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
160 East 300 South - Box 146741
Salt Lake City, Utah 84114-6741
TEL (801) 366-0310

RECEIVED
MAR 1 3 2012
DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

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 **TYLER MILLER** TO PRACTICE AS A RESPIRATORY CARE PRACTITIONER IN THE STATE OF UTAH	))))))	**MEMORANDUM OF** **UNDERSTANDING AND ORDER** **CASE NO. DOPL 2012-** 123

Tyler Miller ("Respondent") submitted an application for licensure as a respiratory care practitioner on or about August 8, 2011 On the Qualifying Questionnaire Respondent answered "Yes to questions # 2 and #3 Documentation has been received by the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") showing that Respondent, while working as a registered nurse, license # 370746-3102, engaged in unlawful and/or unprofessional conduct On August 9 2010 Respondent entered into a Stipulation and Order in #DOPL 2010-227, which is incorporated by reference to this Memorandum of Understanding and attached as Exhibit A

Based upon Respondent's conduct described above, 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 respiratory care practitioner, subject to the following terms and conditions, which shall be in effect for a period of five years commencing upon the date this Memorandum of Understanding and Order is approved 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 and/or unlawful conduct The issuance of the Order in this matter is disciplinary action against Respondent's license pursuant to Utah Administrative Code R156-1-102(6) 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 and may be released to other persons and entities 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 on a quarterly basis, or at such other greater or lesser frequency as determined by the Board and Division, for the duration of the Memorandum of Understanding and Order Respondent agrees to meet with an assigned staff member prior to the first Board meeting for the purposes of education regarding this agreement

b 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

c Respondent shall work under general supervision, meaning that the supervising licensee

(i) has authorized the work to be performed by the person being supervised,

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located on the same premises as the person being supervised, and

(iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine

d Respondent shall comply with the terms agreed to in stipulation and order DOPL Case number 2010-227

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

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 to practice as a respiratory care practitioner 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 If the Division files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Memorandum of Understanding and Order, the period of Respondent's probation shall be tolled during the period that the Petition or Order to Show Cause Petition has been filed and is unresolved

12 Respondent understands that the disciplinary action taken by the Division in this Memorandum of Understanding 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

13 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

14 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 _____
CLYDE ORMOND
Bureau Manager

DATE 3/19/12

RESPONDENT

BY _____
TYLER MILLER

DATE 3/9/2012

MARK L SHURTLEFF
ATTORNEY GENERAL

BY _____
L MITCHELL JONES
Counsel for the Division

DATE 3/19/2012

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **TYLER MILLER**, 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(6) 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 20 day of March, 2012

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B STEINAGEL
Director