

L. MITCHELL JONES (U S B 5979)
Assistant Attorney General
JOHN E SWALLOW (U.S.B. 5802)
Attorney General
Commercial Enforcement Division
Heber M. Wells Building
Box 146741
Salt Lake City, UT 84114-6741
TEL. (801) 366-0310

**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)
DAVID O. HENDRICKSON) **STIPULATION AND ORDER**
TO PRACTICE AS A DENTIST)
AND TO ADMINISTER AND PRESCRIBE) **CASE NO DOPL 2013- 87**
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

DAVID O. HENDRICKSON ("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 Dentist and Dental Hygienist 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 Utah Code Ann. §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R156-46b-12 through R156-46b-15. 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).

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 dentist and to administer and prescribe controlled substances in the State of Utah on or about July 18, 1966.
- b On or about March 9, 2006 Respondent voluntarily entered into a Stipulation and Order in DOPL Case No 2006-59 with the Division, wherein Respondent admitted that, between 1995 and 2005, he prescribed the controlled substances Lortab, hydrocodone, and Fiorcet to patients in quantities in excess of what was necessary to treat their legitimate dental conditions Respondent also failed to keep records of the prescriptions written for some of the patients listed in the stipulated agreement Respondent's licenses were revoked, the revocations stayed, and Respondent's licenses placed on probation for a period of five years, from 2006 to 2011 Before being released on probation, Respondent promised the Division and Board he would not prescribe controlled substances to any family member again
- c Between October 17, 2012 and November 12, 2012 Respondent prescribed 160 units of hydrocodone 10 mg/APAP 500 mg to a close family member, hereinafter referred to as Jane Doe #1. Between June 9, 2012 and January 4, 2013 Respondent prescribed 1,310 units of butalbital/Fiorcet to Jane Doe #1
- d. Between October 10, 2012 and January 4, 2013 Respondent prescribed 80 units of oxycodone 7.5 mg/APAP 500 mg and 150 units of hydrocodone 10 mg/APAP 500 mg to a close family member, hereinafter referred to as Jane Doe #2
- e On October 22, 2012 Jane Doe #1 filled two prescriptions issued by Respondent, each for 30 units for hydrocodone 10 mg/APAP 500 mg, at two different pharmacies in Kaysville, Utah The prescriptions were called in from Respondent's office to each pharmacy on that same day The receptionist at Respondent's office told the pharmacist that she could not verify the prescriptions because Respondent often called in prescriptions to pharmacies after hours
- f On or about July 19, 2012 Jane Doe #2 filled a prescription for 60 units of oxycodone 7.5 mg/APAP 325 mg, a 30 day supply, issued by another prescribing practitioner, hereby referred to as "Doctor Smith" On or about July 31, 2012 Respondent issued a prescription to Jane Doe #2 for 24 units of hydrocodone 10 mg/APAP 500 mg On August 3, 2012 Jane

Doe #2 filled another prescription for 90 units of oxycodone 7.5 mg/APAP 325 mg, a 30 day supply, issued by Doctor Smith.

- g. On or about October 25, 2012 Jane Doe #2 filled a prescription for 90 units of oxycodone 7.5 mg/APAP 325 mg, a 30 day supply, issued by Doctor Smith. On November 1, 2012 Respondent issued a prescription to Jane Doe #2 for 30 units of hydrocodone 10 mg/APAP 500 mg.
- h. On or about December 13, 2012 Respondent was interviewed by a Division investigator. Initially Respondent told the Division investigator that he was treating Jane Doe #1 and Jane Doe #2 for temporo-mandibular joint ("TMJ") pain. Respondent was unable to furnish any dental records showing that either Jane Doe #1 or Jane Doe #2 was being treated for TMJ issues. Respondent later admitted to the Division investigator that both Jane Doe #1 and Jane Doe #2 suffered from severe back pain, and that Respondent issued prescriptions for hydrocodone, oxycodone, and butalbital in order to treat their back pain.
- i. Respondent is not licensed as a physician in the State of Utah and is not licensed or qualified to treat back pain. Treating back pain is outside Respondent's scope of practice.
- j. Respondent admitted to the Division investigator that Jane Doe #1 and Jane Doe #2 are addicted to pain killers. Respondent stated that he had put Jane Doe #1 through drug rehab before, and was considering putting her in drug rehab again.
- k. Respondent stated that he did not know that Jane Doe #2 was obtaining prescriptions for hydrocodone and oxycodone from a different prescribing practitioner. Respondent failed to check the Utah Controlled Substance Database to check to see if Jane Doe #2 was obtaining pain medication from other prescribing practitioners.
- l. Respondent admitted that he wrote prescriptions for Jane Doe #1 and Jane Doe #2 that he shouldn't have. Respondent stated that he had much going on in his life and his family members constant complaining of pain caused him to write the prescriptions.
- m. Respondent told the Division investigator that he has tried to get Jane Doe #1 and Jane Doe #2 to obtain their pain medication from other prescribing practitioners, but that they will not do so.

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- n Respondent admitted that he wrote prescriptions to Jane Doe #1 using more than one name. Respondent wrote prescriptions in both her married name and her maiden name. Respondent at first told the Division investigator that he used two different names because her insurance was billed in different names, but later Respondent admitted that he wrote prescriptions in two names in order to attempt to conceal the amount and nature of his prescribing to Jane Doe #1. Respondent states he now has no memory of this admission.
 - o. Respondent admitted to a Division investigator that the patient records that he created for Jane Doe #1 and Jane Doe #2 since January 2012 were not accurate and did not satisfactorily document the amounts of controlled substance pain medication he was prescribing to Jane Doe #1 and Jane Doe #2. The records made no mention of the back pain Jane Doe #1 and Jane Doe #2 suffered, and that part of the reason he wrote prescriptions for pain medication was to treat their back pain.
 - p Respondent stated that he owes the IRS a large amount of money and he would be unable to make payments owed to the IRS if he lost his Utah dental licenses. On or about April 6, 2010 Respondent pleaded guilty to one count of willful failure to pay tax, in United States District Court, District of Utah.
 - q. Respondent continued to write prescriptions for butalbital/Fioricet to Jane Doe #1 and a prescription for hydrocodone to Jane Doe #2 even after being interviewed by the Division investigator on December 13, 2012.

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (c), (h), (i), and (j), § 58-37-6(7)(i), and Utah Administrative Code R156-37-602(1) and R156-37-502(6); and unlawful conduct as defined in Utah Code Ann. § 58-1-501(1)(a) and (e) and § 58-67-102(12). 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

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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 licenses to practice as a dentist and to administer and prescribe controlled substances in the State of Utah shall be revoked. The revocation of the licenses shall be immediately stayed. Respondent's license to administer and prescribe controlled substances shall then be immediately suspended and shall remain suspended until the Board determines that:
 - (1) Respondent is able to safely administer and prescribe controlled substances, and
 - (2) Respondent is not a danger to the health, safety, and welfare of the public.If and when the Board lifts the suspension of Respondent's controlled substance license, the Board may impose additional terms and conditions not contained in this Stipulation and Order, and Respondent agrees to abide by those additional terms and conditions. Such terms and conditions may include, but are not limited to, restrictions on which controlled substance Respondent may use in his practice, requirements for additional continuing education, requirements of triplicate scripts and administration logs, etc. If and when the suspension of Respondent's controlled substance license is lifted, Respondent's controlled substance license shall be subject to a term of probation for a period of time equal to the term of probation for Respondent's dentist license. Respondent's dentist license shall be subject to a term of probation for a period of five years. The period of probation for Respondent's dentist license shall commence when the Division Director signs the attached Order. 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 and Board.
 - a. Respondent shall meet with the Division and Board within thirty (30) days of 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 or Board, annually or at such other greater or lesser frequency as the Division or Board may direct.
 - b. 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. Respondent shall provide the Division and Board with a copy of Respondent's criminal probation agreement within 30 days of the effective date of this Stipulation and Order.

- c. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- d. All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis 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.
- e. Respondent shall notify any employer or practice associate of Respondent's restricted status and the terms of this agreement. Respondent shall cause Respondent's employer to provide periodic reports summarizing Respondent's compliance with the terms and conditions of this Stipulation and Order at a frequency described in subparagraph (d) above.
- f. Respondent shall not treat or prescribe any controlled substance or legend drug to himself, his family, or his friends.
- g. Respondent shall work under the supervision of a dentist supervisor pre-approved by the Division and Board. Respondent shall meet weekly with Respondent's supervisor unless the Board or Division determine a different frequency. Supervision goals shall include concurrent management, proper prescribing and administering of legend drugs, financial responsibility, boundaries, case load management, and professional relationships and practices. The supervisor shall review 20% of Respondent's

patient records. The supervisor, not Respondent, shall select which patient records shall be reviewed. Respondent shall cause Respondent's supervisor to meet with the Division and Board, at Respondent's first meeting with the Board, to discuss oversight issues the responsibilities of a supervising dentist. If Respondent's supervisor requires payment for supervision services, Respondent shall be responsible for those payments

- h If Respondent is self-employed in private practice, Respondent shall hire a supervisor, pre-approved by the Board and Division
- i 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
- j All continuing professional education completed by Respondent shall be pre-approved by the Division and Board.
- k Respondent shall issue prescriptions for legend drugs only on sequentially numbered triplicate scripts. One copy of each prescription shall remain in the patient chart and one copy of each prescription shall be sent by Respondent to the Division and Board within one month of issuance
- l Respondent shall keep a log of all prescription medications administered by Respondent at any time. The log shall be submitted to the Division monthly.
- m. Respondent shall submit a practice plan to the Division and Board within 90 days of the effective date of this Stipulation and Order. The practice plan shall be submitted in a format prescribed by the Division and Board. If the controlled substance license suspension is lifted, the practice plan shall describe how Respondent will monitor and control his prescribing and administering of controlled substances to comply with the law and recommended prescribing guidelines
- n. 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.

- o. 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.
- p. 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.
- q. 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.

- r Respondent shall maintain active licenses at all times during the period of this agreement.
- s Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address
- t 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
- u. If either the Division or Board has a concern about Respondent's ability to competently practice as a dentist, upon the direction of the Division or Board, Respondent shall immediately undergo any type of evaluation directed by the Division or Board, and then submit the evaluation report(s) to the Division and Board immediately upon their completion. Respondent shall sign a release allowing the Division and Board to review the reports, any materials used in drafting the report, and to speak with the evaluator(s).
- v Respondent shall provide free dental services to fifteen financially disadvantaged patients within twelve months of the effective date of this Stipulation and Order. The dental services shall be of a more complicated nature, and may include removal of wisdom teeth, providing implants, tissue grafting, and root canal procedures. The Division and Board shall pre-approve each procedure and each patient. Respondent shall cause each patient to sign a release allowing the Division and Board to review their records and request in order to pre-approve the procedure.

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. 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 Board or Division.

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

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.

13 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.

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

RESPONDENT

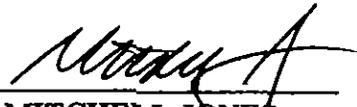
BY 
NOEL TAXIN
Bureau Manager

BY 
DAVID O. HENDRICKSON
Respondent

DATE: 3/4/13

DATE. 3/1/2013
(March 1, 2013)

JOHN E SWALLOW
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE. 4 March 2013

ORDER

THE ABOVE STIPULATION, in the matter of **DAVID O. HENDRICKSON**, 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 5 day of March, 2013



DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



MARK B. STEINAGEL
Director

Investigator Dan Briggs