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

IN THE MATTER OF THE LICENSES OF :
PAUL M. GAHLINGER, MD, TO PRACTICE : **EMERGENCY ORDER**
AS A PHYSICIAN/SURGEON AND TO :
ADMINISTER AND PRESCRIBE :
CONTROLLED SUBSTANCES IN THE :
STATE OF UTAH : Case No. DOPL 2014- 329

The Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah (the "Division") initiated an Emergency Adjudicative Proceeding pursuant to Utah Code Ann. § 63G-4-502, the Utah Administrative Procedures Act; Utah Code Ann. § 58-1-108(2), the Division of Occupational and Professional Licensing Act; and Utah Administrative Code R156-1-206, of the Division of Occupational and Professional Licensing Act Rules. The Division initiated the Emergency Administrative Proceeding upon evidence that the continued practice of Paul Marie Gahlinger (the "Respondent") as an Physician and Surgeon represented an immediate and significant danger to the public health, safety, and welfare; and that the threat required immediate action by the agency.

Before taking this action, the Chair of the Physician and Surgeon Licensing Board appointed a four-member committee to review with the Division the proposed action in this matter, pursuant to Utah Code Ann. § 58-1-108(2).

Pursuant to the Open and Public Meetings Act, Utah Code Ann. § 52-4-1, the Division provided notice of the meeting of the committee for 1:00 p.m. on July 8, 2014, at the Heber M. Wells Building located at 160 East 300 South, Salt Lake City, Utah. Notice of the Emergency Hearing was placed in the lobby of the Heber Wells Building and on the DOPL/public information website on or about July 7, 2014. The committee convened and the meeting of the committee was closed pursuant to Utah Code Ann. § 52-4-205(1) (a) in order to discuss the professional competence and character of an individual. The presiding committee member affirmed under oath that the meeting was closed for that purpose. The committee reviewed the Division's proposed action and considered information in the form of testimony and exhibits. The Division, having considered the committee's recommendations, makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On August 10, 1997, the Respondent was first licensed to practice as a Physician and Surgeon license number 339160-1205 and to administer and prescribe controlled substances in the State of Utah, license number 339160-8905.

2. The Respondent has given DOPL an address of _____, PMB 375, Saipan, MP 96950-8901, but has been operating a business called Medicruiser in Utah with the assistance of Kelly Reyes who is not licensed under any profession with the State of Utah.

3. On or about October 7, 2013, SP (name withheld to protect confidentiality) gave birth to a baby at the Ashley Regional Medical Center in Vernal, Utah. At the time of the baby's birth the medical staff was informed that SP had been taking Suboxone which had been prescribed to her by the Respondent, Paul Gahlinger. SP's baby was monitored for withdrawal symptoms at the Medical Center due to Mother's use of Suboxone.

4. SP had been receiving prescriptions from Respondent's office for Suboxone 12mg since April 2013. That when SP got her first prescription for Suboxone she did not see the Respondent. She went to the home of Kelly R. Reyes, who told SP that she worked for Respondent and was the only person SP saw. On some occasions, when SP received refills for her Suboxone, she would have a short Skype session with Respondent from Kelly Reyes' home. Most of the time when SP got refills, she did not see Respondent. Both Respondent and Reyes knew SP was pregnant, but they would do very little physical monitoring of SP's condition and did not communicate with SP's OBGyn.

5. In reviewing DOPL's licensing database it was found that Kelly Reyes is not licensed with the State of Utah in any capacity.

6. On December 15, 2013, LP (name withheld to protect confidentiality) gave birth to a baby at the Ashley Regional Medical Center in Vernal, Utah. At the time of the baby's birth the medical staff was informed that LP had been taking Suboxone which had been prescribed to her by the Respondent, Paul Gahlinger. LP's baby was monitored for withdrawal symptoms at the Medical Center due to Mother's use of Suboxone.

7. That since June of 2012, PG (name withheld to protect confidentiality) has been prescribed Suboxone from the Respondent. PG suffers from obesity and high blood pressure PG

also suffers constant pain issues. PG has not seen Respondent personally, but receives the prescriptions for Suboxone 8MG after seeing Kelly Reyes. On some of his visits he will Skype with the Respondent, but has visits to Kelly Reyes for refills where the Respondent is too busy to see him. PG has been given Suboxone when his blood pressure has been in the 250/140 range. The Respondent does not physically monitor PG prior to having Kelly Reyes call in the prescription for Suboxone.

8. Respondent did not follow the Model Policy for the Use of Controlled Substances for the Treatment of Pain or the Model Policy or the Model Policy on Data 2000 and Treatment of Opioid Addiction in the Medical Office in treating SP, LP or PG. He did not conduct a proper patient assessment to establish the diagnosis of opiate addiction, document the patient's use of other substances or evaluate the patient's level of physical, psychological and social functioning or impairment.

CONCLUSIONS FROM THE FACTS

1. That the Respondent's unlawful and unprofessional conduct as described above poses an immediate and significant danger to the public health, safety, and welfare; and requires immediate action by the Division. In particular, the Respondent has issued, or aided and abetted the issuance of an order for a drug without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment as required in Utah Code Ann. §58-1-501(2)(m). The facts presented show further, that the Respondent continues to be an imminent and significant danger to the public since his practice of prescribing Suboxone without a proper patient assessment puts patients at risk for serious injury.

2. All of the previously mentioned behaviors constitutes an immediate threat to the public health, safety, and welfare since the Respondent clearly has a practice in place that does not follow the Model Policy for the Use of Controlled Substances for the Treatment of Pain or the Model Policy on Data 2000 and Treatment of Opioid Addiction in the Medical Office as required by Utah Admin. Rule R156-1-501(6) & (7). That he does not properly evaluate or take a medical record of the patients that seek controlled substances through is Medicruiser Clinic. That prescriptions are issued under his license without first obtaining information on the patient in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions and to identify contraindications to the proposed treatment.

3. The Division finds that, pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b), there is a factual basis to conclude that the Respondent has engaged in unprofessional and unlawful conduct, that he poses an immediate and significant danger/threat to the public health, safety, and welfare; and that the Division should take immediate action to suspend his license to administer and prescribe controlled substances.

CONCLUSIONS OF LAW

1. The Division has jurisdiction and authority to act in this matter and has followed appropriate statutory procedures regarding the initiation of emergency adjudicative actions.

2. Utah Code Ann. § 63G-4-502 provides:

(1) An agency may issue an order on an emergency basis without complying with the requirements of this chapter if:

(a) the facts known by the agency or presented to the agency show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the agency.

(2) In issuing its emergency order, the agency shall:

(a) limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(b) issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the agency's utilization of emergency adjudicative proceedings; and

(c) give immediate notice to the persons who are required to comply with the order.

(3) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the agency shall commence a formal adjudicative proceeding in accordance with the other provisions of this chapter.

3. The actions of the Respondent constitute an immediate and significant danger to the public health, safety, and welfare; and require immediate action to protect the public health, safety, and welfare.

4. That the Respondent, by improperly prescribing controlled substances, has engaged in unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(m).

5. That the Respondent has failed to follow the Model Policy for the Use of Controlled Substances for the Treatment of Pain or the Model Policy or the Model Policy on Data 2000 and Treatment of Opioid Addiction in the Medical Office. This failure to properly assess document or treat addicted patients puts them and others at risk of serious injury. The Respondent has engaged in unprofessional conduct as defined by Utah Administrative Code R156-1-501(6) & (7).

6. That Respondent committed unprofessional conduct as defined by Utah Admin.

Rules R156-37-502(4), by failing to maintain controls over controlled substances which would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances.

7. That this Order is necessary to prevent harm to the public pending a formal adjudication of the matters addressed in this proceeding. Immediate action is necessary, and this Order is the least restrictive action needed to prevent or avoid the danger to the public health, safety, or welfare.

8. The Respondent may challenge the Order pursuant to Utah Admin, Code R151-4-111 as follows:

Utah Administrative Code R151-4-111. Emergency Adjudicative Proceedings. Unless otherwise provided by statute or rule:

(1) Upon request for a hearing under this rule, the Division shall conduct a hearing as soon as reasonably practical but not later than 20 days from the receipt of a written request unless the Division and the party requesting the hearing agree in writing to conduct the hearing at a later date.

ORDER

1. The license of Paul Maria Gahlinger to administer or prescribe controlled substances in the State of Utah, license number 339160-8905, will be immediately suspended until a hearing can be convened pursuant to Utah Code Ann. § 63G-4-502 and Utah Admin. Code R151-4-111, and a contravening order is issued. The Division will proceed with a formal adjudicative proceeding to uphold this suspension and/or revoke the Respondent's professional licenses.

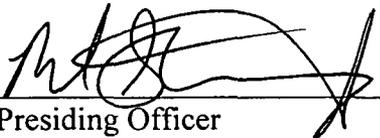
2. The Respondent shall immediately cease and desist from the practice of administering or prescribing controlled substances in the State of Utah until a hearing-can be convened pursuant to Utah Code Ann. § 63G-4-502 and Utah Admin. Code R151-4-111, and a contravening order is issued.

RIGHT TO REVIEW

1. In accordance with Utah Admin. Code R151-4-111, the Division will schedule a hearing upon receipt of a written request from the Respondent. At the hearing it will be determined whether this Emergency Order should be affirmed, set aside, or modified, based on the standards set forth in Utah Code Ann. § 63G-4-502. The hearing will be conducted in conformity with Utah Code Ann. § 63G-4-206.

2. Upon receipt of a request for hearing pursuant to Utah Admin Code R151-4-111, the Division will conduct a hearing as soon as reasonably practical, but not later than twenty (20) days from receipt of a written request, unless the Division and the party requesting the hearing agree to conduct the hearing at a later date.

DATED this 8th day of July, 2014.



Presiding Officer
Division of Occupational and Professional Licensing.

