

WHEREAS, on or about April 15, 2014, the Licensee submitted her initial application to the Health Professionals Assistance Program (“HPAP”), but did not follow up on getting fully enrolled nor actively participating with HPAP; and

WHEREAS, on May 5, 2014, a certified letter was sent to the Licensee inviting her to come to the Board of Nursing office for an informal meeting as part of the disciplinary process. Despite the Licensee signing the receipt for the certified letter, she failed to show for this informal meeting and did not contact the Board to explain why she did not attend; and

WHEREAS, Board staff as well as the Board’s attorney continued to reach out to the Licensee to assist her in addressing her current situation. The Licensee cited numerous personal reasons why she was unable to continue or follow through with participation in HPAP. She discussed stepping out of nursing for a period of time to address her personal situation, but more recently has failed to respond to the Board or any of its representatives regarding her situation and alleged alcohol use; and

WHEREAS, based upon the affidavit of Francie Miller and the above stated conduct, the Board has concluded that the public health, safety, and welfare 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 may 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.
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." Should Licensee change her home state under the Nurse Licensure Compact, then Licensee's practice privilege is subject to the same requirements as set forth in this order as her South Dakota license.

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 registered nurse based on licensure in the State of South Dakota 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 at its meeting on the 12th day of September, 2014 approved this Order of Summary Suspension as written without modifications 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 12th day of September, 2014, by a vote of 11-0.

SOUTH DAKOTA BOARD OF NURSING


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 Kimberly Rae Hubbard, License No. R033096 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on November 13, 2014, at 1:30 o’clock 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 (4), (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 30th day of September, 2014.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS
Executive Director