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Assistant Attorney General
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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 LICENSE OF)
CINDY LEE PETERSON) **STIPULATION AND ORDER**
TO PRACTICE AS A)
REGISTERED NURSE) **CASE NO DOPL 2011- 38**
IN THE STATE OF UTAH)

CINDY LEE PETERSON ("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 Nursing Board ("the 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 R151-46b-12 through R151-46b-15. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann § 63G-4-102(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 a registered nurse in the State of Utah on or about July 1, 1981.
- b. On or about February 4, 2011 the Drug Enforcement Administration, assisted by investigators of the Utah Division of Occupational and Professional Licensing, executed a search warrant at a long term care facility in Centerfield, Utah which is owned in part by Respondent. Respondent was the licensed Health Care Facility Administrator for the facility. Respondent also worked occasionally as a registered nurse at the facility.
- c. At the time the search warrant was executed Respondent explained to investigators that when a patient dies, or leaves the facility, any unused medications, including controlled substances, are taken by the medical staff and placed in a storage cart within the office of Jane Doe and destroyed in accordance with the facility's destruction policies at that time.
- d. When the facility subsequently received an order from a prescribing practitioner to administer medication to a current resident, and the prescribed medications were not currently available from local pharmacies within the timeframe that the prescribing practitioner had ordered the resident to start taking the medication, the unused medications were then accessed and administered to facility residents to comply with the prescribing practitioner's order. These actions occurred only when the facility's e-kit did not contain the prescribed medications and when no local pharmacy was open within the prescribed timeframe for the resident to start taking the prescribed medication.
- e. The existing prescription label and identifying information that was previously issued to the former patient of the facility would be crossed out and the medication would be redistributed to another resident of the facility.
- f. Respondent states that detailed records were made and kept by Jane Doe in her office at the facility as part of her job overseeing all medications used to comply with physicians' orders. Respondent knows of no missing medications or controlled substances that were stored in the manner described above. Respondent states that no patient was injured based upon the facilities' action described above.

8. Respondent agrees that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (b), and § 58-31b-502(5), and

unlawful conduct as defined in Utah Code Ann. § 58-17b-501(9) and § 58-37-8(1)(a)(i).

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) and (b).

Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(6) 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 license shall be publicly reprimanded for the conduct described above
- (2) Respondent shall pay a fine of \$3,000.00 (three-thousand dollars) to the Division, pursuant to Utah Code Ann. § 58-31b-503 and Utah Administrative Code R156-31b-402. \$1,500.00 (one-thousand five-hundred dollars) shall be paid to the Division within 30 days of the effective date of this Stipulation and Order. The other \$1,500.00 (one-thousand five-hundred dollars) of the fine shall be stayed. If Respondent violates any term or condition of this agreement within five years of the effective date of the agreement, the Division may take action to remove the stay. At the end of five years, if Respondent has not violated any term or condition of this agreement, the stayed portion of the fine will be vacated

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. 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/or 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 understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

15. 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.

16 The Division agrees that it will not initiate any referral of this matter to any law enforcement authority, but will cooperate with any law enforcement authority that requests the Division's assistance.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY:


DAVE TAYLOR
Bureau Manager

DATE:

11/8/11

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY:

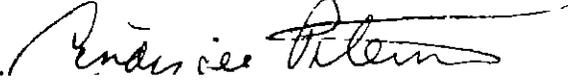

L. MITCHELL JONES
Counsel for the Division

DATE:

8 Nov 2011

RESPONDENT

BY:


CINDY LEE PETERSON
Respondent

DATE:

11 - 8 - 2011

ORDER

THE ABOVE STIPULATION, in the matter of **CINDY LEE PETERSON**, 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(6) 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 10 day of *November*, 2011.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



Handwritten signature of Mark B. Steinagel in black ink, consisting of stylized initials and a surname.

MARK B. STEINAGEL
Director

Investigator **Jared Memmott**