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

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 **KATHRYN A. IRONS** TO PRACTICE AS A PHARMACIST AND TO DISPENSE CONTROLLED SUBSTANCES IN THE STATE OF UTAH	)))))	STIPULATION AND ORDER CASE NO. DOPL 2009--29

KATHRYN A. IRONS ("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 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 hereby waives all 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 licenses, to other persons and entities.

7. Respondent admits the following facts are true:

a. Respondent was licensed to practice pharmacy and to dispense controlled substances in the State of Utah at all times relevant to this Stipulation and Order.

b. In October 2008 Respondent was observed by three different medical personnel at Respondent's place of employment possibly trying to remove hydromorphone, a Schedule II controlled substance, from PCA syringe pumps. Administration at Respondent's place of employment directed Respondent to provide a sample for drug analysis. Respondent left work without providing a sample for drug analysis and her employment was subsequently terminated.

c. On or about November 25, 2008 Respondent was interviewed by a Division investigator. Respondent refused to provide a sample for drug analysis when requested by the Division investigator.

d. On or about December 3, 2008 Respondent was found incoherent and unresponsive at a Salt Lake City motel, where she had checked in two days earlier. Respondent was transported to a local hospital for treatment.

e. On or about December 22, 2008 Respondent met with a Division investigator at Respondent's own request. Respondent admitted that she had diverted hydromorphone from PCA syringe pumps at her previous place of employment in October 2008. Respondent stated that each syringe taken contained no more than 15 milliliters of hydromorphone and that the hydromorphone had been taken only after the patient involved had discontinued using the medication. Respondent stated that she had previously injected herself with approximately 6 milliliters of hydromorphone to identify the sedating dose of the drug and determine the effect it would have on herself. Respondent stated that beginning in September 2008 she began to have suicidal thoughts and that she had self-injected an unknown amount of hydromorphone on December 3, 2008 at the Salt Lake City motel in an attempt to take her own life.

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), § 58-17b-502(7), Utah Administrative Code R156-37-502(2), and unlawful conduct as defined in Utah Code Ann. § 58-17b-501(6)(e), (9), and (12), and § 58-37-8(2)(a)(i); and that said conduct 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 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 shall be assessed an administrative penalty to the Division in the amount of $1,000.00 (one-thousand dollars), pursuant to Utah Code Ann. § 58-17b-401(6), § 58-17b-504(5), and Utah Administrative Code R156-17b-402. The administrative penalty shall be stayed for the period of Respondent's probation. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action to have the stay lifted. If the stay is lifted, Respondent shall pay the fine immediately.

(2) Respondent's licenses shall be revoked. Those revocations shall be immediately stayed and Respondent's licenses shall be subject to term of probation for a period of five 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 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). Respondent shall meet with a Division staff member to review the Stipulation and Order prior to meeting with the Board.

(b) Respondent shall submit a practice plan to the Division and Board. Once approved by the Division and Board, Respondent shall practice according to the terms of the practice plan. The Division and Board may periodically require changes in the practice plan. As part of the ongoing implementation of the practice plan, Respondent's employer shall conduct controlled substance inventory audits of all controlled substances to which Respondent has access. The first audit shall be completed within 30 days of the effective date of this Stipulation and Order if Respondent is already employed, or within 30 days of Respondent beginning new employment. The employer shall continue to conduct similar audits on a quarterly basis until the Division and Board determine that said audits are no longer necessary. Respondent shall ensure the audit report is delivered to the

Division as soon as the audit report is completed by the employer.

(c) Respondent may not be alone at any time in a pharmacy during either work or non-work hours. Respondent shall work under the general supervision of a pharmacist licensing in good standing with the Division. Respondent may submit a request to the Division and Board after six months requesting that these restrictions be modified.

(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 psychological, chemical dependency, and physical evaluations from Division approved evaluators. The evaluators shall evaluate Respondent's ability to safely and competently practice pharmacy and any other areas the evaluator identifies as concerns. The evaluators must not be known by Respondent professionally or personally and Respondent will cause a report of the evaluations to be sent to the Division and Board along with any recommended treatment plan. Said evaluations will be completed within ninety (90) days of the date of this Order. 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 evaluations.

(f) 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 progress reports to be submitted to the Division and Board at the frequency set forth in subparagraph (p) below. Respondent shall be responsible for all treatment expenses.

(g) Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or possession of alcohol in any form. Respondent agrees to abstain from the personal use or possession of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions. Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which the substance is intended.

(h) Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole. If Respondent has not successfully completed all the terms and conditions of Respondent's criminal probation at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all the conditions of Respondent's criminal probation have been successfully completed

(i) Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy. Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner. All prescribing practitioners must be informed of any and all of Respondent's addiction/abuse problems. Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required. Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval. Respondent shall provide the Division with a copy of all Respondent's prescriptions for prescription drugs, controlled substances, or any other mood altering substance, within forty-eight (48) hours after the prescription has been written.

(j) Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division within forty-eight (48) hours of being issued. Respondent shall report to the Division within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual.

(k) Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source.

(l) Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order and cause the practitioner to acknowledge to the Board in writing that a copy of this Stipulation and Order ahs been provided to the primary prescribing practitioner.

(m) Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing. The designated company may also request such samples and Respondent shall comply with such requests. The Division shall determine when and where Respondent is to submit for testing. Respondent shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from a drug testing company that indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions. Any drug test result or pattern of results that indicates that the sample provided by Respondent for drug analysis is diluted to an extent that it cannot be analyzed, will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions.

(n) The Division may take appropriate action to impose sanctions if: (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by an administration or prescription by a lawful practitioner for a current medical condition; or (ii) Respondent violates any federal, state or local law relating to Respondent's practice, the Controlled Substance Act; or a term or condition of this Stipulation and Order. Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law.

(o) All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis for the first six months of probation. If Respondent is in compliance with all terms and conditions of the Order at the end of that time, all reports and documentation shall be submitted on a quarterly basis, or at such frequency as determined by the

Board, for the remainder of probation. If Respondent is not in compliance with all terms and conditions of the Order by the end of the first six (6) months of probation, all reports and documentation shall be submitted on a monthly basis until Respondent is in compliance with the Order, after which all reports shall be submitted on a quarterly basis or at such frequency as determined by the Board.

(p) Respondent shall complete and submit to the Division and Board a self-assessment report at the frequency described in subparagraph (p) above. The self-assessment report shall be completed on a form prescribed by the Division.

(q) Respondent shall participate in a professional support group to address Respondent's use of controlled substances and shall submit documentation that reflects Respondent's continuing and regular attendance at such support group meetings. Respondent shall submit such documentation to the Division at the frequency described in subparagraph (p) above. Regular attendance for the purpose of this paragraph shall be at least twice a month.

(r) Respondent shall attend a 12-step program, have a sponsor, work the 12-step program and submit reports at the frequency described in subparagraph (p) above to the Division documenting her participation. The frequency of participation shall be approved by the Board. Unless otherwise directed, Respondent shall attend at least two times per month.

(s) 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.

(t) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes.

(u) 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' license on probation with equal or greater terms and conditions.

(v) 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 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. Respondent must work at least sixteen (16) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession.

(w) 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.

(x) 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.

(y) 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.

(z) 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.

(aa) Respondent shall successfully complete four hours of continuing professional education focusing on ethics and pharmacy law. The courses shall be pre-approved by the Board and Division. The courses shall be completed within one year of the effective date of this Stipulation and Order. The courses shall not count toward the regular continuing professional education requirement for license renewal. Respondent shall provide documentation to the Division and Board of successful completion

of the additional professional education.

(bb) Respondent shall keep Respondent's Utah licenses current during the period of probation.

(cc) 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. Respondent shall notify the Division if Respondent is hospitalized or enters into a treatment program.

(dd) Respondent shall not work in any floating, on-call, PRN ("pro re nata"), "as needed" pools, or temporary staff agencies. Respondent may work in an internal float pool within a company.

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 prejudgment they might otherwise have with regard to the Director by virtue of the Director 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.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY: _____
LAURA POE
Bureau Manager

DATE: 2-3-09

RESPONDENT

BY: _____
KATHRYN A. IRONS

DATE: 1.29.09

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 3 Feb 2009

ORDER

THE ABOVE STIPULATION, in the matter of **KATHRYN A. IRONS,** 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 4 day of February, 2009.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

F. David Stanley

F. DAVID STANLEY
Director

Investigator: Jared Memmott