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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 RESTRICTED LICENSE TO PAUL WADE
WYATT TO PRACTICE AS A PHYSICIAN
AND SURGEON IN THE STATE OF UTAH

**MEMORANDUM OF
UNDERSTANDING AND ORDER**

Case No DOPL 2007- 102

PAUL WADE WYATT ("Respondent") submitted an application for licensure as physician and surgeon and to prescribe and administer controlled substances in the State of Utah on or about January 3, 2007. On the Qualifying Questionnaire Respondent answered "yes" to questions #3, #5, #6, #7, and #13. Documentation has been received by the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") showing that in or about December 2004 Respondent entered into an Agreement for Corrective Action ("Minnesota Agreement") with the Minnesota Board of Medical Practice based upon a departure from or failure to conform to minimum standards of acceptable and prevailing medical practice. Respondent agreed that his conduct constituted a reasonable basis in law and fact to justify corrective action under Minnesota statute. The Minnesota Agreement required Respondent to present a comprehensive paper focusing on the reduction of post-surgical infections, the use of failure mode effects analysis and statistical control charting to detect when processes are leading to unanticipated high rates of complications, summarization of problem and procedure causing his infection rate to be above the national average, and a description of procedural changes made in correcting the problems or preventative steps taken to reduce post-operative infections. Respondent was also required to submit written protocol addressing his post-surgical complications and care of patients when he was not available. The Minnesota Agreement did not constitute disciplinary action in Minnesota. However, in June 2005 the Minnesota Board of Medical Practice allowed Respondent to cancel his Minnesota license to practice medicine if the Board was not investigating the person or if the Board had not begun disciplinary proceedings.

against the person. The cancellation of the license did not effect Respondent's good standing and did not imply a derogatory status of the license. Respondent opted to cancel his Minnesota licenses. Respondent's current verification of licensure from Minnesota states that his license was resigned and is inactive with corrective action, but no disciplinary action.

Respondent then moved to Wyoming. The Wyoming Board of Medicine opened a docket based on three patient complaints, as well as other complaints, and information provided to the Board by Respondent, including the Minnesota Agreement of Corrective Action. According to documents from the Wyoming Board, the Minnesota Agreement for Corrective Action contained allegations that, if proven, could violate one or more provisions of the Wyoming Medical Practice Act. The outcome of the Wyoming investigation was an Order ("Wyoming Order") to summarily suspend Dr. Wyatt's license to practice medicine in Wyoming on or about June 6, 2006. Following the June 2006 Order, the Wyoming Board of Medicine received 12 additional patient complaints. The Wyoming Order was then modified on or about June 22, 2006 after a contested hearing to permit Respondent to engage in and conduct non-surgical, non-invasive, ophthalmological practice restricted to conducting examinations of the eye, prescribing and fitting corrective lenses (eye glasses and contact lenses), and prescribing medications for treatment of ophthalmological conditions only. Respondent was not permitted to perform or assist in the performance of any surgical or invasive procedures of any kind or any other ophthalmological procedures or practice other than specifically described above.

In August 2006, Respondent and the Wyoming Board entered into a consent decree ("Wyoming Consent Decree"). In lieu of a contested case hearing regarding new allegations, the Wyoming Consent Decree required that Respondent undergo an evaluation conducted by Dr. Michael Crookston in Salt Lake City, and to train with the ophthalmology program at the University of Utah's Moran Eye Clinic. The Wyoming Consent Decree constituted disciplinary action against Respondent's Wyoming license. Six months after the signing of the Wyoming Consent Decree, Respondent was also allowed to petition the Wyoming Board to remove the restrictions on his Wyoming licenses. Respondent would have the burden of proof to establish by preponderance of the evidence that the restrictions should be removed and that Respondent was able to practice medicine safely, skillfully, and competently without restriction on his license.

Respondent is scheduled to meet with the Wyoming Board during their June 2007 meeting to present his evidence. A decision to remove the restrictions against Respondent's Utah physician license identified in this Memorandum of Understanding and Order will be determined after receiving the decision from the Wyoming Board of Medicine. Respondent has been instructed by the Utah Physician Licensing Board ("Board") to provide this information as well as any other documentation Respondent can obtain in order to aid the Division and the Board in making the decision to remove the restrictions against Respondent's Utah physician license identified in this Memorandum of Understanding.

Based upon Respondent's interview with the Board regarding the corrective action taken in Minnesota and disciplinary action taken in Wyoming, Respondent and the Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall

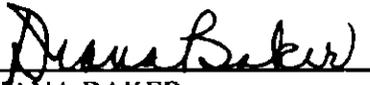
be issued a restricted license to practice as a physician and surgeon in the State of Utah, subject to the following terms and conditions, commencing upon the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature

- 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 Ann § 58-1-501(2)(d) Respondent understands that the issuance of the Order in this matter is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2)
- 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's Utah physician and surgeon license shall be subject to the following terms and conditions
 - a Respondent's Utah physician license shall be indefinitely restricted to the practice of medical ophthalmology Respondent shall not perform or assist in the performance of any surgical or invasive procedure of any kind outside of the practice medical ophthalmology
 - b Respondent may apply in person or in writing to the Division for removal of the restrictions describe above once Respondent has received the documentation from the Wyoming Board described above
 - c The Division and Board may consider any matters received from any other jurisdiction as well as any other evidence or supporting investigating materials regarding Respondent's medical licenses in deciding whether or not to lift the restriction on Respondent's Utah physician license
 - d Respondent shall meet with the Division and Board whenever requested by the Division or Board

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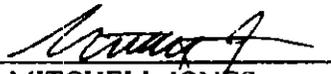
- 6 Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's licenses to practice as a physician and surgeon and to prescribe and administer controlled substances
- 7 Respondent understands that the issuance of a license pursuant to this 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 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
- 9 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 adhere to all the terms and conditions contained in the Memorandum of Understanding and Order
- 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. 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. Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
DIANA BAKER
Bureau Manager

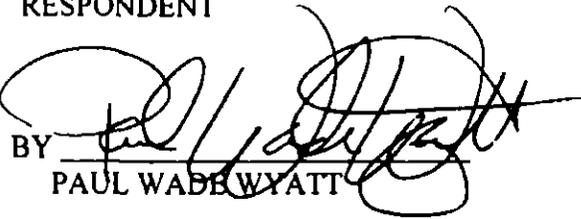
DATE 7 May 07

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

DATE 27 Apr 2007

RESPONDENT

BY 
PAUL WADE WYATT

DATE 30 APRIL 2007

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **PAUL WADE WYATT**, is hereby approved by the Division of Occupational and Professional Licensing. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2). The terms and conditions of the Memorandum of Understanding 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