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

<p>IN THE MATTER OF THE LICENSES OF F. MICHAEL CRANE, M.D., TO PRACTICE AS A PHYSICIAN AND SURGEON AND TO ADMINISTER AND PRESCRIBE CONTROLLED SUBSTANCES IN THE STATE OF UTAH</p>	<p>MEMORANDUM OF UNDERSTANDING AND ORDER</p> <p>[Non-Disciplinary Action]</p> <p>Case No DOPL -2008-202</p>
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On or about May 19, 2008, F Michael Crane, M D , ("Respondent") filed an application with the Division of Occupational and Professional Licensing (the "Division") for licensure to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah

On or about May 30, 2006, the Colorado Board of Medical Examiners suspended Respondent's license to practice medicine in that State based on Respondent's failure to comply with an order of the Colorado Board to submit to a mental health evaluation. The Colorado Board issued the order for an evaluation after receiving a report that Respondent had engaged in conduct that indicated that he may not be able to practice medicine with reasonable skill and safety

On or about October 3, 2006, the Division filed a Petition in Case No DOPL 2006-202 seeking disciplinary action against Respondent's licenses to practice as a physician and surgeon and to administer and prescribe controlled substances in the

State of Utah based on the suspension of Respondent's medical license in Colorado Respondent failed to file a response to the Petition, and, on December 19, 2006, the Division entered a Default Order revoking Respondent's licenses in the State of Utah

Respondent has not engaged in the clinical practice of medicine during the preceding two (2) years

In January and February 2007, Respondent completed an inpatient mental health evaluation at the Menninger Clinic, Houston, Texas Respondent submitted to the Division the Menninger Clinic's report of the evaluation, "Inpatient Professional Assessment and Discharge Summary," in support of his May 2008 application for licensure in the State of Utah Respondent authorized the Division to submit this report for review by the members of the Utah Physicians Licensing Board (the "Board")

The Division finds, in agreement with the recommendation of the Board, that the mental health evaluation generally supports Respondent's licensure However, the Division also notes that said evaluation may not be a complete evaluation due to Respondent's failure to provide the Menninger Clinic with access to all collateral contacts that the Clinic requested in the course of the evaluation

Based upon Respondent's disciplinary record in the past and for the purpose of protecting public health, safety, and welfare, and in accordance with the recommendation of the Board, Respondent and the Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that the Division shall issue limited licenses to Respondent to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah Said action shall not constitute disciplinary action The limitation of Respondent's licenses shall be subject to the terms and conditions as provided below

MEMORANDUM OF UNDERSTANDING

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action
- 2 Respondent understands that Respondent has the right to be represented by counsel in this matter, and Respondent's signature below signifies either that Respondent has consulted with an attorney or that Respondent waives Respondent's right to counsel in this matter
- 3 Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and, other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division or any member, officer, agent, or

representative of the Division to induce Respondent to enter into this Memorandum of Understanding and Order

- 4 Respondent understands that, prior to the entry of the Order which is based on this Memorandum of Understanding, he is entitled to the Division's entry of a decision either granting or denying his application for licensure and to notice of such decision. Respondent further understands that if the Division denied his application for licensure, he would have a right to challenge such denial by filing a request for agency review with the Department of Commerce within thirty (30) days of the date of the notice of the denial
- 5 Respondent waives the right to the Division's entry of a decision on his application for licensure prior to the entry of the order herein, the issuance of a notice on any such decision, and any other rights to which Respondent may be entitled in connection such decision by the Division
- 6 Respondent admits the following
 - a On or about May 30, 2006, the Colorado Board of Medical Examiners suspended Respondent's license to practice medicine in that State based on Respondent's failure to comply with an order of the Colorado Board to submit to a mental health evaluation. The Colorado Board issued the order for an evaluation after receiving a report that Respondent had engaged in conduct that indicated that he may not be able to practice medicine with reasonable skill and safety
 - b On or about October 3, 2006, the Division filed a Petition in Case No DOPL 2006-202 seeking disciplinary action against Respondent's licenses to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah based on the suspension of Respondent's medical license in Colorado. Respondent failed to file a response to the Petition, and, on December 19, 2006, the Division entered a Default Order against Respondent providing the following
 - (1) the Court found that Respondent engaged in "Unprofessional Conduct" as defined in UTAH CODE ANN § 58-1-501(2)(d) when his Colorado medical license was suspended on May 30, 2006 based on conduct, which, had it occurred in the State of Utah, could have prompted a suspension of Respondent's Utah licenses, and
 - (2) the Court ordered that Respondent's licenses to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah be revoked

- c Respondent has not engaged in the clinical practice of medicine for the two (2) years preceding Respondent's current application for licensure in the State of Utah
- 7 Based on the foregoing, Respondent admits that his qualifications for licensure in the State of Utah are in issue and that grounds exist pursuant to UTAH CODE ANN § 58-1-401(1) to deny his application for licensure based on Respondent's failure to comply with the order of the Colorado State Board of Medical Examiners to obtain a mental health evaluation and based on the finding that Respondent thereby engaged in "Unprofessional Conduct" as defined by Utah law
- 8 Respondent agrees that the Division shall issue to Respondent limited licenses to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah Said licenses shall be limited for a period of one (1) year, commencing on the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature The issuance of the limited licenses shall constitute non-disciplinary action The terms and conditions of the limitation of licensure are as follows
- a **Attendance and participation at scheduled Board interviews.** Respondent shall meet with the Division and Board on a quarterly basis, or at such other greater or lesser frequency as determined by the Division and Board, for the duration of the period of the limitation of Respondent's licenses thereafter Respondent shall meet with the Division and Board at the Board's first scheduled meeting after licensure is granted Prior to the first meeting with the Division and Board, Respondent shall meet with a Division staff member to review the terms of this Memorandum of Understanding and Order

Respondent shall notify the Division and Board prior to the date on which a Board interview is scheduled if Respondent is unable to attend that interview
 - b **Schedule for submission of reports and documentation to the Division and Board.** All reports and documentation required in this Memorandum of Understanding and Order shall be submitted to the Division and Board on a monthly basis
 - c **Practice restricted to the terms of an approved Practice Plan.** Respondent's practice as a physician and surgeon shall be restricted in accordance with the terms of a Practice Plan approved by the Division and Board Respondent shall, at his first meeting with the Division and Board, submit a proposed practice plan that reports the following

- (1) the location of and description of the practice setting including the patient population served, administrative and clinical staff, and hours of operation,
- (2) if Respondent engages in the clinical practice of medicine, the plan for the supervisory review of Respondent's clinical practice including the following
 - (a) on or before the fifth (5th) day of each month, Respondent's submission to the Supervisory Physician of a complete list of patients served during the preceding month,
 - (b) the Supervisory Physician's review of five percent (5%) of the patient files selected by the supervisor on a random basis from the list of clients served during the preceding month,
 - (c) weekly consultation with the Supervisory Physician, and
 - (d) on or before thirty (30) days of the end of each month, Respondent's submission to the Division and Board of documentation that the above terms of the Practice Plan have been completed
- (3) if Respondent engages in the administrative practice of medicine only and does not engage in the clinical practice of medicine, the plan for supervisory review of Respondent's administrative practice including the following
 - (a) weekly consultation with the Supervisory Physician reviewing Respondent's administrative duties during the previous week,
 - (b) contacts that shall be made by the Supervising Physician on a monthly basis with medical staff members regarding Respondent's competency and professionalism, and
 - (c) Respondent's submission to the Division and Board of documentation that the above terms of the Practice Plan have been completed

- d **Respondent's practice shall be supervised.** All practice as a physician and surgeon, regardless of Respondent's employment status, shall be supervised by Supervisory Physician in accordance with the following terms and conditions
- (1) Respondent's practice shall be supervised by a physician approved by the Division and Board. Said Supervisory Physician shall be in good standing with the Division and shall have no financial, business, or personal relationship with Respondent.
 - (2) Before beginning practice as a physician and surgeon, Respondent shall cause the Supervisory Physician to submit a resume to the Division and Board and to meet with the Division and Board to discuss oversight issues and the responsibilities expected of a Supervisory Physician.
 - (3) Before beginning practice as a physician and surgeon, Respondent shall provide the Supervisory Physician with a copy of this Memorandum of Understanding and Order and the Practice Plan. Before beginning practice, Respondent shall also cause the Supervisory Physician to submit written verification to the Division and Board that (a) the Supervisory Physician has received and read a copy of this Memorandum of Understanding and Order and the Practice Plan and (b) agrees to supervise Respondent's practice in accordance with the terms and conditions of this Memorandum of Understanding and Order and the Practice Plan.
 - (4) If Respondent engages in the clinical practice of medicine, the Supervisory Physician shall review Respondent's clinical practice in accordance with the Practice Plan and the following terms:
 - (a) Within thirty (30) days of the end of each month, the Supervisory Physician shall review five percent (5%) of the medical charts of patients treated by Respondent during the preceding month. Said review shall be at the expense of Respondent. The Supervisory Physician shall randomly select the charts to be reviewed from a list of the clients Respondent served during the preceding month, and the Supervisory Physician shall evaluate Respondent's compliance with the standards and ethics of medical practice and with the federal and state laws and regulations pertaining to, but not limited to, the care of patients and documentation thereof.

- (b) The Supervisory Physician shall consult with Respondent on a weekly basis regarding clinical practice issues
- (5) If Respondent engages in the administrative practice of medicine only and does not engage in the clinical practice of medicine, the Supervisory Physician shall review Respondent's administrative practice in accordance with the Practice Plan and the following terms
 - (a) The Supervisory Physician shall consult with Respondent on a weekly basis to review Respondent's administrative duties during the preceding week, and
 - (b) The Supervising Physician on a monthly basis shall contact identified medical staff members regarding Respondent's competency and professionalism in the performance of his administrative duties
- (6) Respondent shall cause the Supervisory Physician to submit to the Division and Board evaluations of Respondent's performance in accordance with the schedule provided in Subparagraph 8(b) above. Said evaluations shall assess Respondent's compliance with all terms and conditions of this Memorandum of Understanding and Order, the Practice Plan, and the statutes, rules, and standards of practice and ethics governing the practice of medicine in the State of Utah

An unfavorable evaluation by the Supervisory Physician may be considered to be a violation of the limitation placed on Respondent's licenses

- e **Forty (40) hours of continuing education.** Within twelve (12) months of licensure, Respondent shall complete forty (40) hours of continuing education to meet requirements for his renewal of licensure. Respondent, as part of the forty (40) hours of continuing education, must take a course on prescribing and ethics in the profession. All remaining hours can be in areas of interest to Respondent's practice. All hours must comply with subsection UTAH ADMIN CODE R156-67-304. The Division and Board must pre-approve the continuing education courses. The course hours shall count toward the regular continuing professional education requirement for license renewal. Respondent shall provide documentation to the Division and Board of his successful completion of the forty (40) hours of continuing education

f **Compliance with laws, ordinances, rules, and orders.** Respondent shall not violate any federal, state, or local law or ordinance and shall not violate any federal or state law, rule, or order regulating Respondent's practice as a physician and surgeon or his licenses to practice in the State of Utah

g **Report of providing a copy of this Memorandum of Understanding and Order to employers and submission of Employer Reports.** Within ten (10) days of licensure and prior to beginning employment with any new employer(s), Respondent shall notify all employer(s) of Respondent's restricted status and provide all employer(s) with a copy of the Memorandum of Understanding and Order herein. Respondent shall cause each employer to acknowledge to the Division and Board, in writing, that Respondent provided a copy of this Memorandum of Understanding and Order to the employer for its information and review

Respondent shall further cause Respondent's employer(s) to submit performance evaluations to the Board in accordance with the schedule provided in Subparagraph 8(b) above. If Respondent is self-employed, he shall submit documentation of the hours of his self-employment

The receipt of an unfavorable report may be considered to be a violation of the limitation placed on Respondent's licenses

h **Duty to submit an Employer Report in timely manner if not employed as a physician or if not employed.** If Respondent is not currently employed or if Respondent is not currently practicing as a physician, Respondent shall submit an Employer Report form on all dates that Employer Reports are due in accordance with the schedule provided in Subparagraph 8(b) above. Respondent shall report on all such Employer Report forms the dates during which Respondent was not employed or was not practicing as a physician

i **Hours of practice required to complete the period of limitation of licensure.** Respondent must work at least ten (10) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" as a physician. Respondent shall submit to the Division and Board documentation of the number of hours of practice as a physician and surgeon in accordance with the schedule provided in Subparagraph 8(b) above

The period of time during which Respondent does not practice as a physician shall not be counted toward the period of limitation of licensure required in this Memorandum of Understanding and Order. It shall be within the discretion of the Division and Board to modify this requirement if

Respondent satisfactorily explains to the Division and Board that compliance in Respondent's case is impractical or unduly burdensome

- j **Duty to report absence from the State of Utah.** If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall immediately notify the Division and Board in writing of the dates of Respondent's departure and return

If Respondent relocates to a different state, he shall, within twenty (20) calendar days of moving from Utah, provide the licensing authorities of the jurisdiction to which he moves with written notification of his status of limited licensure in Utah and with a copy of this Memorandum of Understanding and Order. Within twenty (20) days of moving, Respondent shall also submit written verification to the Division and Board that he has complied with this Subparagraph

Periods of residency or practice outside the State of Utah may apply to the reduction of the one-year period of limitation of licensure if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Memorandum of Understanding and Order

- k **Additional events requiring written notification to the Division and Board.** Respondent shall notify the Division and Board in writing within ten (10) calendar days of any of the following events

- (1) any change in Respondent's residential or business address,
- (2) any change in employer, employment status, or practice status, regardless of whether Respondent is employed in Respondent's profession as a physician and surgeon,
- (3) if Respondent is arrested, charged, convicted, or enters a plea in abeyance to a criminal offense, in any jurisdiction, inside or outside the State of Utah, for any reason, and
- (4) if Respondent is 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 of any medical, emotional, or psychological disorder

- l **Extension of the period during which Respondent's licenses are limited upon the filing of a petition or order to show cause.** If a petition or order to show cause is filed against Respondent during the period that Respondent's licenses are limited, the limitation period shall be extended until the matters in the petition and order to show cause are

finalized

- m **Duty to maintain current licenses.** Respondent shall maintain current licenses to practice as a physician and surgeon and to administer and prescribe controlled substances at all times during the period of this Memorandum of Understanding and Order
 - n **Address for purposes of providing notice to Respondent.** Respondent agrees that written communication by the Division and the Board shall be mailed to Respondent at the last address provided to the Division, first class U S Mail, and shall constitute notice to Respondent
 - o **Duty to pay all costs.** Respondent is responsible for all costs, if any, associated with this Memorandum of Understanding and Order
 - p **Additional acts of Unlawful or Unprofessional Conduct.** Should other acts of Unlawful Conduct or Unprofessional Conduct come to the attention of the Division which occurred either prior to or subsequent to the entry of the Memorandum of Understanding and Order herein, the Division may, in addition to taking action as provided herein, and, after giving Respondent notice and opportunity to be heard, terminate the limitation of Respondent's licenses, revoke Respondent's licenses, and/or otherwise proceed against Respondent under applicable law
- 9 *If Respondent violates any term or condition of this Memorandum of Understanding and Order, the Division may take action against Respondent, including imposing appropriate sanctions on Respondent's licenses, in the manner provided by law. Such sanctions may include revocation or suspension of Respondent's licenses or other appropriate sanctions*
- 10 The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately following the Division Director's signing of the Order page of this Memorandum of Understanding and Order. Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Memorandum of Understanding and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Division and Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions

- 11 This Memorandum of Understanding and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this administrative matter. Respondent acknowledges that the Director is not required to accept the terms of this Memorandum of Understanding and Order and that, if the Director does not do so, this Memorandum of Understanding and the representations contained therein shall be null and void, except that the Division and Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Memorandum of Understanding and Order, and this waiver shall survive such nullification.
- 12 This Memorandum of Understanding and Order, if approved by the Director of the Division, will be classified as a public document. The Division may release this Memorandum of Understanding and Order to other persons and entities.
- 13 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 Memorandum of Understanding and Order. There are no verbal agreements that modify, interpret, construe, or affect this Memorandum of Understanding and Order.
- 14 Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order. Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

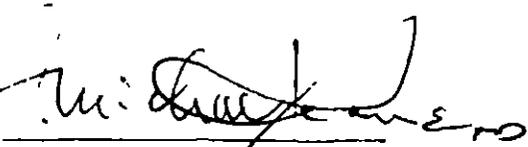
BY


NOEL TAXIN
Bureau Manager
Division of Occupational
and Professional Licensing

DATE

10/8/08

BY


F. MICHAEL CRANE, M.D.
Respondent

DATE

5 October 08

MARK L SHURTLEFF
ATTORNEY GENERAL

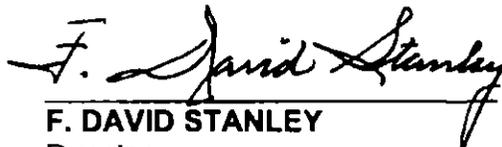
BY 
JUDITH A. JENSEN
Assistant Attorney General
Counsel for the Division
DATE October 12, 2008

ORDER

The above **MEMORANDUM OF UNDERSTANDING**, in the matter of the license of F Michael Crane, M D , to practice as a physician and surgeon and to administer and prescribe controlled substances in the State of Utah, is hereby approved by the Division of Occupational and Professional Licensing. The terms and conditions of the Memorandum of Understanding are incorporated herein and constitute my final Order in this case.

DATED this 13 day of October, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY
Director
Division of Occupational and
Professional Licensing