

WHEREAS, Licensee, from the time of her reinstatement through June 30, 2009, was fully compliant with her probation and the terms of her Agreement with the HPAP; and

WHEREAS, on July 10, 2009, the Licensee was in violation of the terms of her HPAP Participation Agreement when she used alcohol on two occasions and tested positive for alcohol on a random drug screen. A follow-up alcohol and drug evaluation was done. The HPAP Evaluation Committee recommended an amendment to the HPAP Participation Agreement which increased the number of random drug screenings, started a relapse prevention level of care, and increased the minimum number of AA and support meetings. In addition, Licensee was required to maintain compliance with all set conditions of the original Agreement. Licensee agreed to the HPAP Agreement amendments on July 31, 2009. The Board and the HPAP Evaluation Committee approved Licensee's return to work under the amended conditions until such time as the matter could be presented to the full Board for consideration of any disciplinary action; and

WHEREAS, Licensee's employer has advised HPAP and the Board that it is unable to provide an accurate quality assessment to HPAP because Licensee has been less than forthright regarding her behavior; and

~~WHEREAS, Licensee feels unable to meet the increased conditions imposed by the HPAP; and~~ NK

WHEREAS, Licensee has agreed that she would surrender her South Dakota nursing license; 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 the matters under investigation would be of a nature that would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the Licensee agrees that she enters into this Voluntary Surrender Consent Order voluntarily and without duress or compulsion, in full understanding of the legal consequences of this document and her rights; 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 Voluntary Surrender Consent Order.
2. That on February 7, 2007, the South Dakota Board of Nursing accepted a Voluntary Surrender Consent Order, signed by said Licensee on January 29, 2007, following a Class IV felony for possession of illegal substances and an admission to the use of Cocaine and Methamphetamines.

The Licensee then obtained an Order of Reinstatement of RN License with Probation following an appearance before the Board on September 11, 2007. At her

reinstatement hearing, the Licensee presented documentation, including a report on her participation with HPAP, her evaluations, documentation of the outcome of her criminal proceeding and terms of probation, and letters of recommendation.

From the time of Licensee's reinstatement, through June 30, 2009, Licensee was fully compliant with her probation and the terms of her Agreement with HPAP. However, on July 10, 2009, the Licensee was in violation of the terms of her HPAP Participation Agreement when she used alcohol on two occasions and tested positive for alcohol on a random drug screen. A follow-up alcohol and drug evaluation was done. The HPAP Evaluation Committee recommended an amendment to Licensee's HPAP Participation Agreement which increased the number of random drug screenings, started a relapse prevention level of care, and increased the minimum number of AA and support meetings. In addition, the Licensee was required to maintain compliance with all set conditions of the original Agreement. Licensee agreed to the HPAP Agreement amendments on July 31, 2009. The Board and the HPAP Evaluation Committee approved Licensee's return to work under the amended conditions until such time as the matter could be presented to the full Board for consideration of any disciplinary action.

Licensee's employer has advised HPAP and the Board that it is unable to provide an accurate quality assessment to HPAP because Licensee has been less than forthright regarding her behavior. ~~At this time, Licensee feels unable to meet the increased~~ ^{NK}

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~~conditions imposed by the HPAP,~~ and Licensee now intends to leave the profession of nursing as a registered nurse.

3. That the Licensee has been given an opportunity to discuss this Voluntary Surrender Consent Order with an attorney of Licensee's choice, and is aware of her right to a hearing in this matter, and of her 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 Director or her designee may present this Voluntary Surrender Consent Order 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 and her privilege to practice nursing pursuant to the Nurse Licensure Compact shall be surrendered and the Board shall suspend said license for an indefinite period from the date of this Order. Licensee may apply to have her license reinstated for good cause shown.

5. That nothing in this Voluntary Surrender Consent Order 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. That if the Licensee requests reinstatement, Licensee has the burden of

presenting information showing that Licensee's license should be reinstated.

7. That it is further stipulated and agreed that this Voluntary Surrender Consent Order 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 Voluntary Surrender Consent Order with an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Voluntary Surrender Consent Order and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Voluntary Surrender Consent Order.

8. This action is reportable discipline and will be published in the Board's Newsletter and posted on its web site and reported into the HIPDB and NPDB data banks as required by law.

9. That the Board may enter an Order consistent with the terms 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 6 day of ~~September~~^{October}, 2009.
in

Nancy Kobel
Nancy Kobel, R.N., Licensee

The South Dakota Board of Nursing meeting on the 16th day of Sept, 2009,
(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 Voluntary Surrender Consent Order is
adopted shown herein by the South Dakota Board of Nursing this 13th day of Oct,
2009, by vote of 9-0.

SOUTH DAKOTA BOARD OF NURSING

Gloria Damgaard
Gloria Damgaard, Executive Director