

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
DANIEL JAE HYUK KWAK
TO PRACTICE AS A PHYSICIAN/SURGEON
AND TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

:
:
: **ORDER REINSTATING LICENSE**
:
:
: Case No. DOPL-2008-283
:

BY THE DIVISION:

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated December 9, 2008, in the above-referenced case number.

IT IS HEREBY ORDERED the conditions on the licenses of DANIEL JAE HYUK KWAK to practice as a physician/surgeon and to administer and prescribe controlled substances are terminated and said licenses be reinstated with full privileges retroactive to February 17, 2009.

Done this 17 day of August, 2009.




Mark B. Steinagel
Director

L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
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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)
DANIEL JAE HYUK KWAK) **STIPULATION AND ORDER**
TO PRACTICE AS A PHYSICIAN/SURGEON)
AND TO ADMINISTER AND PRESCRIBE) **CASE NO DOPL 2008- 283**
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

DANIEL JAE HYUK KWAK (“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

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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 ("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 understands that by signing this document Respondent hereby waives the right to a hearing, the right to present evidence on Respondent's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Respondent may be entitled in connection with said hearing Respondent understands that by signing this document Respondent waives all rights to any administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R156-46b-12 through R156-46b-15

5 Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter

6 Respondent understands 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's license, to other persons and entities

7 Respondent admits the following facts are true

- a Respondent was first licensed to practice as physician/surgeon and to administer and prescribe controlled substances in the State of Utah on or about September 29, 2006

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- b In or about July 2006 Respondent began employment at the University of Utah School of Medicine ("School of Medicine") as a faculty member Respondent submitted a curriculum vitae to the School of Medicine that represented that Respondent had become board certified in general pediatrics by the American Board of Pediatrics in or about October 2006 The School of Medicine requested that Respondent submit verification of this representation Respondent submitted two certificates representing the Respondent was board certified as described above Both of these certificates had been falsified by a third party The University of Utah later determined that Respondent's statement that he had no knowledge of the third party's actions were not credible
 - c Respondent has never been board certified in general pediatrics by the American Board of Pediatrics
 - d On or about June 30, 2008 Respondent resigned his faculty position at the School of Medicine On or about August 15, 2008 Respondent's hospital privileges were terminated
 - f On or about October 15, 2008 the American Board of Pediatrics notified the Division that Respondent's certificates representing that he had been board certified were falsified Respondent was fined \$5,000 00 (five-thousand dollars) by the American Board of Pediatrics and barred from applying for certification for five years

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (h) and § 58-67-501(1)(a) Respondent agrees by engaging in such conduct the Division is justified in taking 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 license by the Division 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 Respondent's license

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- (1) Respondent's licenses to practice as a physician/surgeon and to administer and prescribe controlled substances shall be publicly reprimanded for the conduct described above
- (2) Respondent shall successfully complete an ethics course, pre-approved by the Division, within six months of the effective date of this Stipulation and Order. The ethics course shall not count toward Respondent's regular continuing education requirement
- (3) Respondent shall submit an essay to the Division and Board describing the effect of Respondent misrepresentations had on himself, his profession, and his patients. The essay shall be submitted within six months of the effective date of this Stipulation and Order

9 Upon approval by the Director of the Division, this Stipulation and Order 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 prejudice they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10 Respondent shall abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice.

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. Respondent agrees not to take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public

statement includes statements to one or more Board members during a meeting of the Board
Any such action or statement shall be considered a violation of this Stipulation and Order

12 The accompanying Order becomes effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent shall 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 comply with and timely complete all the terms and conditions of probation 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 comply with and timely complete a term or condition 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

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DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY 
NOEL TAXIN
Bureau Manager

BY 
DANIEL JAE HYUK KWAK
Respondent

DATE 12 3 08

DATE 12/5/2008

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE 8 Dec 2008

ORDER

THE ABOVE STIPULATION, in the matter of **DANIEL JAE HYUK KWAK**, 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 9 day of *December*, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



F. DAVID STANLEY
Director

Investigator Larry Gooch