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DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M Wells Building
160 East 300 South
P O Box 146741
Salt Lake City UT 84114-6741
Telephone (801) 530-6628

**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
STEVEN KENT BOOTH
TO PRACTICE AS A
HEALTH FACILITY ADMINISTRATOR
IN THE STATE OF UTAH

NOTICE OF AGENCY ACTION

Case No DOPL-2007-202

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Steven Kent Booth ("Respondent"),
Farmington UT 84025

The Division of Occupational and Professional Licensing
("the Division") hereby files this Notice of Agency Action Said
action is based upon the Verified Petition of Sandra Hess,
Investigator, State of Utah, a copy of which is attached hereto
and incorporated herein by reference

The adjudicative proceeding designated herein is to be
conducted on a formal basis **Within thirty (30) days of the
mailing date of this Notice, you are required to file a written
response with this Division** The response you file may be
helpful in clarifying, refining or narrowing the facts and
violations alleged in the Verified Petition

You may represent yourself or be represented by legal
counsel, at your own expense, at all times while this action is
pending Your legal counsel shall file with the Division an
Entry of Appearance and until that Entry of Appearance is filed,
the presiding officer will deal directly with you

You are entitled by law to an evidentiary hearing to
determine whether your license to practice as a health facility
administrator in the State of Utah should be subject to a
disciplinary action Unless otherwise specified by the Director
of the Division, the Health Facility Administrators Licensing
Board will serve as fact finder in the evidentiary hearing You

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will be notified by separate notice of the date, time, and place of that evidentiary hearing and of any other hearings

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder. After the hearing, unless otherwise specified by the Director of the Division, the fact finder will issue findings of fact, conclusions of law and a recommended order to the Director of the Division of Occupational and Professional Licensing for his review and action.

The presiding officer for purposes of conducting hearings will be J Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701. His telephone number is (801) 530-6648.

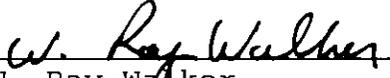
Counsel for the Division in this case is Shelley Wismer, Assistant Attorney General at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872. Within ten (10) days after the filing of your response, Ms Wismer will request the scheduling of a prehearing conference.

You, or if you have an attorney, your attorney, may attempt to negotiate a settlement of the case without proceeding to a hearing by contacting Ms Wismer.

Should you fail to timely file a response, as set forth above, or fail to attend or participate in any scheduled hearing in this case, including prehearing conference(s), you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of the Verified Petition may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly.

Dated this 24th day of September, 2007


W Ray Walker
Regulatory and
Compliance Officer

SHELLEY K WISMER (#3824)
Assistant Attorney General
MARK L SHURTLEFF (#4666)
Utah Attorney General
Commercial Enforcement Division
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FAX Machine (801) 366-0315

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

<p>IN THE MATTER OF THE LICENSE OF STEVEN KENT BOOTH TO PRACTICE AS A HEALTH FACILITY ADMINISTRATOR IN THE STATE OF UTAH</p>	<p>P E T I T I O N DOPL CASE No 2007- 202</p>
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PRELIMINARY STATEMENT

These claims were investigated by the Division of Occupational & Professional Licensing ("the Division") upon complaint that Steven Kent Booth ("Respondent"), has engaged in acts and practices which constitute violations of the Division of Occupational and Professional Licensing Act, UTAH CODE ANN §§ 58-1-101 to 58-1-504 (2006) the Health Facility Administrator Act, UTAH CODE ANN §§ 58-15-1 58-15-12 (2006), and the Controlled Substance Act, UTAH CODE ANN §§ 58-37-1 through 58-37-21 (2006)

Each count in this Petition shall be deemed to incorporate by reference the allegations set forth in the other paragraphs of the Petition

JURISDICTION

1 The Division is a Division of the Department of Commerce of the State of Utah and is authorized by UTAH CODE ANN § 58-1-106(1)(d) (West 2004) to take administrative action against persons in violation of the laws and rules administered and enforced by the Division

2 The Division is authorized by UTAH CODE ANN § 58-1-401(2)(a) and (b) (West 2004) to refuse to issue a license or to renew a license, and to revoke, suspend, restrict, place on probation, issue a public or private reprimand, or otherwise act upon the license of a licensee who has engaged in unprofessional conduct as defined by statute or rule, or who has engaged in unlawful conduct as defined by statute under Title 58

3 At all times material to the allegations contained herein, Respondent was licensed by the Division to practice as a Health Facility Administrator under the Health Facility Administrator Act, UTAH CODE ANN § 58-15-1, et seq

STATEMENT OF ALLEGATIONS

4 On or about March 17, 1997, Respondent was licensed as a Health Facility Administrator in the State of Utah Respondent has also been licensed as a Registered Nurse in the State of Utah since May 11, 1999

5 On or about October 1, 2006, Respondent obtained employment as a Registered Nurse with Good Shepherd Home Care and Hospice ("GSHCH") In his capacity as an employee of GSHCH, Respondent was assigned to provide nursing care for patient E B (name withheld to protect confidentiality)

6 Following concerns raised with GSHCH by a contract pharmacist

regarding the fact Respondent was picking up numerous Endocet (a Schedule II controlled substance) prescriptions for patient E B , GSHCH had a patient assessment and drug evaluation conducted at E B 's residence on May 23, 2007 by another staff nurse . During two home visits by the other staff nurse, patient E B denied taking Endocet and no Endocet could be located in the patient's home

7 On or about June 7, 2007, Respondent resigned from his employment with GSHCH after he was confronted by management regarding medication discrepancies with patient E B

8 On or about July 6, 2007, Respondent met with Division Investigators and admitted to them that he had taken 360 Endocet tablets prescribed for E B , but denied that he had taken any of the medication himself . Respondent represented to Division investigators that he took the medication for his significant other, whom he stated was dying of cancer and unable to obtain pain medications

9 On July 6, 2007, an observed urine specimen was obtained from Respondent and submitted for testing . Although Respondent claimed to Division investigators that he had not used any prescription drugs, the results of the test were positive for Tramadol

10 On or about July 18, 2007, Respondent again met with Division Investigators . Respondent provided a signed statement to the Division Investigator attesting to the following "While working as a registered nurse at Good Shepherd Homecare and Hospice, I took three bottles of Endocet 10mg tablets, containing 120 tablets each, which I picked up from the pharmacy for patient E B . I took these tablets for my partner who is ill and cannot afford pain medication "

11 During their July 18, 2007 meeting with Respondent, the Division investigators confronted Respondent about his positive drug test results and personal use of drugs. Respondent then admitted to the Division investigators that the drugs he had misappropriated were not for his partner, but for himself, and stated that he had begun abusing Lortab (a Schedule III controlled substance) approximately two years earlier. Respondent stated that he initially took medications from patients' homes when the medication had been discontinued or when the patients had died. He stated that he initially consumed four to six 7 5mg tablets daily, and that his use increased to eight tablets and then ten tablets per day. Respondent stated that in September, 2006, he began taking the Lortab prescriptions that were delivered to patient E B 's home, and that due to his concerns with over-use of the Tylenol that is in Lortab, Respondent asked the prescriber to change patient E B 's pain medication to Endocet 10mg tablets, which contains less acetaminophen. Respondent admitted to the Division investigators that he misappropriated all of patient E B 's Endocet prescriptions for his own personal consumption.

12 According to pharmacy records, prescriptions for 1,562 Endocet and/or Oxycodone 10mg tablets were filled for patient E B between January 13, 2007 and May 23, 2007. Prescriptions for 630 Hydrocodone 10mg tablets were also filled for patient E B between October 2, 2006 and January 26, 2007. All of these prescriptions were actually obtained by Respondent for his own use.

APPLICABLE LAW

13 UTAH CODE ANN §58-15-12 (West Supp 2006) provides that the grounds for taking action against a health facility administrator license shall be in accordance

with Section § 58-1-401, which provides that action may be taken for "unprofessional conduct as defined by statute or rule under this title" or for "unlawful conduct as defined by statute under this title " (West Supp 2006)

14 UTAH CODE ANN §58-15-2 (West Supp 2006) provides that "unprofessional conduct" is as defined in UTAH CODE ANN §58-1-501 (West Supp 2006) and is further defined to include

"(b) acting in a manner inconsistent with the health and safety of the patients of the health facility in which he is the administrator "

15 UTAH CODE ANN §58-1-501(2) (West Supp 2006) provides that "Unprofessional conduct" includes

"(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title," and

" (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession,"

16 UTAH CODE ANN § 58-1-501(1) (West Supp 2006) defines "unlawful conduct" to include

"(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission,"

17 UTAH CODE ANN § 58-37-8 (West Supp 2006) provides in relevant part as

follows

" (2)(a) It is unlawful (i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of his professional practice, or as otherwise authorized by this chapter "

COUNT I

UNLAWFULLY OBTAINING, POSSESSING AND USING CONTROLLED SUBSTANCES

18 As set forth in detail above, Respondent obtained, possessed and used controlled substances that were not legally prescribed to him

19 These actions by Respondent constitute "unlawful conduct" in violation of UTAH CODE ANN § 58-37-8(2)(a) (West Supp 2006) Said conduct has also demonstrated that Respondent has engaged in "unprofessional conduct" as provided in and UTAH CODE ANN § 58-1-501(2)(a) (West Supp 2006) and has thereby violated UTAH CODE ANN § 58-15-2(7) (West Supp 2006) These actions constitute sufficient grounds for imposing sanctions against Respondent's license pursuant to UTAH CODE ANN § 58-15-12 (West Supp 2006) and UTAH CODE ANN § 58-1-401(2)(a) and (b) (West Supp 2006)

COUNT II

SUBSTANCE ABUSE

20 As set forth in detail above, Respondent used Endocet, Oxycodone, and Hydrocodone in quantities that might reasonably be considered to impair his ability to

act in a manner that is consistent with the health and safety of the patients of the health facility in which he is the administrator

21 These actions by Respondent constitute "unprofessional conduct" as defined in UTAH CODE ANN § 58-1-501(2)(e) (West Supp 2006) and UTAH CODE ANN §58-15-2(7)(b) (West Supp 2006), and provide sufficient grounds for imposing sanctions against his license pursuant to UTAH CODE ANN §58-15-12 (West Supp 2006), UTAH CODE ANN § 58-1-401(2)(a) (West Supp 2006)

COUNT III

DEALING WITH THE DIVISION THROUGH DECEPTION, MISSTATEMENT AND MISREPRESENTATION

22 As set forth in detail above, Respondent made oral and written statements to the Division that he knew contained false information regarding his use of prescription drugs, his misappropriation of prescription drugs and the reasons he misappropriated the drugs, and the quantity of drugs that he misappropriated

23 These actions by Respondent constitute "unlawful conduct" as defined under UTAH CODE ANN § 58-1-501(1)(e) (West Supp 2006), and provide sufficient justification for sanctions against Respondent's license pursuant to UTAH CODE ANN § 58-1-401(2)(b) (West Supp 2006)

WHEREFORE, the Division requests the following relief

1 that Respondent be adjudged and decreed to have engaged in the acts alleged herein,

2 that by engaging in the above acts, Respondent be adjudged and decreed to have violated the enumerated provisions of the Division of Occupational and

Professional Licensing Act, the Health Facility Administrator Act, and the Utah Controlled Substance Act, and

3 that an Order be issued sanctioning Respondent's Health Facility Administrator license in accordance with the provisions of UTAH CODE ANN § 58-15-12 (West Supp 2006) and UTAH CODE ANN § 58-1-401(2)(a) and (b) (West Supp 2006)

DATED this 21st day of September, 2007

MARK L SHURTLEFF
UTAH ATTORNEY GENERAL

Shelley K Wismer
SHELLEY K WISMER
Assistant Attorney General

VERIFICATION

STATE OF UTAH)
 ss
COUNTY OF SALT LAKE)

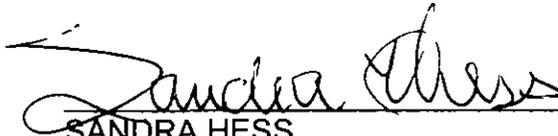
Sandra Hess, first being duly sworn, states as follows

1 I am an investigator for the Utah Division of Occupational and Professional Licensing and have been assigned to work on this case

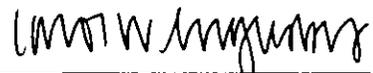
2 I have read the foregoing Petition and am familiar with the contents thereof Except as to those matters that are stated upon information and belief, all of the factual allegations in the Petition are true As to those matters in the Petition that

are stated upon information and belief, I believe them to be true

DATED this 21 day of September, 2007


SANDRA HESS
Investigator
Division of Occupational & Professional
Licensing

SWORN AND SUBSCRIBED to before me this 21 day of September, 2007


NOTARY PUBLIC

