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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 THE LICENSE OF) **STIPULATION AND ORDER**
BARBARA L. JOLLEY-MUMM)
TO PRACTICE AS A)
LICENSED PRACTICAL NURSE) **CASE NO DOPL 2007-- 158**
IN THE STATE OF UTAH)

BARBARA L. JOLLEY-MUMM ("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 In about 1978 or 1979 Respondent's license to practice as a practical nurse in the State of Wyoming lapsed Respondent was not licensed as nurse for approximately 25 years On or about June 16, 2006, Respondent was licensed as a practical nurse in the State of Utah
- b In or about February 2004 Respondent was hired as a correctional officer at the Beaver County Correctional Facility In or about June 2004 Respondent was transferred to the medical unit at Beaver County Correctional Facility
- c On or about August 24, 2004, inmate B G (full name withheld for purposes of confidentiality) complained of abdominal pain and being unable to breathe Respondent administered Ibuprofen 800 mgm and told

B G to calm down and control his breathing B G. continued to complain that his appendix was hurting Respondent took B G's vital signs and palpated his stomach area B G flinched when palpated on the lower left side There was no response when palpated on the right side Respondent diagnosed B G with possible gas in the intestinal tract Respondent failed to document any treatment administered Respondent was not licensed as a nurse in the State of Utah at the time

- d On or about May 24, 2006, inmate A R (full name withheld for purposes of confidentiality) complained of some bumps under his arm Respondent noted two areas that had swelling with white centers and one lower down the chest wall that was swollen Respondent took A R to the medical unit and, using a 21 gauge needle, drained the white areas Respondent started A R on Keflex 500 mgm and Ibuprofen for pain On or about May 26, 2006, Respondent looked at the areas again They were still swollen and still had a white pustule in the center Respondent tried to drain the areas again but it was very painful for A R On or about May 31, 2006, Jason Okerlund, APRN, wrote an order for Keflex Respondent was not licensed as a nurse in the State of Utah at the time
- e On or about June 13, 2006, inmate J H. (full name withheld for purposes of confidentiality) presented to Respondent with folliculitis on the upper thigh of his left leg Respondent drained the folliculitis, applied triple antibiotic ointment, and bandaged the area Respondent was not licensed as a nurse in the State of Utah at the time
- f On or about June 13, 2006, inmate R M (full name withheld for purposes of confidentiality) complained of being dizzy, breaking out in a clammy sweat, and nausea Respondent took R M 's blood pressure and documented that she would do a finger stick later Respondent failed to document the results of the finger stick and failed to have R M seen at the Beaver County hospital Respondent was not licensed as a nurse in the State of Utah at the time
- g On or about July 1, 2006, inmate W D (full name withheld for purposes of confidentiality) experienced pain on the right side below his ribs that radiated towards his groin area Respondent contacted Jason Okerlund, APRN, who ordered Phenergan 25 mgm IM W D continued to be nauseated with emesis and was in pain Respondent again contacted Jason Okerlund, APRN, who ordered Toradol 60 mgm IM, Phenergan IM every 6-8 hours, and Ultram 1-2 tablets every 6 hours for pain Respondent started an IV on orders from Jason Okerlund, APRN Respondent was not certified to start any type of intravenous fluids

- h On or about July 4, 2006, inmate M S (full name withheld for purposes of confidentiality) presented to Respondent with pain in both ears Respondent documented that both ears had wax build up and appeared to be irritated Respondent gave M S some drops to remove the wax and documented she would get a prescription for ear drops on July 5, 2006 Respondent failed to document in the medical records of M S whether the order was obtained
- i On or about July 4, 2006, inmate J A (full name withheld for purposes of confidentiality) complained of chest pain Respondent took J A 's blood pressure and told him "if he has trouble again tomorrow, with his history, he will need to be seen " Respondent failed to have J A examined by the appropriate licensed provider
- j On or about July 4, 2006, inmate R M (full name withheld for purposes of confidentiality) complained that his toe was bothering him Respondent took R M to medical, where she removed part of the nail that had grown into the side of his toe Respondent cleaned the area with peroxide and soaked the foot in surcleanse and Epsom salts/warm water Respondent then started R M on Keflex four times daily Respondent failed to obtain an order for Keflex
- k On or about July 25, 2006, inmate R M (full name withheld for purposes of confidentiality) complained of a sore on his back Respondent assessed R M and found a reddened area approximately 4cm x 5cm with a scab over the center Respondent took R M to medical and opened and drained the area without an order to do so

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), (g), (i) and (j), and Utah Administrative Code R156-37-602(1), and unlawful conduct as defined in Utah Code Ann § 58-1-501(1) Respondent admits that 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 Respondent's license

- (1) Respondent shall pay a fine to the Division of \$800 00 (eight hundred dollars), pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402, due and payable within 120 days of the effective date of the Order in this matter
- (2) Respondent's license shall be revoked That revocation shall be immediately stayed and the Respondent's license shall be subject to a five year term of probation The period of probation shall commence on the date of the issuance of an Order by the Division director in this matter During probation, the Respondent shall be subject to all of the following terms and conditions If the Board or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division
- a Respondent shall meet with the Board within thirty (30) days of the signing of the accompanying Order Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this agreement For the remainder of the duration of probation, Respondent shall meet with the Board or with the Division, as directed by the Division, annually or at such other greater or lesser frequency as the Division may direct
- b All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis for the first six months of probation If Respondent is in compliance with all terms and conditions of the Order at the end of that time, all reports and documentation shall be submitted on a quarterly basis for the remainder of probation If Respondent is not in compliance with all terms and conditions of the Order by the end of the first six (6) months of probation, all reports and documentation shall be submitted on a monthly basis until Respondent is in compliance with the Order, after which all reports shall be submitted on a quarterly basis
- c Respondent shall complete and submit to the Board a Self-Assessment Report at the frequency described in subparagraph (b) above The Self-Assessment Report shall be completed on a form prescribed by the Division

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- d Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement Respondent shall further cause Respondent's employer to submit performance evaluations to the Board at the frequency described in subparagraph (b) above The receipt of an unfavorable report may be considered to be a violation of probation If Respondent is not employed as a nurse, Respondent shall submit the employer report form on the date it is due and indicate on that form that Respondent's current employment is not in nursing or that Respondent is not currently working
- e Respondent shall provide to Respondent's employer(s) and/or school of nursing a copy of this Stipulation and Order and cause each employer or school of nursing to acknowledge to the Board in writing, that a copy of this Stipulation and Order has been provided to the employer and/or school of nursing
- f Respondent shall not work for a nursing registry, traveling nurse agency, nursing float pool, home health agency, temporary employment agency, school of nursing, correctional facilities, or any other practice setting in which nursing supervision is unavailable
- g Respondent shall practice only under the direct, on-site supervision of a registered nurse in good standing with the Division, or a licensed physician in good standing with the Division The supervising nurse or supervising physician shall be primarily one (1) person who may periodically delegate her supervisory responsibilities over Respondent to other qualified personnel
- h In the event Respondent does not practice as a nurse 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 sixteen (16) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession

- i Respondent agrees not to practice nursing in any other state that is a party to the Nurse Licensure Compact without prior authorization from such other party state
- j Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status This notification is required regardless of whether Respondent is employed in Respondent's profession
- k If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order
- l If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions
- m Respondent shall successfully complete the following additional continuing nursing professional education courses (1) Documentation A Critical Aspect, (2) Ethics of Nursing Practice Medication Errors, (3) Detection and Prevention, (4) Professional Accountability & Legal Liability for Nurses, (5) Respecting Professional Boundaries, and (6) Sharpening Critical Thinking Skills for Competent Nursing Practice All courses shall be pre-

approved by the Division and Board. The courses shall be successfully completed within one year of the effective date of this Stipulation and Order. The additional courses described above shall not count toward Respondent's regular professional continuing education requirements.

- n Respondent shall maintain a current license at all times during the period of this agreement.
- o Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- p Respondent shall successfully complete a psychological evaluation provided by a Division-approved licensed provider within one-hundred twenty (120) days of the effective date of this Stipulation and Order. Respondent shall contact the Division-approved licensed professional for an initial appointment within 10 days of the effective date of this Stipulation and Order. Respondent shall schedule the initial appointment to be held within 45 days of the effective date of this Stipulation and Order. Respondent shall attend all appointments and follow-up appointments in a timely manner. Respondent shall cooperate fully with the evaluator to ensure a fair and complete evaluation. Respondent shall notify the Division immediately after successfully completing the evaluation and inform the Division that Respondent has successfully completed the psychological evaluation. Respondent agrees to cause the evaluation report to be sent to the Division within 20 days of the effective date of this Order. Respondent shall successfully complete any treatment or counseling recommended by the evaluator. Respondent shall sign releases allowing the evaluator and subsequently therapist (if any) to provide progress reports to the Division and Board and to communicate with the Division and Board regarding Respondent's progress.

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

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

RESPONDENT

BY 
LAURA POE
Bureau Manager

BY 
BARBARA L. JOLLEY-MUMMY
Respondent

DATE 7-10-07

DATE 07-15-07

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE 20 July 2007

ORDER

THE ABOVE STIPULATION, in the matter of **BARBARA L. JOLLEY-MUMM**, 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 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 23 day of July, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY
Director

Investigator Irene Gayheart