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

IN THE MATTER OF THE LICENSES OF : **EMERGENCY ORDER**
STEVEN R. PACK, M.D.,
TO PRACTICE AS A PHYSICIAN :
AND SURGEON AND TO ADMINISTER :
AND PRESCRIBE CONTROLLED :
SUBSTANCES IN THE STATE OF UTAH : Case No. DOPL 2009-296

The Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah (the "Division") initiated an Emergency Adjudicative Proceeding pursuant to Utah Code Ann. § 63G-4-502, the Utah Administrative Procedures Act; Utah Code Ann. § 58-1-108(2), the Division of Occupational and Professional Licensing Act; and Utah Administrative Code R151-46b-16, the Department of Commerce Administrative Procedures Act Rules. The Division initiated the Emergency Administrative Proceeding upon evidence that the continued practice of Steven R. Pack ("Dr. Pack") represented an immediate and significant danger to the public health, safety, and welfare; and that the threat required immediate action by the agency.

Before taking this action, the Chair of the Physicians Licensing Board appointed a

three-member committee to review with the Division the proposed action in this matter, pursuant to Utah Code Ann. § 58-1-108(2).

Pursuant to the Open and Public Meetings Act, Utah Code Ann. § 52-4-1, the Division provided notice of the meeting of the committee for 10:00 a.m. on September 23, 2009, at the Heber M. Wells Building located at 160 East 300 South, Salt Lake City, Utah. Notice of the meeting was provided to the Salt Lake Tribune on September 22, 2009. Notice was also placed in the lobby of the Heber Wells Building and on the DOPL/public information website on or about September 22, 2009. The committee convened at the appointed date and time. The meeting of the committee was closed pursuant to Utah Code Ann. § 52-4-205(1)(a) in order to discuss the professional competence and character of an individual. The presiding committee member affirmed under oath that the meeting was closed for that purpose. The committee reviewed the Division's proposed action and considered information in the form of testimony and photos. The Division, having considered the committee's recommendations, makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. That since June 9, 1992, Dr. Pack has been licensed to practice as a Physician and Surgeon, license number 187392-1205, and to administer and prescribe controlled substances in the State of Utah, license number 187392-8905. Dr. Pack had an office in Lehi, Utah, where he worked as an emergency medicine specialist.
2. That on or about October 14, 2008, medical assistant K.M., who was 17 years old at the time, was leaning over her desk in medical scrubs, with a little of her underwear showing while she was bending over her work station. Dr. Pack pulled K.M.'s scrub bottoms down about half an

1
inch while he was also pulling her scrub top up. Dr. Pack did this without first asking K.M. for permission to do it or without any kind of warning that he was going to touch K.M. K.M. was shocked, and she turned around immediately. Dr. Pack nervously said, "Oh, yeah, okay."

Earlier that day, K.M. had asked Dr. Pack to look at a bad bug bite on her arm. Later that day, Dr. Pack told K.M., "Sorry about earlier. You probably thought I was being gross and perverted. I wasn't. I was just looking for more lesions on your back." K.M. told the office receptionist about the incident. Dr. Pack terminated K.M. within two weeks of the October 14th incident for allegedly mistreating patients and disrespecting staff. K.M. believes her discharge was unjustified and done to cover up the October 14th incident.

3. That on or about May 15, 2009, Dr. Pack took K.R., a medical assistant who was 19 years old at the time, into an exam room to demonstrate the use of a pulse oximeter. Dr. Pack shut the exam room door, and there were no other medical assistants or witnesses in the room. While this demonstration was going on, K.R. experienced some chest pain. Dr. Pack asked K.R. if she was okay, and K.R. told Dr. Pack she was fine, that she just needed to breathe the pain/tension out. Dr. Pack, without asking permission or giving K.R. any warning, put his hand down K.R.'s scrubs and grabbed her breasts. Dr. Pack touched K.R.'s nipples and told her, "Most guys get aroused by breasts. They're just a mass of flesh to me." K.R. told two coworkers and her fiancée about the incident. Prior to the May 15th incident, Dr. Pack would use K.R. as a model when he was demonstrating certain tasks to the other medical assistants, touching the sides of K.R.'s breasts on at least four or five occasions. K.R. told a coworker that it was weird that Dr. Pack would hold her breasts for so long during these demonstrations. K.R. felt violated by Dr. Pack and uneasy around him, but she did not quit because she felt it would overburden another

1
medical assistant. Dr. Pack discharged K.R. in June of 2009 because she had given a patient the wrong dosage of medicine. This dosage error did not have any negative effects on the patient.

4. That on or about July 28, 2009, Dr. Pack took S.P., a medical assistant who was 18 years old at the time, into an exam room to allegedly train her on how to detect a heart murmur. Dr. Pack placed a stethoscope under S.P.'s clothes and over S.P.'s right breast and then over her left breast. Dr. Pack then told S.P. he could detect heart murmurs by touch, and he slid his hand over S.P.'s left breast without a stethoscope, touching her nipple in the process. Pack did not ask S.P. for her permission to do this, and he did not warn her that he was going to do this. S.P. told Dr. Pack that this scared her, and she got up and left the exam room. Later that day, Dr. Pack had to perform an EKG on a patient, and he asked if S.P. knew where the leads went during an EKG. S.P. told Dr. Pack that she knew where the chest leads went, but she was unsure of where the rest of the leads went. Dr. Pack took S.P. back into an exam room and showed her where all of the leads went, including the chest leads. During this process, Dr. Pack touched S.P.'s breasts for a third time that day. S.P. felt violated by Dr. Pack's inappropriate actions and considers him a "predator." On July 30, 2009, Dr. Pack grabbed a pulse oximeter while S.P. and O.S., a coworker, were in an exam room. S.P. was frightened that Dr. Pack was again going to sexually abuse her, so she opened the exam room door. Because of Dr. Pack's abuse, S.P. is now involved in counseling with a psychologist.

5. That on or about July 31, 2009, Dr. Pack told K.N. and O.S., two 19 year old medical assistants, to practice doing chest x-rays. He instructed both girls to change their clothes and put on medical scrub tops. When both girls were going to change back into their clothes in the office restroom after performing the practice chest x-rays, Dr. Pack told them not to use the

1
restroom because it was dirty and because he was using the restroom. He instructed both girls to change their clothes in exam room number three. Unbeknownst to K.N. and O.S., Dr. Pack had hidden a small black camera on the wall of exam room number three with black electrical tape next to a medical instrument. O.S. changed in exam room three, removing her scrub top, and so did K.N. K.N. noticed the hidden camera, saw that it was in recording mode and was terrified by this fact. K.N. recognized the camera as one that Dr. Pack had clipped to his front pocket. K.N. later called her mother, who called the police. Dr. Pack told K.N. and O.S. that he was going into his office to dictate. He closed the door while he was dictating. Dr. Pack did not normally close his door when he was dictating. When K.N. looked back into the exam room after she had called her mother, she noticed that the camera was no longer on the wall. Both K.N. and O.S. felt deeply violated by Dr. Pack's voyeuristic actions.

6. That the Lehi police responded to K.N.'s mother's call about Dr. Pack setting up a hidden camera in an exam room. Dr. Pack told Detective F. that K.N. was a model employee, and that she was not lying about a camera in exam room number three. But Dr. Pack told Detective F. that he had taped the camera to the wall of exam room three on July 30 to record a possible drug addict lying to get drugs. The Lehi police found a wad of black electrical tape in a trash can in the x-ray room and the camera in question on the top of Dr. Pack's computer tower, still plugged in.

7. That Dr. Pack's voyeuristic and sexually inappropriate behavior with his coworkers as described above poses an immediate and significant danger to the public health, safety, and welfare; and requires immediate action by the Division. In particular, Dr. Pack has sexually, physically and mentally abused and exploited a number of young medical assistants who worked

in his office through conduct connected with his medical practice. Further, he has abused his position as a physician and an employer. This behavior is unprofessional conduct and constitutes an immediate threat to the public health, safety, and welfare since female patients are still being seen in his office and female employees still work there.

8. The Division finds that, pursuant to Utah Code Ann. § 58-1-401(2)(a), there is a factual basis to conclude that Dr. Pack has engaged in unprofessional and sexually exploitive conduct, that he poses an immediate and significant danger/threat to the public health, safety, and welfare, and that the Division should take immediate action to suspend and/or revoke his professional licenses.

CONCLUSIONS OF LAW

1. The Division has jurisdiction and authority to act in this matter and has followed appropriate statutory procedures regarding the initiation of emergency adjudicative actions.

2. Utah Code Ann. § 63G-4-502 provides:

(1) An agency may issue an order on an emergency basis without complying with the requirements of this chapter if:

(a) the facts known by the agency or presented to the agency show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the agency.

(2) In issuing its emergency order, the agency shall:

(a) limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(b) issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the agency's utilization of emergency adjudicative proceedings; and

(c) give immediate notice to the persons who are required to comply with the order.

(3) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the agency shall commence a formal adjudicative proceeding in accordance with the other provisions of this chapter.

3. The actions of Dr. Pack constitute an immediate and significant danger to the public health, safety, and welfare; and require immediate action to protect the public health, safety, and welfare.

4. That Dr Pack, by hiding a camera in an exam room and videotaping two female medical assistants changing in the exam room, sexually exploited those medical assistants and engaged in unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), and (k).

5. That Dr. Pack, by repeatedly and inappropriately touching the breasts of at least two female medical assistants in his office, sexually exploited those medical assistants and engaged in unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), and (k).

6. That this Order is necessary to prevent harm to the public pending a formal adjudication of the matters addressed in this proceeding. Immediate action is necessary, and this Order is the least restrictive action needed to prevent or avoid the danger to the public health, safety, or welfare.

7. Dr. Pack may challenge the Order pursuant to Utah Admin, Code R151-46b-16 as follows:

R151-46b-16. Emergency Adjudicative Proceedings. Unless otherwise provided by statute or rule:

(1) When a division commences an emergency adjudicative proceeding and

issues an order in accordance with Section 63G-4-502 which results in a continued impairment of the affected party's rights or legal interests, the division that issued the emergency order shall schedule a hearing upon written request of the affected party to determine whether the emergency order should be affirmed, set aside, or modified based on the standards set forth in Section 63G-4-502. The hearing will be conducted in conformity with Section 63G-4-206.

(2) Upon request for a hearing pursuant to this rule, the Division will conduct a hearing as soon as reasonably practical but not later than 20 days from the receipt of a written request unless the Division and the party requesting the hearing agree to conduct the hearing at a later date. The Division shall have the burden of proof to establish, by a preponderance of the evidence, that the requirements of Section 63G-4-502 have been met.

(3) Except as otherwise provided by statute, the division director or his designee shall select an individual or body of individuals to act as the presiding officer at the hearing. The presiding officer shall not include any individual who directly participated in issuing the emergency order.

(4) Within a reasonable time after the hearing, the presiding officer shall issue an order in accordance with the requirements of Section 63G-4-502. The order of the presiding officer shall be considered final agency action with respect to the emergency adjudicative proceeding and shall be subject to agency review in accordance with Section R151-46b-12.

ORDER

The licenses of Dr. Steven R. Pack to practice as a physician and surgeon, license number 187392-1205, and to administer and prescribe controlled substances in the State of Utah, license number 187392-8905, will be immediately suspended until a hearing can be convened pursuant to Utah Code Ann. § 63G-4-502 and Utah Admin. Code R151-46b-16, and a contravening order is issued. The Division will proceed with a formal adjudicative proceeding to uphold this suspension and/or revoke Dr. Pack's professional licenses.

Dr. Pack shall immediately cease and desist from the practice of medicine as a physician and a surgeon, and from prescribing and administering controlled substances in the State of Utah

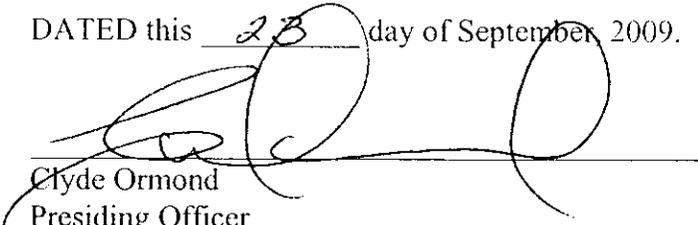
until a hearing can be convened pursuant to Utah Code Ann. § 63G-4-502 and Utah Admin. Code R151-46b-16, and a contravening order is issued.

RIGHT TO REVIEW

1. In accordance with Utah Admin. Code R151-46b-16, the Division will schedule a hearing upon receipt of a written request from Dr. Pack. At the hearing it will be determined whether this Emergency Order should be affirmed, set aside, or modified, based on the standards set forth in Utah Code Ann. § 63G-4-502. The hearing will be conducted in conformity with Utah Code Ann. § 63G-4-206.

2. Upon receipt of a request for hearing pursuant to Utah Admin Code R151-46b-16, the Division will conduct a hearing as soon as reasonably practical, but not later than twenty (20) days from receipt of a written request, unless the Division and the party requesting the hearing agree to conduct the hearing at a later date.

DATED this 23 day of September, 2009.


Clyde Ormond
Presiding Officer
Bureau Manager, Division of Occupational and
Professional Licensing.