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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	)	
CHRISTY MICHELLE PROCTOR	)	**STIPULATION AND ORDER**
TO PRACTICE AS A	)	
REGISTERED NURSE	)	CASE NO DOPL 2013- 211
IN THE STATE OF UTAH	)	

CHRISTY MICHELLE PROCTOR ("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 Board of Nursing ("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 and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G4-102(4)

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 19, 2002.

   b. On or about April 17, 2013, Respondent, while working as a nurse at a Utah hospital, was observed by other hospital staff members, to be impaired. Respondent could not speak coherently, her speech was slurred, her pupils were pinpoint, and she could not stay on task.

   c. At the request of her employer Respondent provided a sample for drug and alcohol analysis on April 18, 2013. The sample subsequently tested positive for amphetamine, Fentanyl, and oxycodone. Respondent was last issued a prescription for Adderall on February 23, 2011. Respondent possessed a recent prescription for oxycodone, but did not possess a prescription for Fentanyl

   d. Between January 1, 2011 and April 4, 2013 Respondent received controlled substance prescriptions from 17 different prescribing practitioners that Respondent filled at eight different pharmacies.

   e Respondent admitted to a Division investigator that in April 2013 Respondent took a Fentanyl patch off a patient where Respondent was employed. Respondent put part of the patch on her own arm and part in her mouth Respondent did not possess a valid prescription for Fentanyl at the time

   f. Respondent resigned her employment at the hospital in lieu of termination.

   g Respondent was issued a citation in March 2013 by the Division for administering Propofol to a patient without a physician's order

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (e), and (h), and § 58-31b-502(5) and (8), and unlawful conduct as defined in Utah Code Ann. § 58-37-8(2)(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 then be revoked. That revocation shall be immediately stayed. Respondent's license shall be subject to a term of probation for a period of five years. The period of probation shall commence on the date the Division Director signs the Order in this matter During the period of probation Respondent's licenses 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

a. Respondent shall meet with the Board at the Board's next scheduled meeting following 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, annually or at such other greater or lesser frequency as the Division may direct.

b. Respondent shall submit to the following course of treatment as part of Respondent's rehabilitation and at Respondent's own expense:

i. Respondent shall successfully complete substance use disorder, psychological, and physical evaluations provided by Division-approved licensed providers within ninety (90) days of the effective date of this Stipulation and Order Respondent shall contact the Division-approved evaluators for initial appointments within 10 days of the effective date of this Stipulation and Order Respondent shall schedule the initial appointment for each evaluation to be held within 45 days of the effective date of this Stipulation and Order Respondent shall attend all appointments and follow-up appointments in a timely manner Respondent shall cooperate fully with the evaluators to ensure fair and complete evaluations. Respondent shall notify the Division immediately after successfully completing each evaluation and inform the Division that Respondent has successfully completed each evaluation Respondent agrees to cause the evaluation reports to be sent to the Division within 90 days

of the effective date of this Order. Respondent shall submit letters from each evaluator which state that Respondent is mentally and physically fit to practice as a registered nurse, to the Division and Board. Respondent shall successfully complete all treatment recommended in the evaluations . 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 in subparagraph (l) below

ii If Respondent fails to submit the evaluation(s) to the Division within the time stated above, the Division may take any action necessary pursuant to the Utah Administrative Procedures Act, Utah Code Annotated § 63-46b.

iii In the interest of public safety, the Division may impose additional requirements above and beyond those recommended by the evaluator in the substance use disorder, psychological, and physical evaluations set forth above. Respondent agrees to comply with these additional requirements.

c. 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.

d 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

e 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 may submit the name of a prescribing practitioner specialist to the Division who provides care that the regular prescribing practitioner cannot provide. The Division will review the request by Respondent and determine if Respondent may receive prescriptions from the prescribing specialist. 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 and controlled substances within forty-eight (48) hours after the prescription has been written

f. 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 prescription medication and controlled substances administered or dispensed to Respondent by any other individual. Respondent shall provide any discharge summary to the Division and Board.

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

h Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order and cause the practitioner to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the primary prescribing practitioner

i. Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for alcohol and drug analysis ("drug testing") 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 Respondent shall call in to a designated phone number every day to determine if Respondent is required to provide a sample for drug analysis. 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 may subject Respondent to additional sanctions, including fines 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.

j Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order

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

l All reports and documentation required in this Stipulation 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 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.

m. Respondent shall complete and submit to the Board a self-assessment report at the frequency described in subparagraph (l) above The self-assessment report shall be completed on a form prescribed by the Division.

n. 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 in subparagraph (l) above. Respondent may be subject to re-evaluation upon notice and opportunity to be heard.

o. If it is determined by the evaluator that Respondent has a substance abuse disorder or a similar determination is made, Respondent shall participate in a professional support group to address Respondent's use of controlled substances and shall submit documentation that reflects Respondent's continuing and regular attendance at such support group meetings. Respondent shall submit such documentation to the Division at the frequency described in subparagraph (l) above Regular attendance for the purpose of this paragraph shall be at least twice a month

p. If it is determined by the evaluator that Respondent has a substance abuse disorder or a similar determination is made, Respondent shall attend a 12-step program, have a sponsor, work the 12-step program and submit reports at the frequency described in subparagraph (l) above to the Division documenting Respondent's participation The frequency of participation shall be approved by the Board. Unless otherwise directed, Respondent shall attend at least two times per month

q. Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit performance evaluations to the Board at the frequency described in subparagraph (l) 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.

r. Respondent shall provide to Respondent's employer(s) and/or school of nursing a copy of this Stipulation and Order and cause each employer or school of nursing to acknowledge to the Board in writing, that a copy of this Stipulation and Order has been provided to the employer and/or school of nursing within 14 days of the effective date of this Stipulation and Order or any new employment date

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

t Within any 14-day period Respondent shall not work more than 80 hours. Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven day period, but Respondent may not work more than three consecutive 12-hour shifts Respondent shall not work two consecutive 8-hour shifts within a 24-hour period or be scheduled work 16 hours within a 24-hour period In the event Respondent does 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 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 to be considered "practicing" in Respondent's profession

u Respondent shall practice only under the direct supervision of a registered nurse or a licensed physician in good standing with the Division The supervising nurse or supervising physician shall be primarily one (1) person who may periodically delegate her supervisory responsibilities over Respondent to other qualified personnel The supervising nurse or supervising physician shall be approved by the Division and Board Respondent shall cause Respondent's supervisor to read this Stipulation and Order in its entirety and cause the supervisor to provide input on Respondent's employer evaluations to the Division and Board. The employer reports shall be submitted to the Division and Board on pre-approved forms, at the frequency set forth in subparagraph (l) above. "Direct supervision" as defined in Utah Administrative Code R156-1-102a(4)(a) means that the supervising licensee is present and available for face-to-face communication with Respondent when and where nursing services are being provided

v 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

w. 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

x 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

y. 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.

z. 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.

aa. 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 is seen in an emergency room, Respondent shall provide the Division and Board with a copy of Respondent's emergency room discharge papers 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.

bb Respondent shall maintain an active license at all times during the period of this agreement.

cc. Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

dd 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

ee. Respondent shall submit an essay to the Division and Board, within 60 days of the effective date of this Stipulation and Order, that sets forth the a description of the misconduct in Respondent's own words, along with the effect of the misconduct on Respondent, Respondent's family, and Respondent's patients and employer.

ff If Respondent's substance abuse disorder evaluation does not indicate that Respondent has a substance abuse disorder, then the Division and Board, may, when and if they deem necessary, require Respondent to successfully complete a Thinking Errors class or

any other continuing education class, intervention, or training that the Division and Board deem appropriate. Respondent shall successfully complete in a timely manner any continuing education class or training directed by the Division and Board.

gg. **Suspension if not working for one year** If Respondent does not work in Respondent's licensed profession for a period of one year or longer, then Respondent's license shall be suspended When Respondent begins working in Respondent's licensed profession and provides the Division with written notice of this fact, and Respondent is otherwise qualified to practice, the suspension shall be immediately lifted.

hh **Additional Classes** Respondent shall successfully complete the following courses within 90 days of the effective date of this Stipulation and Order "Ethics of Nursing Practice" and "Professional Accountability & Legal Liability for Nurses."

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, and hearings or prehearing conferences currently scheduled are hereby vacated. 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 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 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 Stipulation 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.

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 Division 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 shall practice only under Respondent's name as set forth in the caption of this Stipulation and Order If Respondent intends to practice under any other name, then, prior to practicing under any other name, Respondent shall inform the Division in writing, and Respondent and the Division shall enter into an Amended Stipulation and Order, which consists of the new name Respondent intends to practice under, along with all the same terms and conditions in the original Stipulation and Order.

16 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 _____
DEBRA F. HOBBINS, DNP, APRN, LSUDC
Bureau Manager

DATE 5/20/13

RESPONDENT

BY: _____
CHRISTY MICHELLE PROCTOR
Respondent

DATE: May 20, 2013

JOHN E SWALLOW
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 20 May 2013

ORDER

THE ABOVE STIPULATION, in the matter of **CHRISTY MICHELLE PROCTOR,** 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 22nd day of May, 2013

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director

Investigator Irene Woodford