



WHEREAS, while under investigation, Licensee signed a Voluntary Refrain from Practice Statement on May 14, 2015; and

WHEREAS, on July 22, 2015, an informal meeting was held with the Licensee at the Board office. During that meeting, Board staff and Licensee discussed the discrepancies noted on the narcotic sign-out sheets and the residents' administration records. Licensee denied taking any medications for herself or to give to others. Licensee stated that she was not used to having two places to document and she sometimes did not chart the right time or forgot to document on the MAR. Licensee cited instruction by senior staff and facility policy that required everything to be signed out at one time as a reason for her documentation errors; and

WHEREAS, at that meeting, Board staff asked the Licensee about her termination from her previous employment due to a positive drug screen for Tramadol when she did not have a prescription for this medication. Licensee's explanation was that it "may have been my grandmother's medication;" and

WHEREAS, this matter was presented to the full Board on September 10, 2015, at which time the evidence obtained to date was presented to the Board; and

WHEREAS, at that meeting, the Board mandated the Licensee to enroll in the Health Professionals Assistance Program ("HPAP") within 30 days. This directive was sent to the Licensee in a letter dated September 18, 2015; and

WHEREAS, on or about December 23, 2015, the Board received information from the Minnesota Board of Nursing that it had suspended Licensee's license to practice as a practical nurse in the State of Minnesota. This order had been issued on December 17, 2015; and

WHEREAS, on or about January 4, 2016, the Board was notified by HPAP that Licensee failed to enroll in the program, that HPAP was unable to contact Licensee, and that they had unsuccessfully discharged her from HPAP; and

WHEREAS, Board staff attempted to contact the Licensee via phone, e-mail, regular mail and certified mail. All attempts to contact the Licensee were unsuccessful; and

WHEREAS, on February 19, 2016, the matter of the Licensee was again presented to the full Board and at that time the Board recommended that the Licensee's license be suspended and that she be noticed for a hearing; and

WHEREAS, based upon the affidavit of Francie Miller and the above stated conduct, the Board has concluded that Licensee's actions constitute unprofessional conduct and require emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to her care in the future; and

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

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Board specifically finds that the public health, safety and welfare require emergency action against Licensee's license.

3. That based on the above, the Board specifically finds that the actions of the Licensee endanger the public health, safety and welfare, and imperatively require emergency action in that Licensee may endanger the health and safety of those persons who are or will be entrusted to her care in the future and that these are matters of a nature that would constitute further grounds for discipline of her license to practice nursing under SDCL § 36-9-49 (5), (6), (7) and (10).

4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of her license at any time for "good cause."

5. That Licensee shall turn in her license to the Board within ten (10) days from the date of this Order and it shall be kept by the Board until further action on this matter.

6. Licensee is hereby notified that any practice of or holding herself out as a practical nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. This action is reportable discipline and will be published in the Board's newsletter and posted on its website and reported into the National Practitioner Data Bank (NPDB) as required by law.

The South Board of Nursing met on the 19<sup>th</sup> day of February, 2016, and approved this Order of Summary Suspension by a vote of 9-0, and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 3<sup>rd</sup> day of March, 2016.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, RN, MS  
Executive Director

**NOTICE OF HEARING**

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Sierra L. Cates, LPN, License No.

P011710 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on April 21, 2016, at 1:00 p.m. at the office of the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201, Sioux Falls, South Dakota.
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.
3. The hearing will address the Board's assertion, as set forth in its Summary Suspension, that the Licensee, by her conduct, violated SDCL §§ 36-9-49 (5), (6), (7) and (10).
4. At the hearing, the Board will determine whether the Licensee's license shall be suspended, revoked or subject to other disciplinary action as determined by the evidence presented.

5. Licensee has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

6. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 3<sup>rd</sup> day of March, 2016.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS  
Executive Director