

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
TEL (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 G. MCMAHAN)	STIPULATION AND ORDER
TO PRACTICE AS A)	
PHYSICIAN ASSISTANT)	CASE NO DOPL 2007-- 125
IN THE STATE OF UTAH)	

MICHAEL G. MCMAHAN ("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 State of Utah's Physician Assistant Licensing Board ("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 August 27, 1986 Respondent was initially licensed to practice as a physician assistant in the State of Utah
- b In or about 1986 Respondent was first employed as a physician assistant at Brian Head Medical Clinic and Zion Canyon Medical Clinic. Brian Head Medical Clinic and Zion Canyon Medical Clinic are licensed as Class B branch pharmacies. Respondent is currently employed at and is a part owner of both facilities
- c During an interview with a Division investigator in January 2007 Respondent was unable to locate or produce a copy of his Physician Assistant Delegation of Services Agreement. Respondent told the

Division investigator that he entered into a Delegation of Services Agreement with a physician

- d In or about January 2007 while meeting with Division investigators Respondent admitted that for the past several years Respondent purchased prescription medications, including controlled substances, from Stapley Pharmacy in St George Utah Stapley Pharmacy maintains branch pharmacies at Brian Head Medical Clinic and Zion Canyon Medical Clinic Respondent would purchase prescription medications himself to maintain stock for the two clinics Respondent would add a \$5 00 service fee to the cost of each individual prescription dispensed by Respondent to patients at the two clinics Respondent, on behalf of the clinics, then billed the patient and/or the patient's insurance for the cost of the medication The clinics received payment for the medications, not Stapley Pharmacy

8 Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann § 58-1-501(1)(a), and as unprofessional conduct as defined in § 58-1-502(1)(a) § 58-17b-102(7) § 58-17b-501(11) and § 58-70a-503(4) and (5) Respondent also recognizes such conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and (b) Respondent agrees an Order which constitutes disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2), may be issued in this matter providing for the following action against his license

- (1) Respondent shall be publicly reprimanded for engaging in the conduct described in Paragraph 7 above
- (2) Respondent shall immediately cease and desist from engaging in the conduct described above and the practice of pharmacy without a license
- (3) Respondent shall pay a fine of \$1,000 00 (one-thousand dollars) to the Division, pursuant to Utah Code Ann § 58-17b-504, within 90 days of the effective date of this Supulation and Order
- (4) Respondent shall meet with the Board within thirty (30) days of the signing of the accompanying Order

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, 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 to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's practice as a physician assistant.

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

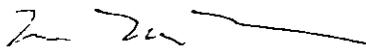
13 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

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 
DIANA BAKER
Bureau Manager

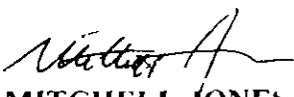
RESPONDENT

BY 
MICHAEL G. MCMAHAN
Respondent

DATE June 11, 2007

DATE 6-8-07

MARK L. SHURLEFF
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE - 11 June 2007

ORDER

THE ABOVE STIPULATION in the matter of **MICHAEL G. MCMAHAN**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. **MICHAEL G. MCMAHAN** is hereby publicly reprimanded. 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 Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 14 day of June, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY
Director

Investigator: Sandra Hless