

]
 Dan Lau (U.S.B. No. 8233)
 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

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES) **SURRENDER STIPULATION**
 OF **STEVEN R. PACK, M.D.**,) **AND ORDER**
 TO PRACTICE AS A PHYSICIAN AND)
 SURGEON AND TO ADMINISTER) CASE NO. DOPL 2009-296
 CONTROLLED SUBSTANCES IN THE)
 STATE OF UTAH

STEVEN R. PACK, M.D., (hereafter, "Respondent") and the **DIVISION OF**
OCCUPATIONAL AND PROFESSIONAL LICENSING of the Department of Commerce of
 the State of Utah (hereafter, "Division") stipulate and agree as follows:

1. The Respondent admits the jurisdiction of the Division over the Respondent and over the subject matter of this action.
2. The Respondent acknowledges that he enters into this Stipulation and Order (hereafter, "Surrender Stipulation") knowingly and voluntarily.
3. The Respondent understands that he has the right to be represented by counsel in this matter and his signature below signifies that he has either consulted with an attorney or that he waives his right to counsel in this matter. In this case, the Respondent is represented by Michael Miller

of the law firm Strong & Hanni.

4. The Respondent understands that he is entitled to an appeal hearing pursuant to Utah Admin. Code R151-46b-16 before the Utah State Physicians Board (hereafter, "the Board"), or other Division Presiding Officer, at which time he may present evidence on his own behalf, call witnesses, and confront adverse witnesses. The Respondent acknowledges that by executing this document he hereby waives the right to an appeal hearing at this time and any other rights to which he may be entitled in connection with said hearing. The Respondent also understands that he is entitled to be served with a Petition and a Notice of Agency Action in this matter, that he is entitled to answer said Petition, and that he is entitled to participate in a hearing before the Board, or other Division Presiding Officer, at which time he may present evidence on his own behalf, call witnesses, and confront adverse witnesses. The Respondent acknowledges that by executing this document, he hereby waives the right to a hearing and any other rights to which he may be entitled in connection with said hearing.

The Respondent also acknowledges that by executing this document he understands that this Surrender Stipulation constitutes a Notice of Agency Action pursuant to Utah Code Ann. § 63G-4-201. The Respondent further understands that by signing this Surrender Stipulation he hereby waives all administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405, and Utah Admin. Code R 151-46b-12 through R 151-46b-15. The Respondent and the Division hereby express their intent that this matter be resolved expeditiously through a stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

5. The Respondent has received an Emergency Order, dated September 23, 2009, in this case which suspended his licenses to practice as a physician and surgeon and to prescribe and

1
administer controlled substances in the State of Utah.

6. The Respondent acknowledges that this Surrender Stipulation, 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. The Respondent admits the following facts:

a. On June 28, 2010, the Respondent pled no contest to two reduced counts of class A misdemeanor sexual battery.

b. On June 28, 2010, the Respondent pled no contest to two counts of voyeurism by electronic equipment concealed or disguised, which are two class A misdemeanors.

8. The Respondent admits that his conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), (c), (h) and (k); and that said conduct justifies disciplinary action against the Respondent's license pursuant to Utah Code Ann. § 58-1-401.

The Respondent, therefore, agrees that an Order may be entered in this matter imposing the following sanctions and restrictions on his licenses:

a. The Respondent agrees to hereby surrender his licenses to practice as a physician and surgeon and to prescribe and administer controlled substances in the State of Utah, and any residual rights as a physician for a period of four years from the effective date of this Surrender Stipulation. This Surrender Stipulation terminates all rights and privileges associated with the Respondent's professional licenses, numbers, 187392-1205 and 187392-8905, for the entire period of time the Respondent's professional licenses are surrendered. This Surrender Stipulation does not guarantee in any way that the Division will renew the Respondent's professional medical licenses should he want to renew these licenses after the four year surrender period.

1

b. The Respondent will not be able to apply for the renewal of his professional licenses until all criminal probationary and/or incarceration conditions been fully completed.

c. The Board has the right to use all available information, including the underlying conduct, from the Respondent's criminal convictions/plea agreements when determining whether or not the Respondent should be eligible to practice medicine again in the State of Utah.

d. Prior to reapplying for licensure as a physician and surgeon in the State of Utah, the Respondent will complete one of the following two intensive inpatient sexual addiction programs in Mississippi, where he will complete comprehensive evaluations that include psychosexual, physical, neuropsychological, psychological and substance abuse evaluations:

i. The Sexual Compulsivity Program at Copac Addiction Services in Brandon, Mississippi. The minimum length of time in this program is 45 days. OR

ii. The Gentler Path Sexual Addiction Program at Pinegrove Behavioral Health and Addiction Services in Hattiesburg, Mississippi. The average length of stay in this program is six weeks.

e. Prior to reapplying for his medical licenses, the Respondent must provide the Division with a "fitness for duty" letter/certificate from his treating physician/psychiatrist at one of the sexual addiction programs named in provision 8(d) of this Surrender Stipulation. It should be noted that this fitness for duty letter cannot be drafted by a counselor, psychologist or any other non-physician. The letter must be drafted by the Respondent's treating physician/psychiatrist. Should the Respondent not enter into and successfully complete one of the two required sexual addiction programs and not receive a fitness for duty certificate from his treating physician at one of these programs, he will NOT be eligible for relicensure by the Division. In effect, if the

7

Respondent fails to complete the required sexual addiction program and obtain a fitness for duty letter from his treating physician in this program, his license surrender period could run longer than four years. The Respondent also agrees to immediately inform the Division of which treatment center he is choosing to attend and to sign any and all waivers that are necessary to allow the Division to have immediate access to all his treatment notes, records, reports, etc. at the Mississippi Sexual Addiction Program. The Respondent also agrees to allow Division personnel to contact and speak with his counselors/treating physicians at the Sexual Addiction Program prior to, during and after the Respondent's admission into Sexual Addiction Program. Pursuant to Utah law, the Division and Board will keep confidential any information related to the Respondent's treatment.

f. After completing the required sexual addiction program and all of the required evaluations, the Respondent will enroll in and participate in any aftercare program that is recommended by the Mississippi Sexual Addiction Program. If the Mississippi Program does not recommend an aftercare program, the Respondent is NOT required to attend aftercare sessions. Should the Mississippi Program recommend attendance in an aftercare program, the Respondent must comply with these aftercare requirements during the surrender period. If the Respondent did not attend the required aftercare sessions, he would not be eligible for relicensure until he has complied with all of the aftercare requirements.

g. If and when the Respondent is relicensed as a physician, he will be relicensed on a probationary basis, with the exact terms of the probation being drafted at the time of relicensure. At a minimum, the probationary conditions will include:

1. For a minimum period of at least one year, any professional care of female patients will be witnessed by a staff member or staff members who are DOPL-approved. The potential chaperones would have to meet with DOPL personnel before starting to chaperone for the Respondent's care of females.
2. The Respondent must provide a list of all his employees to the Division. The Respondent must then inform all of his employees of the contents of this Surrender Stipulation and have the employees sign an acknowledgment that they have read and understood the contents of the Surrender Stipulation.
3. If the Mississippi Sexual Addiction Program requires aftercare treatment, the Respondent will comply with all aftercare requirements and attend all required aftercare sessions. The Respondent would be required to discuss the progress he is making in aftercare with the Board.
4. For the first six months of probation, the Respondent will meet with the Board on a monthly basis or at a frequency determined by the Board.
5. The Respondent agrees to abide by all provisions of the AMA Code of Ethics.
6. The 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 a physician and the administering and prescribing of controlled substances.
7. The Respondent will follow and abide by all treatment recommendations before and after discharge from his therapists at the Mississippi Sexual Addiction Program.

8. The Respondent will practice under the general supervision of a DOPL-approved supervisor. This supervisor will be a licensed physician in good standing with DOPL and the State of Utah.

9. In the event the Respondent practices medicine without a license, the Division may take action against the Respondent, which may include the imposition of a civil penalty in the amount of \$2,000 a day pursuant to Utah Code Ann. § 58-1-503.

10. If the Division Director accepts the terms of this Stipulation, the Respondent forfeits all rights to practice as a Physician and Surgeon, and to administer and prescribe controlled substances in the State of Utah. The Respondent understands that he will not receive any refund of license or renewal fees previously paid to the Division.

11. This Surrender Stipulation, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. The Respondent acknowledges that the Director is not required to accept the terms of this Surrender Stipulation 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 the Respondent might have with regard to the Director by virtue of him having reviewed this Surrender Stipulation, and this waiver shall survive such nullification.

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 regarding the subject of this Surrender Stipulation. There are no verbal agreements that modify, interpret, construe or affect this Surrender Stipulation.

†

13. The terms and conditions of this Surrender Stipulation become effective immediately upon the approval of this Surrender Stipulation and signing of the Order by the Division Director. The Respondent must comply with all the terms and conditions of this Surrender Stipulation immediately following the Division Director's signing of the Order page of this Surrender Stipulation. The Respondent shall complete all the terms and conditions contained in the Surrender Stipulation in a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Surrender Stipulation, the Respondent agrees that the time period for completion of that term or condition shall be set by the Board and Division.

14. If the Respondent violates any term or condition of this Surrender Stipulation, such as the unauthorized practice of medicine by an unlicensed individual, the Division may take action against the Respondent, including imposing appropriate sanctions, in the manner provided by law. Such sanctions may include, pursuant to Utah Code Ann. § 58-1-503, the imposition of a civil penalty in the amount of \$2,000 a day or the filing of a Petition prior to the resolution of the criminal matters described in provision 7(e) of this Surrender Stipulation.

15. The Respondent has read each and every paragraph contained in this Surrender Stipulation. He understands each and every paragraph contained in this Surrender Stipulation, and he has no questions about any paragraph or provision contained in this Surrender Stipulation.

16. The Respondent agrees that he was not coerced, unduly influenced or bullied in any way into entering into this Surrender Stipulation.

**DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING**

RESPONDENT

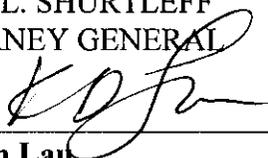
BY: 
Noel Taxin
Bureau Manager

BY: 
Steven Pack
Respondent

DATE: 10/18/10

DATE: 9/9/2010

APPROVED AS TO FORM:

MARK L. SHURTLEFF
ATTORNEY GENERAL
BY: 
Dan Lau
Counsel for the Division

BY: 
Michael Miller
Counsel for the Respondent

DATE: 10-19-10

DATE: 10/11/2010

ORDER

The above Stipulation, in the matter of the license of STEVEN R. PACK is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in the matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

Dated this 18 day of October, 2010.


Mark B. Steinagel
Director
Division of Occupational
and Professional
Licensing