

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: DAWN M. GATES, R.N.
License No. R-026320,

STIPULATION AND ORDER

Licensee.

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WHEREAS, Dawn M. Gates, R.N., ("Licensee"), is licensed to practice as a registered nurse in the state of South Dakota and holds License Number R-026320; and

WHEREAS, allegations have been made that the said Licensee, while employed at Rapid City Regional Hospital in Rapid City, South Dakota, on or about October 20, 1993, incorrectly administered an appropriately prescribed medication, to-wit: morphine sulfate, so that 70 to 100 mg of said medication was received by a patient over approximately five minutes of time and that it is alleged that Licensee did not hang the IV through the IV pump for drip administration, but ran it directly to the patient without use of the pump; and it is alleged that such conduct was inconsistent with the health or safety of the persons entrusted to her care and violated the statutes and rules regulating the practice of nursing and is a violation of SDCL 36-9-49(5) and (7); and

WHEREAS, the Licensee recognizes and agrees that these matters and allegations contained herein, if true, would be of a nature to constitute grounds for the possible discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, it is expressly understood that Licensee, by entering into this stipulated agreement to resolve these allegations, is not admitting the truth of the allegations being made nor that she in any way violated the statutes and rules regulating the practice of nursing; and

WHEREAS, the South Dakota Board of Nursing (hereinafter "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, the parties have expressed a desire to resolve these matters without the necessity of further disciplinary proceedings and hearing before the South Dakota Board of Nursing; and

WHEREAS, in the event the Board, in its discretion, does not approve this settlement in full or approve a lesser discipline than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon by nor introduced as such at any further hearings hereon by either party.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 AND AGREED AS FOLLOWS:

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

2. That allegations have been made that Licensee, while employed at Rapid City Regional Hospital in Rapid City, South Dakota, on or about October 20, 1993, allegedly incorrectly administered an appropriately prescribed medication, to-wit: morphine sulfate, so that 70 to 100 mg of said medication was received by a patient over approximately five minutes of time and that it is alleged that Licensee did not hang the IV through the IV pump for drip administration, but ran it directly to the patient without use of the pump; and it is alleged that such conduct was inconsistent with the health or safety of the person entrusted to her care and violated the statutes and rules regulating the practice of nursing and is a violation of SDCL 36-9-49(5) and (7) and Licensee has voluntarily agreed to enter into this voluntary Stipulation and place her license on voluntary probation under the terms and conditions hereof, even though said allegations have not been admitted by Licensee, and are not, by the execution of this Stipulation, admitted by Licensee.

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 is entering into this Stipulation and Order voluntarily and without duress or compulsion. 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 is placed upon a probationary status for a period of two (2) years of active practice as a nurse and employment in nursing practice from the date of this Order being approved by the Board, which probationary terms and conditions shall be completely followed by the Licensee as follows:

C O N D I T I O N S:

1. Licensee will notify the Board of any employment in the health care field, including changes in employment. Furthermore, the Licensee will inform any current or prospective employer with whom she seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation, and would further agree that any such employer would, during the first year of probation, be required to provide quarterly reports to the Board as to her progress as an employee, and during the balance of the probationary period provide reports on a basis of every six (6) months. The reports shall provide and/or address:
 - a) In the first report, evidence that Licensee's supervisor has received a copy of the order within ten (10) days of service or within ten (10) days of Licensee beginning a new employment;
 - b) Licensee's attendance and reliability;
 - c) Licensee's ability to practice professional nursing;
 - d) Licensee's ability to carry out assigned functions; including the administration of IV medications;
 - e) Licensee's ability to handle stress;
 - f) Number of hours Licensee worked during the reporting period;

- g) Any other information which the supervisor believes would assist the Board in its ultimate review of the case.
2. Licensee shall not be employed by a temporary agency.
3. Licensee shall observe the following employment restrictions:
 - a) May only administer IV medications under direct supervision of another nurse for three (3) months;
 - b) May not hold a charge or supervisory position for six (6) months.
4. Licensee shall arrange with the Board staff probationary meetings once every three (3) months during the first year of probation. Thereafter, probationary meetings will be arranged by the Licensee every six (6) months for the balance of the probationary period. It will be the obligation of the Licensee to schedule these meetings at such time and place as the Board staff would reasonably designate.
5. Licensee shall at any time during the period of probation, report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives in the terms of this probation.
6. Licensee shall provide documentation of completing six (6) contact hours of continuing education in IV therapy or related topic such as pain control. Documentation shall include written objectives, instructor's qualifications in the subject, such as education and experience, method used to evaluate learning, written statement of participation provided by the instructor or a designee, and written evidence of successful completion. The continuing education activity shall be approved by the Board or its representatives and shall be completed no later than one (1) year from the date of this Order being accepted by the Board.
7. Licensee shall prepare a report (minimum of three pages) addressing the following issues:
 - a) Acknowledge the nature of her wrongdoings and what she has learned from the experience;
 - b) Discuss the potential negative outcomes as a result of the practice which lead to her disciplinary action; and
 - c) Discuss appropriate measures to prevent this type of variance from occurring in the future.

References/resources utilized in the report shall be documented. Such report is to be submitted no later than three (3) months from the date of the Order being accepted by the Board.

8. Licensee shall not violate any law or regulation regarding the practice of nursing.
9. Within ten (10) days of the effective date of this Order, Licensee shall submit her license to the South Dakota Board of Nursing to be stamped "PROBATION."
10. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
11. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
12. Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Licensee fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.
13. The Licensee may petition the Board for early closure or reconsideration of the terms of the probationary agreement after eighteen (18) months of successful completion of the terms outlined in this Order.
14. In the event that the Licensee does not work in nursing within two (2) years of the effective date of the Order, Licensee may petition the Board for reevaluation of the probationary conditions.
15. If any condition of this probation is violated, the Licensee agrees that the Board may take such actions as the Board deems necessary up to and including a total and complete revocation of Licensee's licensing rights as a nurse in South Dakota.
16. If Licensee leaves the state of South Dakota prior to the closure of the probation, Licensee may apply for an early closure of the probation, if she is having difficulty endorsing her South Dakota nursing license in her state of residence because of the existence of the probation. Early closure shall not be petitioned for prior to six (6) months from the date of this Stipulation being approved by the Board.

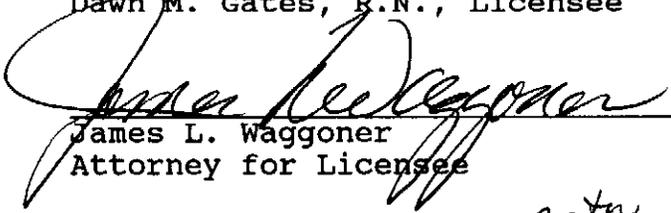
4. It is further stipulated and agreed that this Stipulation is being entered into voluntarily by the Licensee and without

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 her choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's right to a formal hearing on these matters, which rights are hereby waived by the signing of this Stipulation.

NOW, THEREFORE, the foregoing Stipulation and 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 18 day of January, 1994.


Dawn M. Gates, R.N., Licensee


James L. Waggoner
Attorney for Licensee

The South Dakota Board of Nursing meeting on the 20th day of

January, 1994, (approved) (rejected) the attached Stipulation

(as written) (with the following modifications):

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 20th day of January, 1994, by vote of 8yes; 1abstain; 1absent

Diana VanderWoude RN/MS
Diana Vander Woude
Executive Secretary