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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE ISSUANCE OF A PROBATIONARY LICENSE TO **JOHN S. PAULSEN** TO PRACTICE AS A REGISTERED NURSE IN THE STATE OF UTAH	)))))	**MEMORANDUM OF** **UNDERSTANDING AND ORDER** **CASE NO. DOPL 2010-** 125

DOPL-FM-007 REV 1/25/05

John S. Paulsen ("Respondent") submitted an application for re-licensure as a registered nurse ("RN") in the State of Utah on or about February 9, 2010. On the Qualifying Questionnaire Respondent answered "yes" to questions #3, #4, and #25. By way of explanation, Respondent indicated he surrendered his CRNA license on August 24, 2004, in case no. DOPL-2004-212, due to substance abuse and theft while working as a CRNA; also Respondent's West Virginia CRNA license was suspended for fentanyl theft and abuse. Respondent submitted documentation of completion of a substance abuse treatment program, drug screening for the past ten months, and completion of 31 hours of approved continuing education. Respondent also submitted documentation of having pleaded guilty to one count of driving under the influence of drugs, a Class B misdemeanor, on or about October 15, 2008. According to a narrative submitted with the application, Respondent was taking prescription medication which made him sleepy and he was pulled over for swerving from lane to lane. Respondent completed the one year probation and the case is closed.

Based upon Respondent's administrative disciplinary history and criminal history, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued a probationary license to practice as a registered nurse valid in Utah only, subject to terms and conditions, which shall be in effect for a period of five years, upon the approval of this Memorandum of Understanding and Order by the Division Director as

evidenced by his signature.

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (c) and (d). The issuance of the Order in this matter is disciplinary action against Respondent's license pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2).

2. Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division to induce Respondent to enter into this agreement.

3. Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter.

4. Respondent acknowledges that this Memorandum of Understanding and Order, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Memorandum of Understanding and Order, and will release other information about this disciplinary action against Respondent, to other persons and entities.

5. Respondent shall successfully complete and satisfy the following terms and conditions:

   a. Respondent shall meet with the Board within thirty (30) days of the signing of the accompanying Order. Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this agreement. For the remainder of the probationary period Respondent shall meet with the Board or with the Division annually or at such other greater or lesser frequency as the Division may direct.

   b. 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.

   c. 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.

d. 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.

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

f. Respondent shall provide to the primary prescribing practitioner a copy of this Memorandum of Understanding and Order and cause the practitioner to acknowledge to the Board in writing that a copy of this Memorandum of Understanding and Order has been provided to the primary prescribing practitioner.

g. 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.

h. Failure of Respondent to pay the costs associated with this Memorandum of Understanding and Order constitutes a violation of the Memorandum of Understanding and Order.

i. 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 Memorandum of Understanding and Order. Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law.

j. All reports and documents required in this Memorandum of Understanding and Order shall be submitted to the Board on a monthly basis, on the first day of each month, 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 documents shall be submitted on a quarterly basis 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.

k. Respondent shall complete and submit to the Board a Self-Assessment Report at the frequency described in subparagraph (j) above. The Self-Assessment Reports shall be completed on a form prescribed by the Division.

l. Respondent shall participate in all therapy and aftercare that the Division and the Board may require. Respondent shall authorize all approved treatment programs or therapists from whom Respondent has received or will receive treatment to discuss Respondent's diagnosis, treatment, and prognosis with the Division and the Board. The program or therapist must also be directed to submit evaluations to the Board that address Respondent's progress in treatment and Respondent's prognosis at the frequency described above. Respondent may be subject to re-evaluation upon notice and opportunity to be heard.

m. Respondent shall attend a 12-step program, have a sponsor, work the 12-step program and submit reports at the frequency described in subparagraph (j) above to the Division documenting his participation. The frequency of participation shall be approved by the Board. Unless otherwise directed, Respondent shall attend at least one meeting per week. If a professional support group is available in Respondent's geographical location, Respondent may attend two of those meetings per month in lieu of two of the 12-step meetings.

n. Respondent shall notify any employer and/or school of nursing of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer and/or school of nursing to submit performance evaluations to the Board at the frequency described in subparagraph (j) above. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a nurse, Respondent shall submit the employer report form on the date it is due and

indicate on that form that Respondent's current employment is not in nursing or that Respondent is not currently working.

o. Respondent shall provide to Respondent's employer(s) and/or school of nursing a copy of this Memorandum of Understanding and Order and cause each employer or school of nursing to acknowledge to the Board in writing, that a copy of this Memorandum of Understanding and Order has been provided to the employer and/or school of nursing.

p Respondent shall restrict Respondent's practice to duties and surroundings that do not allow the Respondent access to, or require the Respondent to account for controlled substances.

q. Respondent shall not contact by telephone or other manner, any pharmacy or drug supplier for the purposes of filling a prescription order. This applies both while Respondent is working in the capacity of Respondent's employment or not.

r. Respondent shall not work for a nursing registry, traveling nurse agency, nursing float pool, home health agency, temporary employment agency, school of nursing, or any other practice setting in which nursing supervision is unavailable.

s. Respondent shall practice only under the on-site supervision of a registered nurse in good standing with the Division, or a licensed physician in good standing with the Division. The supervising nurse or supervising physician shall be primarily one person who may periodically delegate his or her supervisory responsibilities over Respondent to other qualified personnel. Should Respondent obtain employment at a free-standing dialysis center, Respondent may practice under the general supervision of the nurse director provided the dialysis technicians are informed of Respondent's probationary status and are instructed to contact the nurse director should the Respondent display any unusual behavior including the appearance of being under the influence of drugs or alcohol.

t. Respondent agrees not to practice nursing in any other state that is a party to the Nurse Licensure Compact without prior authorization from such other party state.

u. Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.

v. If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Memorandum of Understanding and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Memorandum of Understanding and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Memorandum of Understanding and Order.

w. If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

x. Respondent shall maintain a current license at all times during the period of this agreement.

y. Respondent shall immediately notify the Division in writing of any change in Respondent's private or professional address and agrees that written communication by the Division and/or 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. 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 practice as a nurse for a period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Memorandum of Understanding and Order. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome. 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.

aa. 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.

bb. 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.

cc. Should Respondent apply for an upgraded license as an APRN-CRNA without prescriptive practice any time during this probationary period and be found qualified for that license, the terms and conditions of this Memorandum of Understanding and Order shall apply to the upgraded and/or superseding license. If the Board or Division desire to

lengthen the time period of the probation or add conditions to assist in monitoring Respondent's practice as an APRN-CRNA without prescriptive practice, this Memorandum of Understanding and Order may be modified by the Division at the Division's own discretion.

6. Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's practice as a nurse.

7. Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure.

8. If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license as a registered nurse will be lifted and Respondent's license will not be subject to further restriction.

9. If Respondent violates any term or condition of this Memorandum of Understanding 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.

10. The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately after the Division Director signs the Order page of this Memorandum of Understanding and Order. Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in this Memorandum of Understanding and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions.

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. There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order.

12. Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order. Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY: _____
LAURA POE
Bureau Manager

DATE: 4-15-10

RESPONDENT

BY: _____
JOHN S. PAULSEN

DATE: 4/14/10

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 1 Apr 2010

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **JOHN S. PAULSEN** is hereby approved by the Division of Occupational and Professional Licensing. The issuance of the Order in this matter 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 Memorandum of Understanding are incorporated herein and constitute my final Order in this case.

DATED this 19 day of April, 2010

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

M.ARK B. STEINAGEL
Director