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

IN THE MATTER OF THE ISSUANCE OF) **MEMORANDUM OF**
PROBATIONARY LICENSES TO) **UNDERSTANDING AND ORDER**
KITTYA PAIGNE TO PRACTICE AS A)
PHYSICIAN/SURGEON AND TO ADMINISTER) **CASE NO. DOPL 2008- 263**
AND PRESCRIBE CONTROLLED)
SUBSTANCES IN THE STATE OF UTAH)

KITTYA PAIGNE ("Respondent") submitted an application for initial licensure to practice as a physician/surgeon and to administer and prescribe controlled substances in the State of Utah on or about May 28, 2008. On or about September 5, 2006, an Accusation was filed with the Medical Board of California alleging that Respondent engaged in unprofessional conduct, including negligence and incompetence. On or about November 29, 2007 Respondent voluntarily entered into a Stipulated Settlement and Disciplinary Order with the Medical Board of California whereby Respondent admitted to the allegations contained in the Accusation. On or about January 25, 2008 a Decision issued by the Medical Board of California finding that Respondent had engaged in unprofessional conduct, including negligence and incompetence. Respondent's California Physician's and Surgeon's Certificate was revoked, the revocation stayed, and Respondent was placed on probation for five years. The Decision, Stipulated Settlement and Disciplinary Order, with the Accusation as an attachment, are incorporated by reference to this Memorandum of Understanding and Order and attached hereto as Exhibit A.

Based upon Respondent's conduct described above, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued probationary licenses to practice as a physician/surgeon and to administer and prescribe controlled substances in the State of Utah, subject to terms and conditions, which shall be in effect

for a period of three years, commencing upon the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(d) Respondent understands the issuance of the Order in this matter is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2)
- 2 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 agreement
- 3 Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter
- 4 Respondent acknowledges that this Memorandum of Understanding 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
- 5 Respondent's Utah licenses to practice as a physician/surgeon and to administer and prescribe controlled substances shall be revoked, the revocation stayed, and Respondent's licenses subject to the terms and conditions below
- 6 Respondent shall successfully complete and satisfy the following terms and conditions
 - (a) Respondent shall practice only under the supervision of a Division and Board pre-approved supervisor during the term of Respondent's probation Any changes in supervision may be made only with the consent of the Division and Board Respondent shall deliver a copy of this Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division in writing that a copy has been received Respondent shall provide a copy of this Stipulation and Order to the supervisor and cause the supervisor to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the supervisor The supervisor shall write the Division and indicate whether the supervisor will provide the periodic supervisor reports
 - (b) Respondent shall meet weekly with Respondent's supervisor unless the Division or Board determine a different frequency Supervision goals shall

include concurrent management, oversight of clinical services, and professional relationships and practices

- (c) If Respondent is self-employed in private practice, Respondent shall hire a supervisor, pre-approved by the Board and Division
- (d) Respondent shall cause Respondent's supervisor to submit reports to the Board and Division assessing Respondent's compliance with the terms of Respondent's probation and ethics. The reports shall be submitted monthly for the first six months, and quarterly thereafter, or at such frequency as directed by the Board and Division. The receipt of an unfavorable report may be considered to be a violation of probation
- (e) If Respondent is not currently employed in Respondent's licensed profession, Respondent shall submit the supervisor report form on the date it is due and indicate on the form that Respondent is not currently employed in Respondent's licensed profession, or that Respondent is not currently working
- (f) Respondent shall notify any employer of Respondent's restricted status and the terms of this Stipulation and Order. Respondent shall provide a copy of this Stipulation and Order to Respondent's employer and cause Respondent's employer to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the employer. The employer shall submit employer reports to the Division and Board on a monthly basis for the first six months and quarterly thereafter, or at such frequency as directed by the Division or Board. The employer shall write the Division and indicate whether the employer will provide the periodic employer reports
- (g) Respondent shall not supervise physician assistants unless approved by the Division and Board. Before Respondent is approved to supervise physician assistants Respondent shall submit a practice plan to the Division and Board describing how Respondent will supervise physician assistants
- (h) Respondent shall comply with and successfully complete all the requirements of Exhibit A, the Stipulated Settlement and Disciplinary Order that Respondent entered into the Medical Board of California. For the purposes of this Stipulation and Order only, and not the California Stipulated Settlement, Respondent may satisfy the Clinical Training Program set forth in paragraph 4 of the California Stipulated Settlement by either successfully completing the PACE Program at the University of California – San Diego School of Medicine, or an equivalent course of study at the Center for Personalized Education for Physicians Program (CPEP) in Colorado. Respondent shall successfully complete in a timely

manner all recommendations made by any evaluator at the clinical training program Respondent shall provide any evaluation and reports from the clinical training program The Clinical Training Program requirement as set forth in paragraph 4 of the California Stipulated Settlement shall be successfully completed within one year of the effective date of this Stipulation and Order Respondent has already satisfied the Prescribing Practices Course and Medical Record Keeping Course set forth in paragraphs 2 and 3 of the California Stipulated Settlement

- (i) Respondent shall notify the Division and Board within one (1) week of any change of employer or employment status This is required regardless of whether Respondent is employed in Respondent's licensed occupation The notification shall be in writing
- (j) Respondent shall meet with the Board and Division within thirty (30) days of signing of the accompanying Order and on a quarterly basis, or at other greater or lesser frequency as determined by the Board and Division for the duration of the probationary period thereafter to assess the progress of Respondent's probation Respondent shall meet with the Board and Division at the first scheduled Board meeting after the effective date of the Order with a plan for Respondent's probation, including the name(s) of evaluator(s)
- (k) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes
- (l) In the event that Respondent leaves Utah for a period longer than 60 days, Respondent shall notify the Division and the Board in writing of the dates of departure and return The licensing authorities of the jurisdiction to which Respondent moves must be promptly notified of the provisions of this Stipulation and Order Periods of residency or practice outside Utah may apply to the reduction of the probation period if the new state of residency places Respondent's license on probation with equal or greater terms and conditions
- (m) Periods of unemployment or employment in other fields of practice shall be reported by Respondent to the Division and shall not count toward completion of probation Should Respondent not be employed in Respondent's licensed occupation during Respondent's probationary period for a consecutive period of more than sixty (60) days, that period shall not apply to the reduction of probation, though the terms of probation shall remain applicable If the Respondent works less than full-time in Respondent's licensed occupation, the reduction of any remaining probationary time shall occur on a pro-rata basis, in relation to a full-time position of 40 hours worked per week

- (n) Should other acts of unprofessional conduct come to the attention of the Division or Board which have occurred prior to the entry of the Order in this case or should Respondent violate probation in any respect, the Division may, in addition to taking action as provided for herein, after giving Respondent notice and the opportunity to be heard, revoke probation or impose sanctions in accordance with applicable law
- (o) If a petition is filed against Respondent during Respondent's probation, the period of probation shall be extended until the matters alleged in the petition are fully resolved
- (p) Respondent shall immediately notify the Division, in writing, of any changes in private or professional address and agrees that written communication by the Division and/or the Board shall be mailed to Respondent at the last address provided to the Division via first class U S Mail, and shall constitute notice to Respondent
- (q) Failure to pay for any of the costs associated with this probation shall be considered a violation of this Order Respondent further agrees to complete all conditions of probation in a timely manner Where a specific time for completion is not stated in this Order, it shall be within the Division and Board's discretion to set a time for completion
- (r) Respondent agrees to keep Respondent's Utah license current during the period of probation
- (s) Respondent shall notify the Division immediately if Respondent is charged or arrested with any criminal conduct and understands that a conviction is a violation of this agreement

7 Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's licenses area of practice

8 Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure

9 If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license will be lifted and Respondent's license will not be subject to further restriction

10 If Respondent violates any term or condition of this Memorandum of Understanding 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

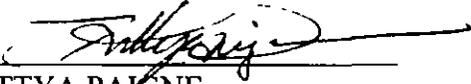
suspension of Respondent's license, or other appropriate sanction

- 11 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 after the Division Director signs the Order page of this Memorandum of Understanding and Order The 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 this Memorandum of Understanding 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 Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions
- 12 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 There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order
- 13 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

BY 
KITTYA PAIGNE

DATE 11/12/08

DATE 11/1/08

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

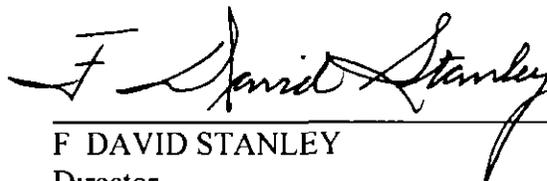
DATE 8 Oct 2008

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **KITTYA PAIGNE** is hereby approved by the Division of Occupational and Professional Licensing. 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 Memorandum of Understanding are incorporated herein and constitute my final Order in this case.

DATED this 13 day of November, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



F DAVID STANLEY
Director