

SOUTH DAKOTA BOARD OF NURSING

IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: VINCENT GALLAGHER, R.N.

VOLUNTARY
SURRENDER
CONSENT ORDER

License No. R-024750

Licensee.

WHEREAS, VINCENT GALLAGHER, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-024750; and

WHEREAS, said Licensee has been involved in the HPAP program since March, 1998, however, in November of 1999 Licensee suffered a relapse, was terminated from employment at Rapid City Regional Hospital, and has indicated that he intends to surrender his nursing license, leave the HPAP program; and such conduct is inconsistent with the health or safety of persons entrusted to his care; and are violations of SDCL § 36-9-49(5),(7) and (10); and

WHEREAS, the South Dakota Board of Nursing 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 these matters are of a nature that would constitute grounds for the discipline of his license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the Licensee agrees that this Agreement is entered into by him voluntarily and without duress or compulsion, in full understanding of the legal consequences of this document and

his rights; and

WHEREAS, in the event the Board, in its discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party. Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or any of the records or information relating hereto; now, therefore,

IT IS HEREBY STIPULATED THAT THE BOARD MAY ENTER AN ORDER AS FOLLOWS:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Stipulation.

2. That Licensee has admitted that he has been involved in the HPAP program since March, 1998, however, in November of 1999 Licensee suffered a relapse, was terminated from employment at Rapid City Regional Hospital, and has indicated that he intends to surrender his nursing license, leave the HPAP program; and such conduct is inconsistent with the health or safety of persons entrusted to his care; and are violations of SDCL § 36-9-49(5),(7) and (10).

3. The Licensee has been given an opportunity to discuss this Stipulation and Order with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all 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 Secretary or her designee may present this Stipulation 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 shall be suspended for an indefinite period from the date of this Order. Licensee may apply to have his license reinstated after a minimum period of twelve (12) months of sobriety during which Licensee uses no narcotics or alcohol under the conditions of paragraph 6) below. The intent of this requirement is that the earliest date Licensee may apply for reinstatement is February 1, 2001. If the Licensee's license is reinstated, Licensee shall be placed upon a probationary term for a period of such years of employment in nursing practice as approved by the Board at the time of reinstatement, under such terms of probation as approved by the Board at the time of reinstatement.

5. Nothing in this Stipulation and Agreement 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. If the Licensee requests reinstatement, Licensee has the burden of presenting information showing that Licensee's license should be reinstated following the minimum twelve-(12) month period described in paragraph 4. above. In order to prove that Licensee's license should be reinstated, Licensee shall provide the Board with proof of the following:

1. Licensee's reentry into the HPAP program and full compliance for at least 12 months with all monitoring requirements thereof and all items in the monitoring contract.
2. Licensee's completion of the following requirements:
 - A) Compliance with all the terms and conditions of this Order.
 - B) Written request for reinstatement.

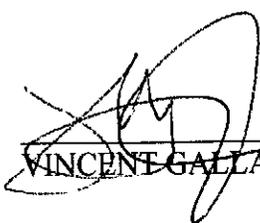
- C) Must appear before the Board.
 - D) Must show evidence of treatment and rehabilitation:
 - E) Must provide documentation of a plan to resume nursing career (e.g., refresher course, furthering education, employment offers).
3. Licensee's complete abstention from the personal use of alcoholic beverages during the period of suspension.
 4. Licensee's complete abstention from the personal use or possession of controlled substances as defined in the South Dakota law, and dangerous drugs as defined by law, or any drugs requiring a prescription, during the period of suspension, except under order of a physician or dentist which order shall be furnished to the Board and which physician or dentist shall certify that they've seen a copy of this Order.
 5. Licensee shall sign all release of information forms as may be required by the Board or its designee.
 6. Licensee shall return his current renewal certificate to the Board of Nursing within ten (10) days of the signed date of this Order. (This requirement has been met).
 7. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
 8. Licensee shall pay for all costs and expenses in carrying out any conditions of the reinstatement request.
 9. Any additional conditions for reinstatement as set forth by the Board.

7. It is further stipulated and agreed that this Stipulation 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 Stipulation with an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing 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 10 day of December, 1999.

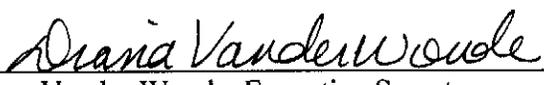


VINCENT GALLAGHER, R.N., Licensee

The South Dakota Board of Nursing meeting on the 3 day of February, 2000, (approved) ~~(rejected)~~ the attached Voluntary Surrender Consent Order (as written) (with the following modifications):

and issued its order as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 3 day of February, 2000, by vote of 10-yes; 0-no.



Diana Vander Woude, Executive Secretary