

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: WAYNE A. LLOYD, R.N.,
License No. R-025557,

STIPULATION AND ORDER

Licensee.

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WHEREAS, WAYNE A. LLOYD, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-025557; and

WHEREAS, Licensee admits that an order and judgment of conviction of a felony, to wit: rape, was entered against Licensee as shown on the attached Exhibit A and is in violation of SDCL § 36-9-49(2); and such conduct violates the statutes and rules regulating the practice of nursing, and the Licensee has agreed to voluntarily surrender his nursing license; and

WHEREAS, the Licensee recognizes and agrees that these matters are of a nature which would constitute grounds for the discipline of his license to practice nursing in South Dakota under SDCL § 36-9-49(2); 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 Licensee has requested the Board's Executive Secretary to present this Stipulation to the Board for action and

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discretion does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party.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

WHEREAS, the Licensee has expressed a desire to resolve this matter without the necessity of formal disciplinary proceedings and hearings; and

WHEREAS, it is the intent of this Stipulation to provide for a settlement of the licensing issues presented by the Licensee's conduct, in a professional manner, without the necessity of further hearings and proceedings herein, to resolve the complaint against Licensee, and to provide for a responsible solution; 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. Licensee admits that an order and judgment of conviction of a felony, to wit: rape, was entered against Licensee as shown on the attached Exhibit A and is in violation of SDCL § 36-9-49(2);

and such conduct violates the statutes and rules regulating the practice of nursing, and the Licensee has agreed to voluntarily surrender his nursing license.

3. The Licensee has been given an opportunity to discuss this Stipulation 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 voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary may present this Stipulation to the Board and disclose to the Board all items of his investigation, including, but not limited to, any communications with Licensee.

4. Licensee's license to practice nursing shall be suspended for a period from the date of this Order as described below. Licensee shall immediately furnish his license to the South Dakota Board of Nursing. Licensee may apply to have his license reinstated after January 1, 1997, and after completion of the terms and conditions set forth in paragraph 5 below, and the Board may reinstate the Licensee on or after that date.

5. Conditions for Reinstatement. If the Licensee requests reinstatement, the Licensee shall bear the burden of presenting the information showing that his license should be reinstated following January 1, 1997. In order to prove that his license should be

reinstated, Licensee must provide the Board with a written request for reinstatement.

In addition in Licensee's application for reinstatement, Licensee shall document compliance with the following:

- 1) Licensee shall sign a release of information for all documentation, including, but not limited to, progress notes, psychological evaluations, diagnoses, and treatment plans from any physicians, psychiatrist, psychologists, counselors, or other mental health professionals seen during Licensee's suspension and shall, prior to the application for reinstatement, provide copies of all records and documentation from said providers.
- 2) Licensee shall cause all his physicians, psychiatrists and psychologists to submit a report to the Board regarding the mental health status, treatment and prognosis in relation to Licensee's ability to safely practice as a nurse. The reports shall provide and/or address:
 - a) Verification that the professional has seen a copy of the Stipulation and Order;
 - b) Diagnosis and any treatment plan;
 - c) Licensee's ability to practice as a professional nurse;
 - d) Any other information which the reporter believes would assist the Board in its ultimate review of the case.
- 3) Licensee shall furnish a recommendation by his therapist or counselor qualified in the area of inappropriate sexual behavior as recommended by the State Psychological Association or Psychiatric Association in the state of Licensee's treatment. The counselor or therapist must be pre-approved by the South Dakota Board of Nursing, which approval shall not be unreasonably withheld. Before reinstatement, the counselor or therapist must prepare a report to the Board confirming that in the counselor's or therapist's unconditional opinion and evaluation, reinstatement of Licensee's license shall not present any danger of Licensee's inappropriate sexual behavior in the future to a reasonable medical probability. The report shall also address:
 - a) Verification that the counselor or therapist has seen a copy of this Stipulation and Order;
 - b) Licensee's ability to practice as a professional nurse;

- c) Diagnosis and any treatment plan;
 - d) Any other information which the counselor or therapist believes would assist the Board in its ultimate review of the case.
 - e) Any testing done with respect to Licensee's sexual behavior as requested by the counselor or therapist;
 - f) Documentation that Licensee has completed a specified structured treatment and rehabilitation program with documentation of the hours of treatment.
- 4) Licensee will notify the Board of any employment, including changes in employment.
- 5) Licensee shall arrange with the Board staff a pre-reinstatement meeting no sooner than forty-five (45) days and no later than fifteen (15) days prior to his application for reinstatement being heard at a Board meeting. It will be the obligation of the Licensee to schedule this meeting at such time and place as the Board staff would reasonably designate.

Furthermore, the Licensee will submit a self-evaluation report to the Board office. The report shall provide and/or address:

- a) Licensee's mistakes in judgment dealing with the particular case for which Licensee received his conviction;
- b) Licensee's understanding of inappropriate sexual behavior;
- c) Licensee's participation in a rehabilitation program;
- d) Licensee's professional employment status;
- e) Licensee's future professional goals for nursing;
- f) Licensee's future personal goals;
- g) What Licensee has learned about himself after taking ethics training and counseling; and
- h) Any other information which the Licensee believes would assist the Board in it's ultimate review of the case.

References/resources utilized in the report shall be documented.

- 6) Licensee shall at any time during the period of suspension, 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 suspension, and shall appear in person before the Board to petition for reinstatement.

- 7) Licensee shall provide documentation of completing twenty (20) ^{contact} credit hours of continuing education in nursing ethics or other course work which relates to the alleged violations. Documentation shall include written objectives; instructors 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 pre-approved by the Board or its representatives, which approval shall not be unreasonably withheld, and shall be completed no later than the date of the request for reinstatement.
- 8) Licensee shall not violate any law or regulation regarding the practice of nursing.
- 9) Licensee shall notify the Board, in writing, within one (1) week of any change in employment, personal address and/or telephone number.
- 10) Licensee shall bear all Licensee's costs in carrying out the provisions of this Stipulation.

6. Additional Probation After Reinstatement. If the Licensee is reinstated, Licensee will be placed on probationary status for an additional period of at least one (1) year, but no more than five (5) years, employment in nursing practice from the date of the reinstatement being approved by the Board, with probationary terms and conditions to be set by the Board at the time of reinstatement:

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 Stipulation 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 13 day of July, 1994.

Wayne A. Lloyd
WAYNE A. LLOYD, R.N. Licensee

Marcene J. Smith, Attorney for Licensee

The South Dakota Board of Nursing meeting on the 13th day of July, 1994, (approved) (rejected) the attached Stipulation (as written) (with the following modifications).

Amend paragraph four to read; "Licensee's license to practice nursing shall be suspended for a period from the date of this Order as described below. Licensee shall immediately furnish his license to the South Dakota Board of Nursing. Licensee may apply to have his license reinstated after January 1, 1996, and after completion of the terms and conditions set forth in paragraph 5 below, and the Board may reinstate the License on or after that date.

Amend paragraph five to read; "If the Licensee requests reinstatement, the Licensee shall bear the burden of presenting the information showing that this license should be reinstated following January 1, 1996.

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 13th day of July, 1994, by vote of 8-yes, 3-absent.

Mona Johnson, Acting Executive Secretary
Diana Vander Woude, Executive Secretary
for Diana Vander Woude