERED NURSE)
IN THE STATE OF UTAH) **CASE NO DOPL 2007-- 101**
WITHOUT A LICENSE)

HEATHER DAWN FIVAS ("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 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 Nursing ("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 are true

- a On or about January 31, 2007 and again on or about March 23, 2007, Respondent took nursing board examinations and failed both times Respondent has never been licensed as a nurse in the State or Utah or any other state
- b On several occasions between January 2007 and May 2007, while working at Millcreek Women's Center, Respondent signed her name on medical documents as "H Fivas, RN "

8 Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann § 58-31b-501(1)(d) and that said conduct provides a basis for the

Division to issue an Order restraining Respondent from engaging in the unlicensed practice of nursing pursuant to Utah Code Ann § 58-1-401(4) Respondent agrees an Order shall be issued in this matter providing for the following action against Respondent

- (1) Respondent shall pay a fine to the Division of ~~\$1,000.00~~ ^{150.00} (one thousand ^{one hundred & fifty} dollars), pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402, due and payable within ~~90 days of~~ ^{1 year} the effective date of the Order in this matter
- (2) Respondent shall cease and desist from engaging in the practice of nursing in the State of Utah, until Respondent is properly licensed to do so Respondent shall not sign medical documents representing herself as a nurse

9 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative 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 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 Respondent agrees the Division may issue an Order requiring Respondent to cease and desist form engaging in the practice of nursing as defined in Utah Code Ann § 58-31b-101 through § 58-31b-801, until Respondent is properly licensed to do so Respondent agrees to obey the Order and cease and desist from engaging the in the practice of nursing as defined in Utah Code Ann § 58-31b-101 through § 58-31b-801, until Respondent is properly licensed to do so

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. Respondent understands that failure to comply with this Order may subject Respondent to a civil penalty of up to \$2,000 (two-thousand dollars) for each day the order is violated pursuant to Utah Code Ann. § 58-1-503(1).

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.

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 *Laura Poe*
LAURA POE
Bureau Manager

DATE *5-7-07*

MARK L SHURTLEFF
ATTORNEY GENERAL

BY *L. Mitchell Jones*
L. MITCHELL JONES
Counsel for the Division

DATE *07 Mar 2007*

RESPONDENT

BY *Heather Dawn Fivas*
HEATHER DAWN FIVAS
Respondent

DATE *510*

ORDER

THE ABOVE STIPULATION, in the matter of **HEATHER DAWN FIVAS**, 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 9 day of May, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY
Director

Investigator Irene Gayheart