

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

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IN THE MATTER OF THE LICENSES OF :  
JOSEPH MICHAEL HODGES : ORDER REINSTATING LICENSE  
TO PRACTICE AS A PHARMACIST :  
AND TO DISPENSE CONTROLLED SUBSTANCES :  
IN THE STATE OF UTAH : Case No. DOPL-2008-69

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BY THE DIVISION:

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated April 11, 2008, in the above-referenced case number.

IT IS HEREBY ORDERED the probation on the licenses of JOSEPH MICHAEL HODGES to practice as a pharmacist and to dispense controlled substances is terminated and said licenses be reinstated with full privileges effective the date of this Order.

Dated this 2<sup>nd</sup> day of August, 2010.

W. Ray Walker  
W. Ray Walker  
Acting Director



L. MITCHELL JONES (U.S.B. 5979)  
Assistant Attorney General  
MARK L. SHURTLEFF (U.S.B. 4666)  
Attorney General  
Commercial Enforcement Division  
Heber M. Wells Building  
Box 146741  
Salt Lake City, UT 84114-6741  
Telephone: (801) 366-0310

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

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IN THE MATTER OF THE LICENSES OF )  
**JOSEPH MICHAEL HODGES** ) STIPULATION AND ORDER  
TO PRACTICE AS A PHARMACIST AND )  
TO DISPENSE CONTROLLED SUBSTANCES ) CASE NO. DOPL 2008-- 69  
IN THE STATE OF UTAH )

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**JOSEPH MICHAEL HODGES** ("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 State of Utah's Board of Pharmacy ("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. The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's licenses, to other persons and entities.

7. Respondent admits the following facts are true:

- a. Respondent submitted an application for renewal of his licenses to practice as a pharmacist and to dispense controlled substances in the State of Utah on or about September 26, 2007. In the application, Respondent informed the Division that he had recently been arrested and convicted of a criminal charge. Respondent was granted a conditional license on or about October 1, 2007 while the Division investigated the matter.
- b. On or about April 4, 2007 Respondent intentionally touched the breast of female co-worker while Respondent worked at a Utah pharmacy.

- c. On or about June 27, 2007 Respondent pleaded “no contest” to one count of sexual battery in Fourth District Court, Utah County, Utah. Respondent was placed on probation for 18 months and fined \$750.00. Respondent was ordered to successfully complete a sexual abuse evaluation conducted by Alliance Clinical Services and any treatment recommended by the evaluation.
- d. Respondent had pleaded “no contest” to similar offenses in 1992.

8. Respondent admits that Respondent’s conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (c), and (k), and that said conduct justifies disciplinary action against Respondent’s license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent agrees that an Order, which constitutes disciplinary action against Respondent’s licenses by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2), shall be entered in this matter as follows:

- (1) Respondent’s licenses shall be revoked. That revocation shall be immediately stayed and Respondent’s licenses shall be subject to a term of probation for a period of three 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 period of probation, 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 practice only under the direct 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.
  - (b) 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.

- (c) 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.
- (d) 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.
- (e) Respondent shall successfully complete all treatment recommended by the Alliance Clinical Services evaluation. Alliance Clinical Services may determine when Respondent shall terminate treatment. Respondent shall cause Alliance Clinical Services to submit quarterly reports to the Division and Board summarizing Respondent's progress. Respondent shall execute the appropriate written release forms to authorize Alliance Clinical Services to report to the Division and Board any report, diagnosis, supporting information, testing and measures administered, interpretation of the tests, treatment recommendations, and treatment progress. Respondent shall be responsible for all expenses related to his treatment. Respondent shall not change therapists unless he receives approval of the Board and written approval of Alliance Clinical Services.
- (f) After Respondent has completed his treatment with Alliance Clinical Services, Respondent shall successfully complete a psychosexual evaluation from Dr. Michael Brunson ("evaluator"). The evaluator shall evaluate Respondent's problems relating to sexual boundaries and any other areas the evaluator identifies as concern. Respondent will cause a report of the evaluation to be sent to the Division and Board along with any recommended treatment plan, if any. Said evaluation will be completed within ninety (90) days of the date Respondent successfully completes his treatment with Alliance Clinical Services. Respondent shall execute the appropriate written release forms to authorize the evaluating practitioner to report to the Division and Board any report, diagnosis, supporting information, testing and measures administered, interpretation

of the tests and treatment recommendations. Respondent shall be responsible for all expenses related to the evaluation.

- (g) Respondent shall follow any treatment recommendations made by the evaluator, the Division, and/or the Board. A therapist approved by the Division and Board shall conduct any treatment. Respondent shall execute any necessary releases to allow the therapist to provide reports to the Division and Board regarding Respondent's progress. Respondent's therapy should focus on the areas of concern identified by the evaluator. Respondent shall cause quarterly progress reports to be submitted to the Division and Board by the therapist. Respondent shall be responsible for all treatment expenses.
- (h) Respondent shall attend 12-step sexual addiction meetings at least once per week during the period of probation unless the Board or Division approve a different frequency.
- (i) Respondent shall successfully complete a sexual boundaries course from a national provider that is pre-approved by the Division within one year of the effective date of this Order.
- (j) Respondent shall not accept employment in "as needed" PRN pools or any floating employment pool.
- (k) 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.
- (l) 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).
- (m) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes.
- (n) 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.

- (o) 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.
- (p) 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.
- (q) 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.
- (r) 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.
- (s) 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.
- (t) Respondent agrees to keep Respondent's Utah licenses current during the period of probation.

- (u) 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.
- (v) Before Respondent begins any employment Respondent shall submit a practice plan to the Division and Board explaining where Respondent will practice and how Respondent will practice within the terms and conditions of this Stipulation and Order. If the Division or Board determine that the practice plan submitted by Respondent is not satisfactory, Respondent shall not begin employment until a practice plan that the Division and Board determine is satisfactory is submitted.
- (w) Respondent shall submit an essay to the Division and Board at Respondent's first meeting with the Board in which Respondent describes the effects his misconduct had on himself, the victim, and the pharmacy.

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. 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 her 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 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.

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 Division. 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:   
NOEL TAXIN  
Bureau Manager

BY:   
JOSEPH MICHAEL HODGES

DATE: 4/10/08

DATE: 4-10-08

MARK L. SHURTLEFF  
ATTORNEY GENERAL

BY:   
L. MITCHELL JONES  
Counsel for the Division

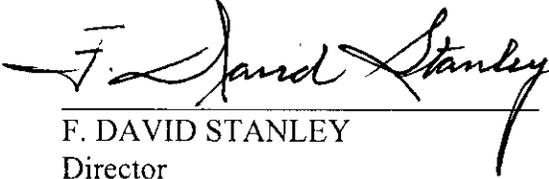
DATE: 10 Apr 2008

**ORDER**

THE ABOVE STIPULATION, in the matter of **JOSEPH MICHAEL HODGES**, 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 11 day of April, 2008.

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING

  
F. DAVID STANLEY  
Director

Investigator: Lynn Hooper