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**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)
DAVID LAWRENCE FLYNN) **STIPULATION AND ORDER**
TO PRACTICE AS A DENTIST AND TO)
ADMINISTER AND PRESCRIBE) **CASE NO. DOPL 2010- 176**
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

DAVID LAWRENCE FLYNN (“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 Dentist and Dental Hygienist Board ("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 waives all rights to any administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R156-46b-12 through R156-46b-15. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G4-102(4).

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 license, to other persons and entities.

7. Respondent admits the following facts are true:

- a. Respondent was first licensed to practice as dentist and to administer and prescribe controlled substances in the State of Utah on or about October 12, 2000.
- b. On or about November 12, 2008 Respondent hid a camcorder in the bedroom area of his step-daughter, who was then 14 years old. Respondent recorded images of his stepdaughter undressed.
- c. On or about November 20, 2008 Respondent was arrested by North Salt Lake City Police Department. Respondent admitted to police the conduct described above and that he videotaped his stepdaughter for purposes of his own sexual gratification.
- d. On or about May 19, 2009 Respondent pleaded guilty to one count of "voyeurism by electronic equipment," a Class A misdemeanor, and a violation of Utah Code Ann. § 76-9-702.7(1) in Second District Court, Davis County, Utah.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (c). Respondent agrees by engaging in such conduct the Division is justified in taking disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2), may be issued in this matter providing for the following action against Respondent's license:

- (1) Respondent's licenses to practice as a dentist and to administer and prescribe controlled substances in the State of Utah shall be revoked. The revocations shall be immediately stayed. Respondent's licenses shall be subject to a term of probation for a period of three years. The period of probation shall commence on the date the Division Director signs the accompanying Order. During the period of probation Respondent's license 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 and Board.

- a. Respondent shall meet with the Division and 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 duration of probation, Respondent shall meet with the Board or with the Division, as directed by the Division or Board, annually or at such other greater or lesser frequency as the Division or Board may direct.
- b. 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. Respondent shall provide the Division and Board with a copy of Respondent's criminal probation agreement within 30 days of the effective date of this Stipulation and Order.
- e. If the Board or Division deems necessary during the period of probation, Respondent shall successfully complete a psychological and/or psychosexual evaluation from a Division approved evaluator. The evaluator shall evaluate Respondent's ability to safely and competently practice Respondent's profession and any other areas the evaluator identifies as concerns. The evaluator must not be known by Respondent professionally or personally and Respondent will cause a report of the evaluation to be sent to the Division and Board along with any recommended treatment plan. Any evaluation will be completed within ninety (90) days of the date the Board or Division directs Respondent to complete any evaluation. 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 evaluation. 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 (h) below. Respondent shall be responsible for all treatment expenses.

- f. Respondent shall execute any necessary releases to allow the Respondent's current therapist to provide reports to the Division and Board regarding Respondent's progress in therapy. Respondent shall cause progress reports to be submitted by Respondent's current therapist to the Division and Board at the frequency set forth in subparagraph (h) below.
- g. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- h. 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 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.
- i. Respondent shall notify any employer or practice associate of Respondent's restricted status and the terms of this agreement.
- j. Respondent shall have a chaperone present whenever Respondent is in the presence of any male patient under age 18 or any female patient of any age. The chaperone shall be pre-approved by the Division and Board. The chaperone shall complete a log, on a form pre-approved by the Division and Board, listing all patients that the chaperone observed Respondent treat, and the date and time of treatment. Respondent's supervisor shall review the chaperone logs and submit them to the Division and Board at

frequency determined by the Division and Board.

- k. Respondent shall successfully complete a continuing professional education focusing on ethics and professional boundaries. The continuing professional education course shall be pre-approved by the Division and Board. The continuing professional education course shall be successfully completed within one year of the effective date of this Stipulation and Order. The continuing professional education shall not count toward Respondent's regular continuing education requirement.
- l. Respondent shall practice only under the supervision of a Division and Board pre-approved supervisor during the term of Respondent's probation. Any changes in supervision may be made only with the consent of the Division and Board. Respondent shall deliver a copy of this Stipulation and Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division and Board in writing that a copy has been received, that the supervisor is willing to accept the responsibilities and obligations of acting as Respondent's supervisor, and submit a copy of the supervisor's curriculum vitae to the Division and Board.
- m. Respondent shall meet weekly with Respondent's supervisor unless the Board or Division determine a different frequency. Supervision goals shall include concurrent management and professional relationships and practices. The supervisor shall address issues pertaining to appropriate relationships with staff and patients and any other issues the supervisor determines are pertinent to professional and ethical practice. Respondent shall cause Respondent's supervisor to meet with the Division and Board, either in person or telephonically, at Respondent's first meeting with the Board, to discuss oversight issues the responsibilities of a supervising physician.
- n. If Respondent is self-employed in private practice, Respondent shall hire a supervisor, pre-approved by the Board and Division.
- o. Respondent shall cause Respondent's supervisor to submit reports to the Board and Division assessing Respondent's compliance with the terms of Respondent's probation and ethics. The reports shall be submitted monthly for the first six months and quarterly

thereafter, or at such frequency as directed by the Board and Division. The receipt of an unfavorable report may be considered to be a violation of probation.

- p. In the event Respondent does not practice 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 Stipulation 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.
- q. 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.
- r. 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 Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.
- s. 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, including an offense based on the conduct described in this Stipulation and Order, 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.

- t. Respondent shall maintain a current license at all times during the period of this agreement.
- u. Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- v. Respondent shall submit reports on the date they are due and shall appear at scheduled meetings with the Division and Board promptly. Failure to do so shall be considered a violation of this Stipulation and Order.

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 prejudice 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. 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 or Division. 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.

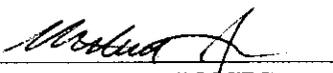
14. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY: 
NOEL TAXIN
Bureau Manager

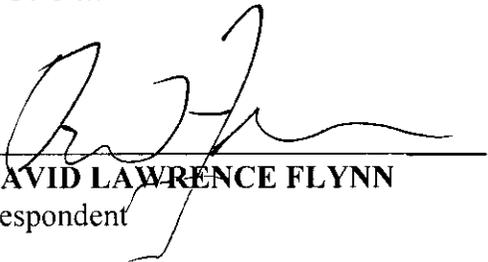
DATE: 5/27/10

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: 
L. MITCHELL JONES
Counsel for the Division

DATE: 27 May 2010

RESPONDENT

BY: 
DAVID LAWRENCE FLYNN
Respondent

DATE: 5/27/10

ORDER

THE ABOVE STIPULATION, in the matter of **DAVID LAWRENCE FLYNN**, 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 1 day of June, 2010.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



Handwritten signature of Mark B. Steinagel in black ink, written over a horizontal line.

MARK B. STEINAGEL
Director

Investigator Pamela Bennett