

Karl G. Perry (USB 2570)
Assistant Attorney General
Mark L. Shurtleff (USB 4666)
Utah Attorney General
Commercial Enforcement Division
160 East 300 South, 5th Floor
P. O. Box 140872
Salt Lake City, UT 84114-0872
Attorneys for Division of Occupational & Professional Licensing
Telephone: 801-366-0310
Facsimile: 801-366-0315
karlperry@utah.gov

**BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSES OF	:	
NICOLA IRENE RILEY TO PRACTICE	:	STIPULATION AND ORDER
MEDICINE AND TO PRESCRIBE AND	:	
ADMINISTER CONTROLLED SUBSTANCES	:	
IN THE STATE OF UTAH	:	CASE NO. DOPL-2011-222

STIPULATION

NICOLA IRENE RILEY (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. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that she enters into this Stipulation knowingly and voluntarily.

3. Respondent is represented by attorney Erik Strindberg of the law firm Strindberg & Scholnick, LLC, in this matter.

4. Respondent understands that she is entitled to a hearing before the Utah State Physicians Licensing Board ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence in her own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document, she hereby waives the right to a hearing and any other rights to which she may be entitled in connection with said hearing.

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be a public document and may be released to other persons and entities.

7. Respondent admits the following facts:

- a. On or about June 10, 2004, the Division received Respondent's application for licensure as a physician and surgeon and for a controlled substance license.
- b. Respondent answered yes to three questions on her application. The questions were (1) Have you ever been arrested for or charged with a felony in any jurisdiction?; (2) Have you ever pled guilty to, no contest to, or been convicted of a felony in any jurisdiction?; (3) Have you ever been incarcerated for any reason in any federal, state, or county correctional facility or in any correctional facility in any other jurisdiction?
- c. Respondent was asked to provide a written narrative with her application explaining the questions she answered affirmatively. Her narrative gave the following explanation as noted:
 - i. Two enlisted soldiers under my jurisdiction were convicted of credit card fraud and criminal impersonation in June 1991.

- ii. I pleaded not contest to my knowledge of the events and my failure to report their activity in a timely manner.
 - iii. As a result of my position and failure to act in a reasonable amount of time, I was listed as an accomplice to their acts.
 - iv. I was transferred to Fort Leavenworth Kansas for one year with a dishonorable discharge from the military.
- d. Respondent signed an affidavit included in her application which stated that all the information in the application and all supporting documents are free of fraud, misrepresentation, or omission of material fact. Further, her affidavit stated that to the best of her knowledge the information she provided is truthful, correct and complete and discloses all material facts regarding the applicant which are necessary to properly evaluate the applicant's qualifications for licensure.
- e. On or about July 14, 2004, Respondent met with the Physicians Licensing Board to discuss her answers on her application and explain issues she had with passing her examination. At this meeting, the Respondent gave the Board the same explanation that was contained in the narrative she submitted with the application. The Board voted to recommend approval Respondent for licensure, and the Division granted her license application.
- f. In approximately October 2010, the Division received information that Respondent had made inaccurate and misleading statements on her Utah Physician and Surgeon and Controlled Substance application and the Division then initiated an investigation.
- g. During its investigation, the Division received from the United States Army documents which do not comport with the explanation given by Respondent in her application. The Stipulation of Fact dated July 8, 1991 and agreed to and signed by Respondent, which was part of Respondent's criminal proceeding, shows a direct involvement by the Respondent in the fraudulent criminal actions which differs from the representations made on Respondent's application for licensure. Specifically, that in July and August 1990, Respondent conspired and accompanied other military personnel to stores in the Colorado Springs area and participated in the completion of credit applications along with these individuals, to unlawfully obtain goods from these stores. Respondent minimized her involvement in these incidents on her application.

8. Respondent admits that her failing to provide accurate and correct information about her prior criminal conduct, even unintentionally, constitutes unlawful conduct as defined in Utah Code Ann. § 58-1-501(1)(c) and unprofessional conduct as defined by Utah Code Ann.

§ 58-1-501(2)(b). Further, Respondent recognizes that such conduct justifies disciplinary action against her license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Accordingly, Respondent agrees that an Order may be issued in this matter providing for the following action against her licenses to practice medicine and to administer and prescribe controlled substances in the State of Utah:

- a. The Division shall issue a public reprimand against Respondent's licenses.
- b. Respondent shall pay an administrative penalty of \$10,000.00 (Ten Thousand Dollars) to the Division, pursuant to Utah Code Ann. Section 58-67-402, due and payable within eighteen months after the date the Order is signed.
- d. Respondent shall deliver a written essay to the Bureau Manager over the Physician Licensing Board within three months after the date the Order is signed, describing the effects her unprofessional and unlawful behavior has had on herself, her patients and her profession. The essay shall also describe what steps Respondent has taken or will take to be truthful in her professional and personal interactions in the future.

9. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter, as set forth in the facts in paragraph 7 above. 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 Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to her practice as a physician and surgeon.

11. This document constitutes the entire disciplinary 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.

12. The terms and conditions of this Stipulation and Order shall become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner. 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 Division and Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

13. If the Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanctions, in the manner provided by law. Such sanctions 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

RESPONDENT

ES

By: 
NOEL TAXIN
Bureau Manager Respondent

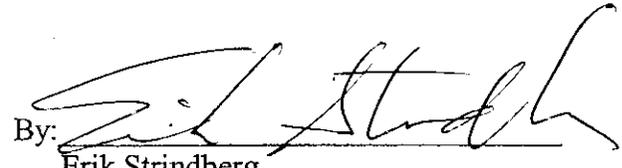
By: 
NICOLA IRENE RILEY
Respondent

Date: 8/29/11

Date: 8/29/11

MARK L. SHURTLEFF
ATTORNEY GENERAL

By: 
KARL G. PERRY
Counsel for the Division

By: 
Erik Strindberg
Attorney for Respondent

DATE: 8/29/2011

Date: 29 Aug 11

ORDER

THE ABOVE STIPULATION in the matter of **NICOLA IRENE RILEY** 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 terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

Dated this 29 day of August, 2011.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


MARK B. STEINAGEL
Director