

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
MARK STEINAGEL, DIRECTOR  
DEPARTMENT OF COMMERCE  
P.O. BOX 146741  
160 EAST 300 SOUTH  
SALT LAKE CITY, UTAH 84114-6711  
Telephone: (801) 530-6628

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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF THE LICENSE OF  
RYAN BERG TO PRACTICE AS A  
RESPIRATORY CARE PRACTITIONER  
IN THE STATE OF UTAH

**ORDER ON MOTION FOR DEFAULT**  
**CASE NO. DOPL-2013-25**

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**BY THE DIRECTOR:**

W. Ray Walker, Acting Director of the Division of Occupational and Professional Licensing, has reviewed the presiding officer's March 7, 2013 recommended order on motion for default and hereby adopts the recommendation in its entirety.

**ORDER**

Respondent's residual right to reinstate his expired respiratory care practitioner license is revoked.

This order shall be effective on the signature date below.

DATED this 7 day of March, 2013.



UTAH DEPARTMENT OF COMMERCE

W. Ray Walker  
W. Ray Walker  
Acting Director, Division of Occupational and  
Professional Licensing

**NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW**

**A request or motion to set a aside this order by default may be filed with the presiding officer and/or with the Director of the Division of Occupational and Professional Licensing pursuant to Utah Code Ann. § 63G-4-209(3)(a) and the Utah Rules of Civil Procedure. If a defaulted party wishes a review of the presiding officer's decision on a motion to set aside a default, Utah Code Ann. § 63G-4-209(3)(c) provides that agency review of the presiding officer's decision on a motion to set aside a default order may be obtained by filing a request for agency review with the Executive Director, Department of Commerce, 160 East 300 South, Box 146701, Salt lake City, Utah 84114-6701, within thirty (30) days after the date of the presiding officer's decision. The agency action in this case was a formal proceeding. The laws and rules governing agency review of this proceeding are found in Title 63G, Chapter 4 of the Utah Code, and Rule 151-4 of the Utah Administrative Code.**

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**IN THE MATTER OF THE LICENSE OF  
RYAN BERG TO PRACTICE AS A  
RESPIRATORY CARE PRACTITIONER  
IN THE STATE OF UTAH**

**RECOMMENDED ORDER ON MOTION  
FOR DEFAULT**

**CASE NO. DOPL-2013-25**

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**BY THE PRESIDING OFFICER:**

This adjudicative proceeding was initiated pursuant to a January 31, 2013 notice of agency action and petition setting forth allegations brought under Utah Code Ann. § 58-1-501(2)(b) and (e). Therefore, pursuant to Utah Administrative Code § R156-46b-201(2)(a), this matter is a formal proceeding.

Respondent was first licensed as a respiratory therapist on March 1, 1991. Respondent allowed his license to lapse on August 30, 2012.

The Division's January 31, 2013 notice was mailed to Respondent at the address of record last provided by him to the Division. A response to the allegations contained in the petition was due by March 5, 2013. The notice specified that a failure to comply with the deadline for response would result in the entry of a default order against Respondent without any further

notice to him. Respondent failed to file a response by the March 5, 2013 deadline as required. As of the date of this order, Respondent still has not filed a response.

The Division's January 31, 2013 notice also informed Respondent that a prehearing conference would be conducted telephonically on March 7, 2013 at 9:00 A.M. On that date and at the specified time, the presiding officer placed a call to Respondent at the telephone number of record last provided by him to the Division. The call was not answered. No voicemail system was triggered to allow the presiding officer to leave a message. In these circumstances, the presiding officer finds that Respondent has failed to participate in a properly scheduled hearing after receiving proper notice.

During the March 7, 2013 prehearing conference, the Division moved for a default order to be entered against Respondent.

Given the foregoing, the presiding officer finds that, pursuant to Utah Code § 63G-4-209(1)(b) and (c), proper factual and legal bases exist for entering a default order against Respondent.

### **RECOMMENDED ORDER**

Based on the foregoing, the presiding officer recommends that the Director of the Utah Division of Occupational and Professional Licensing (Director) accept the allegations outlined in the Division's petition as being true, to wit:

1. That pursuant to Utah Code Ann. § 58-1-501(2)(b), Respondent has committed unprofessional conduct by engaging in conduct that resulted in a plea in abeyance to a crime that bears a reasonable relationship to Respondent's ability to safely or competently practice the profession of a respiratory care practitioner,

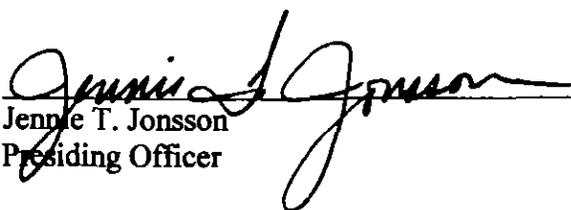
2. That pursuant to Utah Code Ann. § 58-1-501(2)(e), Respondent has committed unprofessional conduct by using intoxicants, drugs, narcotics, or similar chemicals to the extent that the conduct does, or might reasonably be considered to, impair Respondent's ability to safely engage in the profession of a respiratory care practitioner; and
3. That pursuant to Utah Code Ann. § 58-1-401(2), Respondent's conduct is grounds for sanction, including revocation of his residual right to reinstate his expired license.

The presiding officer further recommends that the Director enter a default order against Respondent, revoking his residual right to reinstate his expired respiratory care practitioner license.

This recommended order shall be effective on the signature date below.

DATED this 7<sup>th</sup> day of March, 2013.

UTAH DEPARTMENT OF COMMERCE

  
Jennie T. Jonsson  
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 7<sup>th</sup> day of March, 2013, the undersigned personally served a true and correct copy of the foregoing document upon the following:

W. Ray Walker  
Acting Director, Division of Occupational and Professional Licensing

A handwritten signature in black ink, appearing to read "Justin J. Jones", with a long horizontal flourish extending to the right.