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 LICENSE OF	)	**SURRENDER**
MICHAEL W. FRITCHEN	)	**STIPULATION AND ORDER**
TO PRACTICE AS A	)	
REGISTERED NURSE	)	CASE NO. DOPL 2009- 329
IN THE STATE OF UTAH	)	

MICHAEL W. FRITCHEN ("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 Nursing ("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 knowingly and intelligently waives the right to a hearing, the right to call witnesses 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.

5. Respondent understands that by signing this document Respondent hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15.

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 a registered nurse in the State of Utah on or about July 27, 1992.

b. On or about April 13, 1993 Respondent was convicted of four counts of committing an indecent act or liberty upon a child under 16 years of age; one count of sodomy upon a child 12 to 16 years of age; and one count of sodomy upon a child under 12 years of age, before a United States Air

Force general court martial.

c. On or about April 13, 1993 Respondent was sentenced to 10 years confinement. Respondent was also discharged from the military. Respondent was later incarcerated at Leavenworth, Kansas and the Federal Correctional Institution in Sandstone, Minnesota. Respondent was released from confinement in 2000.

d. Respondent began employment at a Utah hospital on or about November 4, 2002. Respondent failed to inform his employers at the hospital of Respondent's criminal conviction at the time Respondent was hired, and at any time thereafter. Respondent worked at the newborn intensive care unit at the Utah hospital. Respondent's employment at the Utah hospital was terminated on or about October 1, 2009 when Respondent's supervisors at the Utah hospital learned of Respondent's criminal conviction from a source other than Respondent.

e. Respondent never informed the Division of his criminal conviction even though Respondent renewed his license to practice as a registered nurse in the State of Utah multiple times between 1993 and 2008.

f. Respondent failed to register as a sex offender with the State of Utah during the time Respondent resided in Utah from 2002 until 2009. Respondent has still not taken measures to register as a sex offender with Utah authorities. Utah authorities later entered Respondent's name on the sex offender register on their own authority.

g. Respondent desires to surrender Respondent's license to practice as a registered nurse in the State of Utah along with all residual rights pertaining to said license.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), and (h), § 77-27-21.5, § 77-27-22 (2001), and Provisions 4 and 5 of the Code of Ethics for Nurses with Interpretive Statements of the American Nurse Association, and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent hereby surrenders Respondent's license to practice as a registered nurse in the State of Utah along with

all residual rights pertaining to said license. Respondent agrees that the issuance of the Order in this matter constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2)(a). Respondent agrees not to reapply for licensure as a nurse in the State of Utah for a period of ten years from the date the Division Director signs this Stipulation and Order. The Division does not guarantee that any future application by Respondent for licensure will be granted. If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a nurse in the State of Utah. Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division.

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 Respondent waive any claim of bias or prejudgment 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. 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.

11. 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.

12. 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
LAURA POE
Bureau Manager

DATE: 10-29-09

RESPONDENT

BY: Michael W. Fritchen
MICHAEL W. FRITCHEN

DATE: 10/29/09

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: [illegible]
L. MITCHELL JONES
Counsel for the Division

DATE: 29 Oct 2009

ORDER

THE ABOVE STIPULATION, in the matter of **MICHAEL W. FRITCHEN**, 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)(a) and (b). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 2 day of November, 2009.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director

Investigator: Irene Woodford