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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) ALAN HEAP TO PRACTICE AS A) PHYSICIAN AND TO) ADMINISTER AND PRESCRIBE) CONTROLLED SUBSTANCES) IN THE STATE OF UTAH)	<hr style="width: 100%;"/> STIPULATION AND ORDER CASE NO DOPL 2007-8
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ALAN HEAP ("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 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:

- a On or about February 9, 1984, Respondent was initially licensed as a physician and to administer and prescribe controlled substances in the State of Utah.
- b On or about April 29, 2006, Respondent treated S D (full name withheld for purposes of confidentiality) as a new patient. S D informed Respondent that S D had previously been prescribed Klonopin, a Schedule IV controlled substance, by another physician. S D informed Respondent that the taking of Klonopin had led to adverse reactions. S D informed Respondent that S D had attempted to commit suicide while taking Klonopin. Despite being informed of these facts by S D, Respondent knowingly prescribed Klonopin to S D. S D subsequently attempted to commit suicide a second time.
- c From on or about September 1, 2001, to on or about September 1, 2006, Respondent wrote at the top of numerous patient prescriptions the name of a local pharmacy (hereinafter “Pharmacy X” for purposes of confidentiality). It became Respondent’s practice, prior to the issuance of a prescription, to explain to a majority of Respondent’s patients that the prescriptions should be filled at Pharmacy X. Respondent states that he

engaged in this practice in order to better track the patients' filling of prescriptions. Some patients told a Division investigator that they felt obligated to fill their prescriptions at Pharmacy X.

- d From on or about September 1, 2001, to on or about September 1, 2006, Respondent failed to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain" issued by the Federation of State Medical Boards of the United States, Inc., when prescribing controlled substances for numerous patients. Specifically, Respondent failed to document treatment objectives, failed to obtain informed consent, and failed to either obtain or perform a physical examination.
- e On or about August 26, 2003, Respondent prescribed Phentermine, a Schedule IV controlled substance, for his patient J G (full name withheld for purposes of confidentiality), solely for the purpose of treating "obesity." Respondent failed to meet all of the conditions set forth in Utah Administrative Code R156-37-604(2) prior to the prescribing of Phentermine for obesity for J G.
- f On or about January 3, 2005, Respondent noted in the medical record of his patient J D (full name withheld for purposes of confidentiality) the following "informed patient I would not prescribe Demerol for headaches suggested she be hospitalized for detox, she refused." On February 25, 2005, Respondent noted in J D 's medical record the following "she is definitely addicted." On July 21, 2005, Respondent noted in J D 's medical record the following "I instructed J D I could not give her pain medicines it was unethical for me to give her pain medicine." On August 29, 2005, Respondent noted in J D 's medical record the following "I am very concerned about J D being addicted to pain medicine." On October 25, 2005, Respondent noted in J D 's medical record the following "[pharmacist] at [Pharmacy X] will try to get J D off of Demerol." On March 3, 2006, Respondent noted in J D 's medical record, "warned [pharmacist] at [Pharmacy X] that she may be stockpiling pain medication uses too many pain killers."
- g From on or about January 1, 2003, to on or about July 13, 2006, Respondent prescribed numerous controlled substances to J D for depression, headaches, and chronic knee pain despite having documented on several occasions that J D was addicted to controlled substances and was a drug dependent person. J D was a "drug dependent person" as defined in Utah Code Ann. § 58-37-2(1)(s), at the time Respondent prescribed controlled substances to J D.

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (g), Utah Code Ann § 58-67-502, Utah Administrative Code R156-37-502(6), Utah Administrative Code R156-37-602(4), Utah Administrative Code R156-1-502(6), and Utah Administrative Code R156-67-502(2) Respondent admits that such conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) Respondent agrees that an Order may be issued in this matter providing for the following action against Respondent's licenses

(1) Respondent's licenses to practice as a physician and to administer and prescribe controlled substances are revoked Those revocations shall be immediately stayed and Respondent's licenses shall be subject to a term of probation for a period of five (5) years The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order During the periods of suspension and 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 pay a fine to the Division in the amount of \$1,000.00 (one-thousand dollars), pursuant to Utah Code Ann § 58-67-402, § 58-67-502, and § 58-1-501(2)(a), due and payable within 90 days of the effective date of the Order in this matter Respondent hereby waives Respondent's rights to a proceeding pursuant to Utah Code Ann Title 63, Chapter 46b, and Title 58, Chapter 1 as set for in Utah Code Ann § 58-67-402

paid 1000.
3-6-2007

b 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 Stipulation and Order Respondent shall meet with the Board quarterly or at such other greater or lesser frequency as the Division may direct thereafter

c Respondent shall identify a supervising physician to supervise Respondent's practice The supervising physician must be in good standing with the Division The supervising physician shall agree to co-manage practice care issues with Respondent Respondent

shall bear all expenses related to such supervision. The supervising physician must be approved by the Division and Board and shall consult with Respondent on a weekly basis regarding practice issues. Respondent shall cause the supervising physician to meet with the Board at the first meeting with the Board following the effective date of this Order, to discuss oversight issues and the responsibilities expected of a supervising physician. Respondent shall further cause the supervising physician to submit performance evaluations to the Board on a quarterly basis. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a physician, Respondent shall submit the employer performance report form on the date it is due and indicate on the form that Respondent is not currently practicing as a physician or that Respondent is not currently working.

- d. Within six months of the entry of the Order in this matter, in addition to regular continuing education requirement, Respondent shall successfully complete a course, pre-approved by the Board and Division, focusing on the subject of medication prescribing.
- e. Within twelve months of the entry of the Order in this matter, in addition to regular continuing education requirements, Respondent shall successfully complete four additional continuing education credit hours, pre-approved by the Board and Division, focusing on the subject of prescribing law and ethics.
- f. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- g. If Respondent enters into an employment arrangement whereby he is an employee, Respondent shall notify his employer of Respondent's restricted status and the terms of this Stipulation and Order, and shall further cause his employer to submit performance evaluations to the Board on a quarterly basis. Respondent shall cause his employer to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the employer by Respondent. The receipt of an unfavorable report shall be considered to be a violation of probation.
- h. Respondent shall write all controlled substance prescriptions using triplicate and sequentially numbered prescription forms. Respondent shall bring a copy of each prescription Respondent has

written to Respondent's next regularly scheduled meeting with the Board Respondent shall send copies of prescriptions written by Respondent to the Division on a monthly basis thereafter, or at such other frequency as the Division and Board may direct

- i Respondent shall complete and submit to the Board a Self-Assessment Report on a quarterly basis
- j Respondent shall cause Respondent's supervisor to conduct chart reviews of Respondent's patients and to provide quarterly reports to the Board regarding Respondent's quality of patient care and prescribing practices
- k In the event Respondent does not practice as a physician 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
- l 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
- m 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
- n 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.

- o Respondent must maintain a current Utah physician license at all times during the period of probation.
- p Respondent shall immediately notify the Division in writing of any change in Respondent's residential, business, or mailing address.

9 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this 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 prejudice 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 physician and the administering and prescribing of controlled substances.

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 *Diana Baker*
DIANA BAKER
Bureau Manager

BY *Alan Heap*
ALAN HEAP
Respondent

DATE *Jan 11, 2007*

DATE *8 JAN 07*

MARK L SHURTLEFF
ATTORNEY GENERAL

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

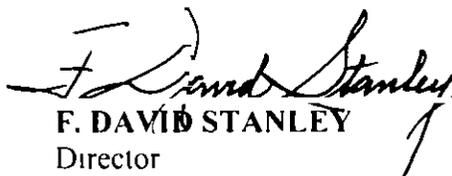
DATE *11 Jan 2007*

ORDER

THE ABOVE STIPULATION, in the matter of **ALAN HEAP M.D.** 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 terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 11 day of January, ~~2006~~ 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY
Director

INVESTIGATOR JARED MEMMOTT