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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 LICENSES OF) **SURRENDER**
JEFFERY ALLEN CLARK) **STIPULATION AND ORDER**
TO PRACTICE AS A PHYSICIAN AND)
PRESCRIBE CONTROLLED SUBSTANCES) CASE NO DOPL 2007-- 203
IN THE STATE OF UTAH)

JEFFERY ALLEN CLARK ("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 Respondent avers that he is not represented by Hal Reiser, Attorney at Law, in this matter

4 Respondent understands that Respondent is entitled to a hearing before the State of Utah's Physician 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 Respondent was first licensed with the Division on or about March 30, 1993 to practice as a physician/surgeon and to prescribe and administer controlled substances in the State of Utah
- b On November 3, 2005 Respondent voluntarily entered into a Stipulation and Order with the Division in DOPL Case No 2003-20, which is attached and incorporated by reference into this Stipulation and Order as Exhibit A, pursuant to which Respondent's license to practice a physician in the State of Utah was suspended and later placed on probation Respondent's controlled substance license was revoked
- c On or about May 18, 2006, the Division issued an Amended Order, which is attached and incorporated by reference into this Stipulation and Order as Exhibit B, lifting the suspension of Respondent's license to practice as

a physician/surgeon, but restricting Respondent's practice to a supervised residency program

- d On or about August 17, 2007, the Division issued a second Amended Order, which is attached and incorporated by reference into this Stipulation and Order as Exhibit C, issuing Respondent a controlled substance license upon payment of licensing fees, but restricting its use to a supervised residency program
- e Between about May 18, 2006 and August 17, 2007, Respondent, on two occasions, prescribed the Schedule IV controlled substances Butorphanol nasal spray and Temazepam to his spouse in the State of Utah despite not having a license to prescribe or administer controlled substances in the State of Utah Respondent told Division investigators that he was not aware that Butorphanol nasal spray was a controlled substance and that he misunderstood the restrictions placed upon his licenses by Exhibits A, B, and C
- f Between about May 18, 2006 and August 17, 2007, Respondent telephoned local pharmacies on at least four occasions and provided the name of another prescribing practitioner as the prescribing physician in order to obtain the Schedule IV controlled substance Butorphanol nasal spray for his spouse, which his spouse did subsequently obtain and use The prescribing practitioner whose name Respondent used had no knowledge of the prescription and did not authorize the use of his or her name Respondent told Division investigators that he engaged in the conduct previously described in order to alleviate the painful effects of migraine headaches suffered by his wife

8 Respondent admits that Respondent's conduct described above is unlawful conduct under Utah Code Ann § 58-37-6(2)(a)(i) and unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (h), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and (b) Respondent hereby surrenders Respondent's licenses to practice as a physician/surgeon and to prescribe and administer controlled substances in the State of Utah and any residual rights Respondent may have with regard to the licenses Respondent agrees that the issuance of the Order in this matter

constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2) Respondent agrees not to reapply for licensure as a physician\surgeon or to administer and prescribe controlled substances in the State of Utah for a period of five years from the date the Division Director signs this Stipulation and Order The Division does not guarantee than any future application by Respondent for licensure will be granted If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a physician\surgeon and to prescribe and administer controlled substances in the State of Utah Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division

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 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

11 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

12 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 
DIANA BAKER
Bureau Manager

BY 
JEFFERY ALLEN CLARK

DATE *Sept 25, 2007*

DATE *9-20-07*

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

DATE *25 Sep 2007*

ORDER

THE ABOVE STIPULATION, in the matter of **JEFFERY ALLEN CLARK**, 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 26 day of September, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



F DAVID STANLEY
Director

Investigator Larry Gooch