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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   | ) |                              |
| <b>JOSEPH EDWARD BERG</b>          | ) | <b>STIPULATION AND ORDER</b> |
| TO PRACTICE AS A PHYSICIAN/SURGEON | ) |                              |
| AND TO PRESCRIBE AND ADMINISTER    | ) | CASE NO. DOPL 2011-403       |
| CONTROLLED SUBSTANCE               | ) |                              |
| IN THE STATE OF UTAH               | ) |                              |

**JOSEPH EDWARD BERG** ("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 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 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. § 63G-4-102(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. On or about July 9, 1998 Respondent was first licensed to practice as physician/surgeon and to administer and prescribe controlled substances in the State of Utah.
- b. On or about November 6, 2011, the Orem City police in response to a 911 call, went to Respondent's residence. Upon entering the home the police found Oxycodone and numerous other medications and controlled substances, in the home, for which Respondent did not have valid prescriptions.
- c. The Division received complaints voicing concern that Respondent was showing up to his office displaying signs of severe substance abuse. These reports included allegations that Respondent had passed out in his office and that he carried medications that he was self administering. The complainants were concerned for the safety of Respondent's patients and also for Respondent. Consistent with the allegations made and the discovery made by law enforcement, Respondent now admits that he has a severe and debilitating addiction to prescription drugs.
- d. Respondent is not currently physically and/or mentally fit to practice as a physician.

- e. Respondent desires to surrender Respondent's licenses to practice as a physician/surgeon and to administer and prescribe in the State of Utah, along with all residual rights pertaining to said licenses.

8. Respondent admits that the findings of fact described above constitute unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (c), (e), and (f); and unlawful conduct as defined in Utah Code Ann. § 58-37-8(2)(a)(i), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Respondent hereby surrenders Respondent's licenses to practice as a physician/surgeon and to administer and prescribe controlled substances in the State of Utah as well as all residual rights pertaining to said licenses. Respondent agrees that the issuance of the Order in this matter constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(6) and Utah Code Ann. § 58-1-401(2)(a). Respondent agrees not to reapply for licensure as a physician/surgeon or to administer and prescribe controlled substances in the State of Utah until the following: (1) a period of three years elapses from the date the Division Director signs this Stipulation and Order or an earlier date if Respondent successfully completes all requirements of his criminal probation and treatment; (2) Respondent successfully completes comprehensive evaluations, including chemical dependency, psychological, and neuropsychological evaluations at the Pine Grove facility in Hattiesburg, Mississippi, at Respondent's own expense, and submit the evaluations to

the Division and Board for review; (3) Respondent signs a release to permit the Division and Board to obtain and review any materials that the Pine Grove evaluators relied upon in drafting their evaluations and allow the Division and Board to communicate freely with the evaluators; and (4) Respondent submits a letter to the Division and Board from the clinical director of Pine Grove in which the clinical director states that Respondent can safely practice as a physician/surgeon and/or administer and prescribe controlled substances within 90 days prior to the date Respondent submits his application for licensure. The Division does not guarantee that any future application by Respondent for licensure will be granted. If a future license is granted, it may be granted subject to further terms and conditions in another stipulated agreement. If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a physician/surgeon and to administer and prescribe controlled substances in the State of Utah. Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division.

9. This Stipulation and Order, upon approval by the Director of the Division, 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 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.

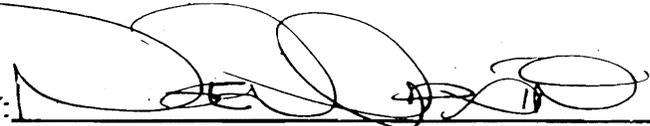
10. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

11. 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.

12. 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.

13. 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: 

**NOEL TAXIN**  
Bureau Manager

DATE: 1/4/12

**MARK L. SHURTLEFF**  
ATTORNEY GENERAL

BY: 

**KARL G. PERRY**  
Assistant Attorney General

DATE: 1/3/2012

RESPONDENT



BY: \_\_\_\_\_  
**JOSEPH EDWARD BERG**  
Respondent

DATE: 12/29/11

BY: 

**RHOME D. ZABRISKIE**  
Attorney for Respondent

DATE: 12/30/11

**ORDER**

THE ABOVE STIPULATION, in the matter of **JOSEPH EDWARD BERG**, 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 January  
2012, ~~2011~~

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING

  
**MARK B. STEINAGEL**  
Director

Investigator: Lynn Hooper

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5 day of January, 2012, a true and correct copy of the foregoing STIPULATION AND ORDER has been served on the parties of record in this proceeding by mailing a copy thereof, properly addressed by first class mail with postage prepaid, to the following:

Joseph Edward Berg MD  
800 North 498 East  
Orem Ut 84097

Zabriskie Law Firm  
899 North Freedom Blvd  
Provo UT 84604

Hand delivered copy to:

Karl G. Perry, Assistant Attorney General

  
\_\_\_\_\_  
Carol Inglesby  
Admin. Assistant  
Division of Occupational  
and Professional  
Licensing