

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
VAUGHN T. JOHNSON, DO
TO PRACTICE AS AN
OSTEOPATHIC PHYSICIAN/SURGEON
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

:
:
: **AMENDED ORDER**
: Case No.
: DOPL-2008-272
:
:
:
:

BY THE DIVISION:

The Division's Stipulation and Order, dated November 25, 2008, in the above-referenced case is hereby amended as follows.

IT IS HEREBY ORDERED that the suspension on Respondent's license to administer and prescribe controlled substances is terminated and said license is placed on probation consistent with the probationary period, conditions and restrictions that currently exist on his license to practice as an osteopathic physician/surgeon as identified in the November 25, 2008 Stipulation and Order.

All other conditions and restrictions identified in the November 25, 2008 Stipulation and Order shall remain the same and in effect.

Dated this 11 day of June, 2009.




Mark B. Steinagel
Director

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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)
VAUGHN T. JOHNSON) **STIPULATION AND ORDER**
TO PRACTICE AS AN)
OSTEOPATHIC PHYSICIAN AND TO) **CASE NO DOPL 2008-- 272**
ADMINISTER AND PRESCRIBE)
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

VAUGHN T. JOHNSON ("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 Osteopathic 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 neither admits nor denies the following, but, for the purposes of this administrative matter only, agrees that the Division may make the following findings of fact

- a. Between 2001 and January 2005, J.B.E. provided medical treatment to patient S.S. (full name withheld for confidentiality) to address S.S.'s mental health and pain issues. During the period that J.B.E. treated S.S., J.B.E. prescribed excessive amounts of and inappropriate types of controlled substances, including Schedule II controlled substances, while knowing S.S. had a history of substance abuse. Respondent did not adequately review or supervise J.B.E.'s medical decisions with regard to S.S.
- b. J.B.E. failed to document in the patient records of S.S. sufficient need for the prescribed amount of opioid treatment and failed, as a prescribing practitioner, to follow the chronic pain management guidelines contained in the Model Policy for the Use of Controlled Substances for the Treatment of

Patn. 1998 and 2004.

- c. On or about February 17, 2005, S.S. died. According to the autopsy report, the immediate cause of death was mixed drug poisoning involving Fentanyl and Alprazolam prescribed by J.B.E., and ethanol
- d Respondent's licenses to practice as an osteopathic physician and to administer and prescribe controlled substances were restricted and placed on probation by the Division, pursuant to stipulation, in or about October 2002. Respondent, as a supervising physician, failed to ensure that J.B.E., in his capacity as physician assistant, complied with the same terms and conditions that were placed on Respondent's controlled substance license by the Division pursuant to the October 2002 stipulation, specifically that J.B.E. did not issue controlled substance prescriptions on sequentially numbered duplicate prescription forms or have a reviewing physician monitor J.B.E.'s controlled substance prescribing and submit quarterly reports regarding the status of J.B.E.'s prescribing practices
- e Between about June 2, 2005, and June 17, 2005, Respondent supervised B.W (full name withheld for purposes of confidentiality), as a physician assistant, to work at a location remote from Respondent's main office. Respondent failed to enter into and maintain a DSA with B.W., circumscribing and setting forth the extent to which B.W. could engage in medical practice under Respondent's supervision
- f Between about June 17, 2005, and October 2005, Respondent entered into a DSA with B.W. which authorized B.W. to prescribe controlled substance without regard to the terms and conditions placed on Respondent's restricted controlled substance license pursuant to the October 2002 stipulation, specifically that B.W. not issue controlled substance prescriptions on sequentially numbered duplicate prescription forms or have a reviewing physician monitor B.W.'s controlled substance prescribing and submit quarterly reports regarding the status of B.W.'s prescribing practices.
- g On or about April 17, 2006 and again on or about April 24, 2006, Respondent accessed the Division's Controlled Substance Database and received a controlled substance database prescription report (hereinafter "CSDB report") on patient J.S. (full name withheld for purposes of confidentiality). Respondent then provided the CSDB report to D.S. (full name withheld for purposes of confidentiality), the husband of J.S., a person not lawfully authorized to receive the report, to be used in litigation against J.S. Respondent obtained the CSDB report at the request of D.S.

- h. In March and April 2007, Respondent signed a number of blank prescription forms and provided them to T.C. (full name withheld for purposes of confidentiality), an employee at a Utah weight loss clinic who was not licensed to administer or prescribe controlled substances in the State of Utah. T.C. filled out at over 100 (one-hundred) prescription forms signed by Respondent and issued them to clients of the weight loss clinic so that the clients could obtain phentermine, a Schedule IV controlled substance. Respondent did not establish any physician-patient relationship with any of the weight loss clinic clients that were provided with prescriptions for phentermine.

8 While Respondent neither admits nor denies the preceding findings of fact,

Respondent agrees that findings of fact as made by the Division above, for the purposes of this administrative matter only, constitute unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (m), § 58-67-502, and Utah Administrative Code R156-70a-501, R156-37-502(2), R156-37-603(8) and (10), and R156-37-604(2); and unlawful conduct as defined in Utah Code Ann § 58-1-501(2)§ 58-37-6(4)(a)(vi), § 58-37-7 5(8), (9), (10) and (11), and 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 pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2), may be issued in this matter providing for the following action against his license:

- (1) Respondent's license to administer and prescribe controlled substances in the State of Utah shall be revoked. The revocation shall be immediately stayed and the license shall be suspended until Respondent successfully completes the requirements contained in subparagraph 8(3)(d) and 8(3)(e) below along with any further training recommended by the CPEP evaluation set forth in subparagraph 8(3)(d) below. Once the suspension of Respondent's controlled substance license is lifted, the license shall be subject to a term of probation concurrent with the term of probation for Respondent's license to practice as an osteopathic physician as described below. The period of probation shall commence on the date of the issuance of an Amended Order by the Division director in this matter lifting the suspension. During 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. If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to prescribe and administer controlled substances for the period of suspension. Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division.

- (2) Respondent shall pay a fine to the Division in the amount of \$5,000.00 (five-thousand dollars), pursuant to Utah Code Ann. § 58-37-7 5(11), 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 2/26/09
- (3) Respondent's license to practice as an osteopathic physician in the State of Utah shall be revoked. That revocation shall be immediately stayed and the Respondent's license shall be subject to a five year term of probation. The period of probation shall commence on the date of the issuance of an Order by the Division director in this matter. During 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 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.
 - b. Respondent shall identify a supervising physician to supervise Respondent's practice. The supervising physician shall be in good standing with the Division. The supervising physician shall agree to co-manage practice care issues with Respondent to include the review of 10% of Respondent's medical charts. 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.

- c. 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.
- d. Within six months of the entry of the Order in this matter, Respondent shall submit to an evaluation by the Colorado Physician Education Program (hereinafter "CPEP"), in Denver, Colorado. Respondent shall successfully complete all educational recommendations made by CPEP.
- e. Respondent shall successfully complete a course on the appropriate prescribing within six months of the effective date of this Stipulation and Order. The course shall be pre-approved by the Division and Board. The course shall not count toward Respondent's regular continuing education requirement.
- f. Respondent shall successfully complete four additional Category One continuing education credit hours, pre-approved by the Board and Division, focusing on the subject of prescribing law and ethics. Respondent shall successfully complete the additional four hours of continuing education within twelve months of the effective date of this Stipulation and Order. The four additional hours shall not count toward Respondent's regular continuing education requirement.
- g. Respondent may not supervise any physician assistant in any manner, unless approved by the Division.
- h. 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

- i. 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.
- j. 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
- k. 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
- l. Respondent must maintain a current Utah physician license at all times during the period of probation

m 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 non-criminal administrative matter. The Division shall not make a referral of any of the matters involved in this Stipulation and Order to criminal authorities. 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 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 an osteopathic physician and the administration and prescription 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

BY: 
NOEL TAXIN
Bureau Manager

RESPONDENT

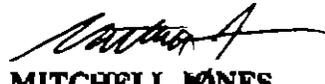
BY: 
VAUGHN T. JOHNSON
Respondent
11 8 2015

DATE 11 24 03

DATE:

18 08

MARK L SHURTLEFF
ATTORNEY GENERAL

BY: 
L. MITCHELL JONES
Counsel for the Division

DATE 24 Nov 2008

ORDER

THE ABOVE STIPULATION, in the matter of VAUGHN T. JOHNSON, 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 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 Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 25 day of November, ~~2007~~ ²⁰⁰⁸ 

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING


F. DAVID STANLEY
Director

Investigator: Lynn Hooper and Vince Garcia