



WHEREAS, on or about January 14, 2013, the Board received a complaint from Licensee's employer reporting that during an investigation concerning their facility's narcotic count, the Licensee was the only practitioner that had tested positive in a random drug screen. Licensee's drug screen was positive for hydrocodone. Despite having a prescription for this drug, the Licensee had failed to report this prescription to HPAP or her employer as was required under her HPAP contract. Thereafter, the Licensee faxed documentation of her prescription (dated November 9, 2012) to the HPAP program. As a result of her non-disclosure, Licensee was terminated from her employment and found non-compliant with HPAP; and

WHEREAS, on January 18, 2013, the Board received an email from HPAP advising of a call received from the Licensee indicating that Licensee no longer wanted to work as a nurse or continue in the HPAP program. Licensee contacted the Board January 23, 2013, stating that she wanted to surrender her nursing license; and

WHEREAS, Licensee has agreed that she would surrender her South Dakota nursing license; and

WHEREAS, the Board has a statutory obligation to protect the public health, safety, and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners; and

WHEREAS, Licensee agrees that the matters under investigation would be of a nature that would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the Licensee agrees that she enters into this Voluntary Surrender Consent Order voluntarily and without duress or compulsion, in full understanding of the legal consequences of this document and her rights; therefore,

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Voluntary Surrender Consent Order.
2. That on or about January 23, 2012, while employed at a hospital, Licensee refused to submit to a for-cause drug screen after the employer discovered questionable drug administrative practices by Licensee. Licensee's refusal to submit to the screen resulted in her termination from the facility. On January 25, 2012, the Licensee contacted the Board regarding the incident. Licensee attended an Informal Meeting with Board staff on March 21, 2012. At that meeting, Licensee denied diversion of drugs, but admitted to a DUI in mid-January 2012, and advised that she had initiated alcohol treatment and had also contacted HPAP.

That on or about April 26, 2012, the Board mandated the Licensee into HPAP for a period of five (5) years.

That on or about January 14, 2013, the Board received a complaint from Licensee's employer reporting that during an investigation concerning their facility's narcotic count, the Licensee was the only practitioner that had tested positive in a random drug screen. Licensee's drug screen was positive for hydrocodone. Despite having a prescription for this drug, the Licensee had failed to report this prescription to HPAP or her employer as was required under her HPAP contract. Thereafter, the Licensee faxed documentation of her prescription (dated November 9, 2012) to the HPAP program. As a result of her non-disclosure, Licensee was terminated from her employment and found non-compliant with HPAP.

That on January 18, 2013, the Board received an email from HPAP advising of a call received from the Licensee indicating that Licensee no longer wanted to work as a nurse or continue in the HPAP program. Licensee contacted the Board January 23, 2013, stating that she wanted to surrender her nursing license.

Licensee has agreed that she would surrender her South Dakota nursing license and now intends to leave the profession of nursing as a registered nurse.

3. That the Licensee has been given an opportunity to discuss this Voluntary Surrender Consent Order with an attorney of Licensee's choice, and is aware of her right to a hearing in this matter, and of her rights under the United States and South Dakota Constitutions, laws, rules and/or regulations. Licensee hereby voluntarily waives all such rights to a hearing, notice, appearance, or any other rights under said Constitutions, laws,

rules and/or regulations. Licensee also agrees that the Board's Executive Director or her designee may present this Voluntary Surrender Consent Order to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. That the Licensee's license to practice nursing in South Dakota and her privilege to practice nursing pursuant to the Nurse Licensure Compact shall be surrendered and the Board shall suspend said license for an indefinite period from the date of this Order. Licensee may apply to have her license reinstated for good cause shown.

5. That nothing in this Voluntary Surrender Consent Order should imply that the Licensee shall be reinstated. Licensee recognizes that the reinstatement terms, as well as the requirements for reinstatement, are at the sole discretion of the Board.

6. That if the Licensee requests reinstatement, Licensee has the burden of presenting information showing that Licensee's license should be reinstated.

7. That it is further stipulated and agreed that this Voluntary Surrender Consent Order is being entered into voluntarily by the Licensee and without threats or coercion and is entered into after the Licensee has been given ample opportunity to consider these matters and to discuss this Voluntary Surrender Consent Order with an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Voluntary Surrender Consent Order and of the Licensee's rights to a formal hearing

on these matters, which rights are hereby waived by the signing of this Voluntary Surrender Consent Order.

8. Licensee understands that during the period of this Voluntary Surrender that she is ineligible to work in any nursing role, including that of a nurse aide, nurse assistant, or medication assistant/aide.

9. This action is reportable discipline and will be published in the Board's newsletter and posted on its web site and reported into the Healthcare Integrity and Protection Data Bank (HIPDB) and National Practitioner Data Bank (NPDB) as required by law.

10. That the Board may enter an Order consistent with the terms of this Stipulation.

NOW, THEREFORE, the foregoing Voluntary Surrender Consent Order is entered into and is respectfully submitted to the Board with the request that the Board adopt its terms as an Order of the Board in the above matter.

Dated this 5 day of Feb, 2013.

  
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Leslie J. Bender, RN

The South Dakota Board of Nursing meeting on the 1st day of March, 2013, approved the attached Voluntary Surrender Consent Order as written by a vote of 9 - 0 and issued its Order as follows:

IT IS HEREBY ORDERED that the above Voluntary Surrender Consent Order is adopted as shown herein by the South Dakota Board of Nursing this 4th day of March, 2013.

  
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Gloria Damgaard, RN, MS  
Executive Director  
South Dakota Board of Nursing