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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 LICENSES OF :
TRENT KJAR DECKER : **NOTICE OF AGENCY ACTION**
TO PRACTICE AS A PHARMACIST AND TO :
DISPENSE CONTROLLED SUBSTANCES :
IN THE STATE OF UTAH : Case No. DOPL-2007-224

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Trent Kjar Decker ("Respondent"), Santa Clara UT
84765-0428:

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 licenses to practice as a pharmacist and to dispense controlled substances in the State of Utah should be subject to a disciplinary action. Unless otherwise specified by the Director of the Division, the State Board of Pharmacy will serve as fact finder in the evidentiary hearing. You will be

1 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 Dan Lau, 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, Mr. Lau 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 Mr. Lau.

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 and an administrative fine.

Please conduct yourself accordingly

Dated this 30TH day of October, 2007

W. Ray Walker
W. Ray Walker
Regulatory & Compliance
Officer

! Dan Lau (USB No 8233)
Assistant Attorney General
MARK L SHURTLEFF (USB No 4666)
Attorney General
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Salt Lake City, Utah 84114-6741
Telephone (801)366-0310

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

IN THE MATTER OF THE LICENSES
OF TRENT KJAR DECKER TO
PRACTICE AS A PHARMACIST
AND TO DISPENSE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

P E T I T I O N

Case No DOPL-2007 -224

PRELIMINARY STATEMENT

These claims were investigated by the Utah Division of Occupational and Professional Licensing (the Division) upon complaints that Trent Kjar Decker, RPh (Respondent), a licensee of the Division, 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 (2004) and the Pharmacy Practice Act, Utah Code Ann §§ 58-17b-101 to 58-17b-701 (2004)

PARTIES

1 The Division is a division of the Department of Commerce of the State of Utah as established by Utah Code Ann § 13-1-2 (2005)

2 At all times material to the allegations contained herein, the Respondent was licensed by the Division to practice pharmacy under the Pharmacy Practice Act, Utah Code Ann §§ 58-17b-101 to 58-17b-701, and to dispense controlled substances under the Controlled Substance Act, Utah Code Ann §§ 58-37-101 to 58-37-803

STATEMENT OF ALLEGATIONS

3 On or about August 1, 1994, the Respondent obtained a license to practice pharmacy and to dispense controlled substances within the State of Utah

4 From on or about July 28, 2003 through June 9, 2006, the Respondent was employed as a staff pharmacist by Albertson's Pharmacy in St George, Utah During the Respondent's 2006 tenure with Albertson's, Albertson's management counseled the Respondent about his failure to complete required reports and documentation, about his neglect of the pharmacy, and about his negative change in behavior and attitude This "negative change" in behavior and attitude involved incidents where the Respondent kicked boxes and threw prescription pads in the pharmacy After other pharmacy staff reported these incidents, Albertson's District Pharmacy Manager counseled the Respondent on his inappropriate and unprofessional behavior The Respondent resigned from his position at Albertson's and obtained employment with K-Mart Pharmacy in St George, Utah on June 4, 2006, where he was employed until April 22, 2007

5 On or about September 27, 2006, the Respondent filled an O-Cal-Fa (prenatal vitamins) prescription for MP (name withheld to protect confidentiality) The Respondent dispensed this prescription in another pharmacy customer's name

6 On or about September 27, 2006, the Respondent filled a prescription for Tricor 145mg tablets for RB (name withheld to protect confidentiality) The Respondent dispensed this prescription in another pharmacy customer's name

7 On or about September 29, 2006, patient RJ (name withheld to protect confidentiality) attempted to pick up her prescription that her physician, Dr Larowe, had telephoned to the pharmacy The Respondent dispensed the prescription The information on the prescription label indicated that the prescription had been filled for patient LR (name withheld to protect confidentiality) for triam/HCTZ The pharmacy personnel at the St George K-Mart Pharmacy were unable to locate the prescription for patient LR

8 On or about October 1, 2006, the pharmacist-in-charge at the St George K-Mart Pharmacy counseled the Respondent on his failure to order a patient's medication and write the correct NDC number for patient LC (name withheld to protect confidentiality)

9 On or about October 5, 2006, the Respondent dispensed a prescription to patient KH (name withheld to protect confidentiality) for regular strength Detrol 2mg tablets The medical practitioner wrote this prescription for Detrol LA, a long acting medication

10 On or about October 21, 2006, the Respondent dispensed a prescription to patient LC (name withheld to protect confidentiality) for Novolog Mix 70/30 Flex Novo On October 24, 2006, LC contacted the St George K-Mart Pharmacy to report that she received one box of 70/30 mix and one box containing a different medication It was also noted that the transaction was processed for one box, rather than two, and the transaction history noted that LC had previously received two boxes per fill

11 On or about October 28, 2006, the Respondent dispensed a prescription to patient MM (name withheld to protect confidentiality) for 90 tablets of Celebrex 200mg. The prescriber/medical practitioner wrote this prescription for 30 tablets.

12 On or about November 3, 2006, the Respondent dispensed 30 Hyzaar 12.5 mg-100mg tablets to patient RS (name withheld to protect confidentiality). The prescriber/medical practitioner wrote this prescription for 30 Hyzaar 25 mg-100mg tablets.

13 On or about November 7, 2006, the Respondent dispensed a prescription for Zoloft 100mg tablets to patient DF (name withheld to protect confidentiality). The prescriber/medical practitioner wrote this prescription for patient DF (name withheld to protect confidentiality). The label on the bottle showed the prescription was dispensed to patient MF (name withheld to protect confidentiality) rather than patient DF.

14 On or about November 16, 2006, the Respondent dispensed Verapamil 180mg ER tablets to patient SH (name withheld to protect confidentiality). The prescriber/medical practitioner wrote the prescription for Verapamil 180mg tablets. SH contacted the St. George K-Mart pharmacy when she questioned whether the tablets contained in the prescription bottle were the correct dosage. The bottle contained Verapamil 120mg tablets.

15 On or about November 22, 2006, the Respondent dispensed to patient RB (name withheld to protect confidentiality) three boxes containing a total of 225 ml of Albuterol. The medical practitioner wrote the prescription for four boxes containing a total of 300 ml of Albuterol.

16 In or about November 2006, while the Respondent was working as a staff pharmacist at St. George K-Mart Pharmacy, the pharmacist-in-charge counseled the Respondent.

about his unprofessional behavior involving other staff and pharmacy customers. Specifically, the Respondent was described as being careless and sloppy, having a disruptive behavior, and being aggressive, threatening, rude and verbally assaultive. Two pharmacy customers complained to the store manager and transferred their prescription records to another pharmacy due to the Respondent's abusive behavior.

17 In or about December 2006, the Respondent smelled of alcohol on four occasions while working his scheduled shifts. A staff member described the Respondent as having bloodshot eyes and being unable to concentrate, focus or stay on task with his pharmacy duties.

18 On or about December 21, 2006, the St. George K-Mart pharmacist-in-charge confronted the Respondent because the Respondent had a strong odor of alcohol and bloodshot eyes. The pharmacist-in-charge informed the Respondent that he could not practice in this condition and advised the Respondent that he needed to seek help with his alcohol problem.

19 On or about January 18, 2007, during an interview with a Division investigator, the Respondent admitted to consuming alcohol on a regular basis from approximately September 2005 through January 2007. The Respondent also stated that from approximately February or March 2006 he was drinking on a daily basis, but he claimed to never have drunk while at work.

20 During the interview mentioned in paragraph 19, the Respondent admitted his alcohol consumption caused, at least in part, the errors he made while working as a pharmacist.

APPLICABLE LAW

21 Subsections (a) and (b) of Utah Code Ann. § 58-1-401(2) (1996) give the Division the legal authority to "revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee" when "the licensee has engaged

in unprofessional conduct, as defined by statute or rule under this title,” or when “the licensee has engaged in unlawful conduct as defined by statute under this title[]”

22 Subsection (d) of Utah Code Ann § 58-1-401(2) (1996) gives the Division the legal authority to “revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee” when the licensee

is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee’s condition demonstrates a threat or potential threat to the public health, safety or welfare

23 Subsections (a), (e) and (g) of Utah Code Ann § 58-1-501(2) (2004) define “unprofessional conduct” to include

- (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title,
- (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 a licensee or applicant to safely engage in the occupation or profession, and
- (g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetence or negligence[]

24 Subsections a, d, f and g of Utah Code Ann § 58-17b-602(5) (2004) mandate that

Each drug dispensed shall have a label securely affixed to the container indicating the following minimum information

- (a) the name, address, and telephone number of the pharmacy,
- (d) the name of the patient, or in the case of an animal, name of the owner and species of the animal,
- (f) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed,
- (g) the trade, generic, or chemical name, amount dispensed and strength of dosage form, but if multiple ingredient products with established proprietary or nonproprietary names are prescribed, those products’ names may be used[]

25 Utah Code Ann § 58-17b-401(6) (2004) gives the Division the authority to issue an administrative fine or citation to a licensee who has engaged in unprofessional conduct

COUNT I

**UNPROFESSIONAL CONDUCT/ENGAGING IN CONDUCT THAT IMPAIRED
THE RESPONDENT'S ABILITY TO SAFELY PRACTICE AS A PHARMACIST.**

26 Paragraphs 1 through 20 are incorporated herein and by this reference made a part hereof

27 As described in Paragraphs 4 through 20, the Respondent consumed alcohol, an intoxicant, to the point that it impaired his ability to safely practice as a pharmacist Specifically, the Respondent filled prescriptions with the wrong medications and the wrong quantities of medications, labeled prescriptions for patients other than the patients for whom the prescriptions were issues, performed work in a careless and sloppy manner, and dealt with both customers and coworkers in a rude, aggressive and threatening manner Some of the Respondent's aggressive behavior involved him kicking boxes and throwing prescription pads at work Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann § 58-1-501(2)(a) and (e) This unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and to issue the Respondent a fine pursuant to Utah Code Ann § 58-17b-401(6)

COUNT II

GROSS NEGLIGENCE

28 Paragraphs 1 through 20 are incorporated herein and by this reference made a part hereof

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29 As described in Paragraphs 4 through 20, the Respondent filled prescriptions with the wrong medications and the wrong quantities of medications, labeled prescriptions for patients other than the patients for whom the prescriptions were issues, performed work in a careless and sloppy manner, and dealt with both customers and coworkers in a rude, aggressive and threatening manner. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann § 58-1-501(2)(g), and this unprofessional conduct gives the Division the authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and to issue the Respondent a fine pursuant to Utah Code Ann § 58-17b-401(6)

WHEREFORE, the Division requests the following relief

- 1 That the Respondent be adjudged and decreed to have engaged in the acts alleged herein,
- 2 That by engaging in the above acts, the Respondent be adjudged and decreed to have violated provisions of the Division of Occupational and Professional Licensing Act, and the Pharmacy Practice Act,
- 3 That the Respondent's licenses to practice as a pharmacist and to dispense controlled substances in the State of Utah be revoked,
- 4 That appropriate sanctions be imposed against the Respondent's licenses to practice as a pharmacist in Utah, and
- 5 That the Respondent be assessed appropriate fines

DATED this 29th day of October, 2007


Daniel Lau
Assistant Attorney General

VERIFICATION SHEET

STATE OF UTAH)
) SS
COUNTY OF SALT LAKE)

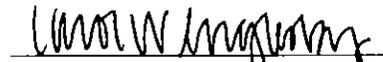
Sandra Hess, being first duly sworn, states as follows

1 I am an investigator for the Bureau of Investigation, Division of Occupational and Professional Licensing (DOPL), and have been assigned to investigate this case

2 I have read the foregoing Petition and am familiar with the contents thereof. All of the factual allegations in the Petition are true to the best of my knowledge, information and belief


Sandra Hess
Investigator, DOPL

SWORN TO AND SUBSCRIBED before me this 29 day of October, 2007


NOTARY PUBLIC

