

Laurie L. Noda (U.S.B. 4723)
Assistant Attorney General
Mark L. Shurtleff (U.S.B. 4666)
Attorney General
Commercial Enforcement Division
Heber M. Wells Building
Box 146741
Salt Lake City, UT 84114-6741
TEL (801) 366-0310

RECEIVED

FEB 17 2012

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

**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)
JOHN PAUL DUDLEY) **STIPULATION AND ORDER**
TO PRACTICE AS A)
CHIROPRACTIC PHYSICIAN) CASE NO. DOPL 2010-6
IN THE STATE OF UTAH)

JOHN PAUL DUDLEY ("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 Chiropractic Physician Licensing Board ("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 §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R151-46b-12 through R151-46b-15

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 submitted an incomplete application for reinstatement/renewal for the expired license as a chiropractic physician on or about October 12, 2011, immediately prior to the Hearing concerning the Petition recommending

1

revocation of residual rights to licensure as a chiropractic physician in the State of Utah

- b Respondent was first licensed to practice as a chiropractic physician in the State of Utah on or about September 12, 1994
- c Between about November 2007 and March 2008, on multiple occasions, Respondent engaged in sexually arousing behavior and sexual contact with a patient. The patient is hereinafter referred to as Jane Doe. Respondent performed chiropractic procedures on Jane Doe between October 28, 2007 and late March 2008.
- d Notwithstanding consent, sexually arousing behavior and sexual contact with a patient constitutes Unprofessional Conduct.

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), Utah Administrative Code R156-73-501(4) and (6), and Principle VI of the Code of Ethics of the American Chiropractic Association. 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). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) 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 to practice as a chiropractic physician shall be revoked. That revocation shall be immediately stayed and Respondent's license shall be subject to a term of probation for a period of three years. The period of probation shall commence on the date the Division Director signs the accompanying Order. During the period of probation Respondent's license 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 next scheduled Board

meeting following the effective date of this Stipulation and 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, quarterly or at such other greater or lesser frequency as the Division may direct Respondent's meetings with the Board and/or Division may be conducted via telephone interview

- b Respondent shall practice only under the supervision of a Division and Board approved supervisor during the term of Respondent's probation Any changes in supervision may be made only with the consent of the Division and Board Respondent shall deliver a copy of this Stipulation and Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division and Board in writing that a copy has been received, that the supervisor is willing to accept the responsibilities and obligations of acting as Respondent's supervisor
- c Respondent shall cause Respondent's supervisor to submit reports to the Board and Division assessing Respondent's compliance with the terms of Respondent's probation and ethics The reports shall be submitted monthly for the first six months and quarterly thereafter, or at such frequency as directed by the Board and Division The receipt of an unfavorable report may be considered to be a violation of probation
- d Failure of Respondent to pay the costs associated with compliance with this Stipulation and Order constitutes a violation of the Stipulation and Order
- e Respondent shall submit to the following course of treatment as part of Respondent's rehabilitation as recommended by Respondent's counsel and at Respondent's own expense
 - 1 Respondent shall successfully complete a psychosexual evaluation provided by a Division-approved licensed provider within one hundred twenty (120) days of the effective date of this Stipulation and Order Respondent shall contact the Division-approved licensed professional for an initial appointment within 30 days of the effective date of this Stipulation and Order Respondent shall schedule the initial appointment to be held within 60 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 evaluator to ensure a fair and complete

evaluation Respondent shall notify the Division immediately after successfully completing the evaluation and inform the Division that Respondent has successfully completed the psychosexual evaluation Respondent agrees to cause the evaluation report to be sent to the Division within 120 days of the effective date of this Order

- ii If Respondent fails to submit the evaluation report 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 Respondent shall successfully complete all treatment recommendations as outlined in the psychosexual evaluation Respondent shall provide the Division with a copy of documentation showing completion If Respondent has not successfully completed all the recommended course of treatment of Respondent's psychosexual evaluation, at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all treatment recommendations as outlined in the psychosexual evaluation have been successfully completed
- f Respondent shall successfully complete all treatment programs and treatment recommendations as outlined in the evaluation If no treatment recommendations are made in the evaluation, Respondent shall successfully complete ten hours on professional boundaries as approved by the Board and Division, in addition to the required continuing education within one year of the effective date of this Stipulation and Order
- g In the event Respondent does not practice 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 and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession
- h 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

- i If Respondent continues to practice outside the State of Utah, Respondent shall notify the Division and Board in writing of the date of Respondent's return. The licensing authorities of the jurisdiction in which Respondent practices 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 shall apply to the reduction of the period this Stipulation and Order is in effect, unless Respondent fails to comply. Failure to comply with this Stipulation and Order shall result in revocation of Respondent's Utah license.
- j 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 at any time during the period of this agreement is convicted of a criminal offense of any kind, including an offense based on the conduct described in this Stipulation and Order, 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.
- k Respondent shall maintain an active license at all times during the period of this agreement.
- l Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

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

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

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 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 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 
SALLY A. STEWART
Bureau Manager

DATE 02/21/2012

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY 
LAURIE L. NODA
Counsel for the Division

DATE 2/21/2012

RESPONDENT

BY 
JOHN PAUL DUDLEY
Respondent

DATE 2-9-12

ORDER

THE ABOVE STIPULATION. in the matter of **JOHN PAUL DUDLEY**, 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(7) 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 21 day of February, 2012

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


MARK B. STEINAGEL
Director

Investigator John Schroen