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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)	
ELLEN F. GARDNER)	STIPULATION AND ORDER
TO PRACTICE AS A PHYSICIAN)	
AND TO PRESCRIBE AND ADMINISTER)	CASE NO DOPL 2007- 259
CONTROLLED SUBSTANCES)	
IN THE STATE OF UTAH)	

ELLEN F. GARDNER (“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 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. The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent, to other persons and entities.

7 Respondent admits the following facts are true:

- a Respondent is licensed as a physician in the State of Utah and is employed at Canyon View Medical Clinic in Parowan, Utah.
- b In 2006 three southern Utah pharmacies contacted Respondent on more than one occasion regarding Respondent issuing controlled substance prescriptions containing more than one controlled substance per prescription or containing legend drugs or other prescription items on prescriptions for controlled substances.
- c On or about October 12, 2006 the Division issued a letter of concern to Respondent informing Respondent that Respondent was violating the law by issuing controlled substance prescriptions with more than one controlled substance per prescription or containing legend drugs or other prescription items on prescriptions for controlled substances in violation of Utah Code Ann. § 58-37-6(7)(f)(vi). Respondent was also advised in the letter of concern that no formal action would be taken against Respondent's licenses pending Respondent's voluntary compliance with Division regulations.

- d On or about October 17, 2007 Respondent told the Division investigator that she had repeatedly violated Utah Code Ann § 58-37-6(7)(f)(vi) following the issuance of the October 12, 2006 letter of concern by issuing controlled substance prescriptions with more than one controlled substance per prescription or containing legend drugs or other prescription items on a prescription for controlled substances

8 Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann § 58-37-6(7)(f)(vi) and unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and (b) Respondent agrees that an Order, which constitutes disciplinary action against Respondent's licenses by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2), shall be entered in this matter as follows

- a Respondent's licenses shall be publicly reprimanded
- b Respondent shall immediately cease and desist from the practice of including more than one controlled substance per prescription form, or including legend drugs or other prescription items on a controlled substance prescription
- c Respondent shall pay a fine of \$1,000 00 (one-thousand dollars) to the Division, pursuant to Utah Code Annotated § 58-67-402, within 60 days of the effective date of this Stipulation and Order

1000.00
PAID IN FULL
12/20/2007
UM

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 Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to Respondent's practice as a physician and the administering and prescribing of controlled substances

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

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

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DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY *Diana Baker*
for DIANA BAKER
Bureau Manager

BY *Ellen Gardner*
ELLEN F GARDNER

DATE 12/24/07

DATE 12/16/07

MARK L SHURTLEFF
ATTORNEY GENERAL

BY *L Mitchell Jones*
L MITCHELL JONES
Counsel for the Division

DATE 24 Dec 2007

ORDER

THE ABOVE STIPULATION, in the matter of the license of **ELLEN F. GARDNER**, 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 licenses of **ELLEN F. GARDNER** are publicly reprimanded. The issuance of this Order is disciplinary action by the Division 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 24 day of December, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

A handwritten signature in black ink that reads "F. David Stanley". The signature is written in a cursive style with a large, sweeping "F" and "S".

F DAVID STANLEY
Director

INVESTIGATOR SANDRA HESS