

**STATE OF SOUTH DAKOTA
DEPARTMENT OF COMMERCE AND REGULATION
SOUTH DAKOTA BOARD OF NURSING**

**RECEIVED
MAY 18 2004
SD BOARD OF NURSING**

**IN THE MATTER OF THE LICENSURE
PROCEEDINGS RE:**

JAY GOEHRING, R.N.

License No. P-08865

**STIPULATION
AND ORDER
FOR
PROBATION**

Licensee.

WHEREAS, JAY GOEHRING, LP ("Licensee"), is a licensed practical nurse in the State of South Dakota and holds license number P-08865; and

WHEREAS, Licensee was convicted of a third offense felony driving under the influence of alcohol on September 24, 2003, and also had a complaint of simple assault in September 2002 and a complaint from his employer in Bryant, South Dakota, in August, 2003, which staff concluded was unsubstantiated, but as a result of these incidents, Licensee has begun involvement in the Health Professionals Assistance Program ("HPAP"); and

WHEREAS, Licensee has signed a participation agreement with HPAP and has been working with the HPAP; and

WHEREAS, Licensee's conduct as stated would be inconsistent with the health or safety of persons entrusted to his care and violates the statutes, rules and regulations regarding the practice of nursing and is in violation of SDCL § 36-9-49(2), (4), (5), (7) and (10); and

WHEREAS, the Licensee recognizes and agrees that these matters are of such a nature which would constitute grounds for the revocation of Licensee's license as an L.P.N. to practice nursing in South Dakota under SDCL § 36-9-49; 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, 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discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party.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;

WHEREAS, Licensee was personally present at the Board's April 2, 2004, meeting at which time the matter of Licensee's situation was presented to the Board, and Licensee presented statements and answered questions of the Board, and

WHEREAS, the Board has considered such request, testimony, statements, documents and orders, and is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY STIPULATED that the Board may enter its Order as follows:

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

2. Licensee was convicted of a third offense felony Driving under the influence of alcohol on September 24, 2003, and also had a complaint of simple assault in September 2002 and a complaint from his employer in Bryant, South Dakota, in August, 2003, which staff concluded was unsubstantiated, but as a result of these incidents, Licensee has begun involvement in the Health Professionals Assistance Program ("HPAP"); Licensee has signed a participation agreement with HPAP and has been working with the HPAP; Licensee's conduct as stated would be inconsistent with the health or safety of persons entrusted to his care and violates the statutes, rules and regulations regarding the practice of nursing and is in violation of SDCL § 36-9-49(2), (4), (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 is entering into this Stipulation and Order voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary or 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 Licensee's license to practice nursing in South Dakota will be placed on a probationary status for an indefinite period of active practice as a nurse and employment in nursing practice from the date of this Order, which probationary terms and conditions shall

be set by the HPAP and which monitoring conditions shall be fully complied with by Licensee. Specifically, in addition to all other conditions, Licensee must refrain from any practice until HPAP approves the practice as set forth in Licensee's agreement with HPAP.

After verification from the HPAP that Licensee has fully completed all monitoring terms, Licensee may petition the Board for closure of his probation. The duration of the probation shall be a minimum of 36 months and set by the HPAP, but it is recognized that the Board may require additional probationary time or additional terms upon the completion of HPAP if Licensee is released from HPAP before the expiration of 36 months. Additionally, Licensee shall comply with the following during his probation:

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 he seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation. Licensee 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 his 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 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
- 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.
 - h) The employer agrees to report any concerns or violations of the Stipulation and Order or the Nurse Practice Act (SDCL 36-9) to the Board of Nursing immediately.
2. 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.
3. Furthermore, the Licensee will submit a self-evaluation report to the Board office prior to each probationary meeting. The report shall provide and/or address:
- a) Licensee's professional employment status, including employer support, peer support, and ability to handle stress;
 - b) Licensee's future professional goals for nursing;
 - c) Licensee's future personal goals; and
 - d) Any other information which the Licensee believes would assist the Board in its ultimate review of the case.
4. 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.
5. Licensee shall not violate any law or regulation regarding the practice of nursing.
6. Licensee shall execute all release of information forms as may be required by the Board or its designee.
7. Within ten (10) days of the effective date of the order, Licensee shall submit his current renewal certificate to the Board office to be stamped "PROBATION". Licensee has complied with this

provision on April 2, 2004.

8. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.

9. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.

10. 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.

11. If Licensee obtains a license issued solely or under joint regulatory powers by the Board, other than the license to which this Stipulation refers, at any time during the period of the probation, the terms of this probation shall apply to the other or additional licenses issued by the Board.

12. Notwithstanding anything in this Stipulation and Order to the contrary, should the Licensee be convicted of a felony which would be grounds for discipline under SDCL § 36-9-49, either relating to the allegations herein or to any other actions or omissions of Licensee, the Licensee agrees that the Board may take further action against her license, including, but not limited to, immediate suspension, additional probation terms, or an additional length of probation, or other disciplinary action. Licensee agrees to immediately inform the Board of the outcome of any criminal charges presently or hereafter pending against Licensee.

13. All provisions and conditions of this Stipulation shall carry over to any license or privilege to practice that the Licensee receives pursuant to the Interstate Nurse Licensure Compact (SDCL 36-9-92).

14. Licensee shall not practice nursing in any state other than South Dakota which is a party state to the Nurse Licensure Compact without prior written authorization from both the Board and the nursing regulatory authority in the party state in which the Licensee wishes to practice.

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. Licensee further agrees and the Board orders pursuant to SDCL § 36-9-49.1 and this stipulation that a majority of the Board has demanded a psychological and psychiatric examination of Licensee **at the Board's expense** by the following competent psychological examiner:

Robert Buri, PhD,
Sioux Valley Clinic
320 Seventh Avenue SE
Watertown, SD 57201

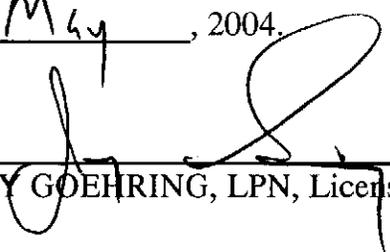
Staff has made an appointment for Licensee of which Licensee will be advised, and if Licensee is unable to make said appointment, Licensee must contact said professional examiner and have his reappointment made on or before May 10, 2004 with the results to be furnished to the Board. Licensee must advise the Board on or before May 15, 2004 as to when the Licensee has scheduled an appointment so that the Board may provide Licensee's file to the examiner. The examiner must contact the Board Office prior to the examination. If the Licensee fails to comply with the Board's direction, the Board may issue a summary suspension pursuant to SDCL § 36-9-49.1, and this stipulation. If the Licensee is unable to complete his examination with said examiner prior to May 20, 2004, Licensee shall so advise the Board and the Board Staff may extend this requirement until the Licensee is able to make an appointment. The results of the examinations must be furnished to the Board on or before the next Board meeting. Further orders concerning the

Licensee's probation and any additional probationary terms shall be based upon review of the assessment furnished herein and the investigative report filed herein and any subsequent conduct by the Licensee. It is anticipated that the Board will consider the report at the Board meeting scheduled for July, 2004, assuming the reports are received timely. The Licensee is responsible for seeing that the evaluations are reported the Board of Nursing staff at least fourteen (14) days in advance of the Board of Nursing's July meeting at which his probation and any additional terms based upon the assessment are to be considered, so that the Board has sufficient time to consider said evaluations. Should said evaluations for any reason not be reported to the Board of Nursing, the Board may issue a suspension of Licensee's License until the next Board meeting following receipt of the reports.

5. 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 Stipulation and Order is entered into and is respectfully submitted to the Board in accordance with the request approved by the Board as described above.

Dated this 16 day of May, 2004.



JAY GOEHRING, LPN, Licensee

The South Dakota Board of Nursing meeting on the 2nd day of April, 2004, approved the attached Stipulation as written:

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted as shown herein by the South Dakota Board of Nursing this 2nd day of April, 2004, by vote of

9 yes / no.

Gloria Damgaard
Gloria Damgaard, Executive Secretary