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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 LICENSES OF )  
**THOMAS K. TRAUBA** ) **STIPULATION AND ORDER**  
TO PRACTICE AS A PHYSICIAN )  
AND TO ADMINISTER AND PRESCRIBE ) **CASE NO. DOPL 2014- *lolo***  
CONTROLLED SUBSTANCES )  
IN THE STATE OF UTAH )

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**THOMAS K. TRAUBA** (“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. § 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, while neither admitting nor denying the following, agrees that the Division shall make the following findings of fact:

- a. Respondent was first licensed to practice as a physician and to administer and prescribe controlled substances in the State of Utah on or about July 21, 1986.
- b. Between about June 2011 and about June 2013 Respondent overprescribed controlled substances, including morphine, oxycodone, and oxycontin to a number of patients in the State of Utah.
- c. Respondent failed to properly document in these patients' records sufficient reason to justify the prescribing of the controlled substances described above in the amounts and frequency that Respondent prescribed.
- d. Respondent failed, as a prescribing practitioner, to follow the Model Policy for the Use of Controlled Substance for the Treatment of Pain, 2004, established by the Federation of State Medical Boards

8. Respondent, while neither admitting nor denying the findings of fact described above, agrees that the findings of fact described above constitute unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (g), and (i), and Utah Administrative Code R156-1-501(6). Respondent agrees by making these findings 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(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 physician/surgeon and to administer and prescribe controlled substances in the State of Utah shall be revoked. The revocations shall be immediately stayed. Respondent's licenses shall be suspended and remain suspended until Respondent submits a written statement to the Division requesting that the suspensions be lifted. Once the suspensions are lifted, Respondent's licenses shall be subject to a term of probation for a period of three years. The period of probation shall

commence when the Division Director signs an Amended Order lifting the suspensions. 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 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 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.
- 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 Division and 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 successfully complete the prescribing, boundaries, and documentation courses provided by the Physician Assessment and Clinical Education (“PACE”) Program at the University of San Diego within one year of the effective date of this Stipulation and Order.
- g. Respondent shall work under the supervision of a 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 and professional relationships and practices. The supervisor shall address issues pertaining to medical and prescribing practices, record keeping, and any other issues the supervisor determines are pertinent to professional and ethical practice. 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 in person, at Respondent’s first meeting with the Board or to discuss oversight issues the responsibilities of a supervising physician. Respondent shall bring patient charts selected at random by Respondent’s supervisor to the Division and Board whenever requested by the Division or Board.
- 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. Respondent shall successfully complete the PRIME course provided by University of Medicine and Dentistry in New Jersey, within one year of the effective date of this Stipulation and Order.
- k. Respondent shall submit an essay to the Division and Board focusing on what Respondent learned at the PACE and PRIME courses described above and how Respondent will apply those

lessons to Respondent's future practice. The essays shall be submitted within 30 days of the completion of both courses.

- l. If the Board and Division deem it necessary, Respondent shall successfully complete any psychiatric, neuropsychiatric, physical, or chemical dependency evaluation at any time during the period of probation. If so directed, Respondent shall complete the evaluation within 90 days of the order, and shall sign any release form necessary to ensure that any evaluation report and any other materials requested by the Division and Board, be immediately released to the Division and Board. The evaluation may have to be conducted by an out-of-state evaluation program, as directed by the Division and Board.
- m. Respondent shall issue prescriptions 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. The Division will provide instructions, if applicable, as to how any electronic medical record shall be submitted to the Division Board.
- n. Respondent shall record all controlled substance prescriptions medication that Respondent administers directly to patients or that are administered to patients during a procedure involving Respondent in a log. The log shall be submitted to the Division and Board on a monthly basis or at frequency determined by the Division and Board.
- o. In the event Respondent does not practice for a period of sixty (60) days or longer, Respondent shall notify the Division and 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 Division and Board to modify this requirement if Respondent satisfactorily explains to the Division and 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.
- p. Respondent shall notify the Division and 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.

- q. 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.
- r. 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.
- s. Respondent shall maintain an active license at all times during the period of this agreement.
- t. Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- u. 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.

- v. Respondent shall not prescribe any medication to himself, his family, or his friends.

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 and any hearings or prehearing conferences currently scheduled are hereby vacated. 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 material 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 material 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 shall practice only under Respondent's name as set forth in the caption of this Stipulation and Order. If Respondent intends to practice under any other name, then, prior to practicing under any other name, Respondent shall inform the Division in writing, and Respondent and the Division shall enter into an Amended Stipulation and Order, which consists

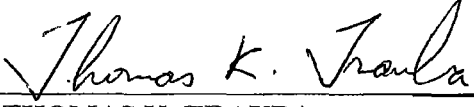
of the new name Respondent intends to practice under, along with all the same terms and conditions in the original Stipulation and Order.

15. 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

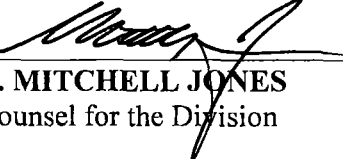
BY:   
NOEL TAXIN  
Bureau Manager

BY:   
THOMAS K. TRAUBA  
Respondent

DATE: 2/11/14

DATE: 2/11/2014

SEAN D. REYES  
ATTORNEY GENERAL

BY:   
L. MITCHELL JONES  
Counsel for the Division

DATE: 11 Feb 2014

**ORDER**

THE ABOVE STIPULATION, in the matter of **THOMAS K. TRAUBA**, 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 11<sup>th</sup> day of February, 2014.

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING

  
**MARK B. STEINAGEL**  
Director

Investigator. Bobby Main