

SOUTH DAKOTA BOARD OF NURSING

IN THE MATTER OF THE
LICENSURE PROCEEDINGS
RE: VIRGINIA D. MATHIEU SMITH, RN

STIPULATION AND ORDER

License No. R-023171

Licensee.

WHEREAS, VIRGINIA D. MATHIEU SMITH, R.N., ("Licensee"), holds a license to practice as a registered nurse in the State of South Dakota (License number R-023171); and

WHEREAS, Licensee, on or about July 12, 1999, plead guilty to and on or about August 27, 1999, was sentenced for the crime of grand theft, which is a felony, in Second Judicial Circuit Court, Minnehaha County, South Dakota, Cr. 49C99001248, thus violating SDCL 36-9-49(2),(7) and (10), in that such conduct evidenced a conviction of a felony, violated provisions of the rules and statutes regulating the practice of nursing, and would be unprofessional.

WHEREAS, the Licensee recognizes that these matters are of a nature which would constitute grounds for the discipline of her license 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, 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discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party.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 this case proceeds to hearing, Licensee will assert no claim that the Board was prejudice by its review and discussion of this Stipulation or any of the records or information relating hereto; and

WHEREAS, the Licensee has expressed a desire to resolve this matter without the necessity of additional 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, 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 on or about July 12, 1999, plead guilty to and on or about August 27, 1999, was sentenced for the crime of grand theft, which is a felony, in Second Judicial Circuit Court, Minnehaha County, South Dakota, Cr. 49C99001248, thus violating SDCL 36-9-49(2),(7) and (10), in that such conduct evidenced a conviction of a felony, violated provisions of the rules and statutes regulating the practice of nursing, and would be unprofessional.

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 her investigation, including, but not limited to, any communications with Licensee.

4. Licensee's license to practice nursing is placed upon a probationary status for a period of thirty six (36) months of employment in nursing practice from the date of this Stipulation being approved by the Board, which probationary terms and conditions shall be completely followed by the Licensee as follows:

CONDITIONS:

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. 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 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 management of uncooperative or difficult patients;
- 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 not be employed by a temporary agency.
 3. Licensee may not hold a charge or supervisory position for 12 months of active practice in nursing and may only practice under the on-site supervision of a registered nurse in good standing with the Board for a minimum of six months of active practice in nursing. The supervising nurse shall be primarily one (1) person, who may periodically delegate to other qualified personnel.
 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. 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.
 6. 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.

7. Licensee shall not violate any law or regulation regarding the practice of nursing.
8. Licensee shall execute all release of information forms as may be required by the Board or its designee.
9. Within ten (10) days of the effective date of the order, Licensee shall submit her current renewal certificate to the Board office 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 twenty-four (24) 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 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.

16. 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.

17. Should South Dakota enter into a multi-state compact, all provisions and conditions of this Stipulation shall carry over to any license or privilege to practice that the Licensee receives pursuant to said multi-state compact.

18. Licensee shall provide evidence of satisfactorily completing the South Dakota Board of Nursing Self-Study Ethics Module to the approval of the Board of Nursing Staff within three (3) months from the date of the Order.

19. 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.

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 4th day of January, 2000.

Virginia D. Mathieu-Smith RN
VIRGINIA D. MATHIEU SMITH, RN – License R-
023171

The South Dakota Board of Nursing meeting on the 3 day of February, 2000,
(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 3 day of February, 2000, by vote of
10-yes; 0-no.

Diana VanderWoude
Diana Vander Woude, Executive Secretary

I certify that this is a true copy of
a record on file in the Board of
Nursing of the State of South Dakota.

Date Nov 17, 2009

WRobles
Signature, Authorized Representative