

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: MARY HUTT,
License No. R-027814,

STIPULATION AND ORDER

Licensee.

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WHEREAS, MARY HUTT, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota, and holds License No. R-027814; and

WHEREAS, allegations have been made that the said Licensee has a long history of prescription drug abuse and diverted Demerol from her place of employment at Custer Community Hospital during the time period from January, 1996, through March 7, 1996, and such alleged conduct, if charged and proven, would be a violation of SDCL 36-9-49(4), (5), (7) and (10); and such conduct would be inconsistent with the health or safety of the persons entrusted to her care, unprofessional and violate the statutes and rules regulating the practice of nursing; and

WHEREAS, the Licensee has agreed to voluntarily refrain from nursing practice pending investigation and has met with the Board's Executive Secretary; and

WHEREAS, the Licensee recognizes and agrees 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discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party.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. That allegations have been made that the said Licensee has a long history of prescription drug abuse and diverted Demerol from her place of employment at Custer Community Hospital during the time period from January, 1996, through March 7, 1996, and such alleged conduct, if charged and proven, would be a violation of SDCL 36-9-49(4), (5), (7) and (10).

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 reinstated but placed upon a probationary status for a period of three (3) years 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:

C O N D I T I O N S:

1. Licensee shall sign a release of information for discharge summary and related documentation from treatment center and aftercare program. Information to be submitted directly to the Board office.
2. Licensee must complete an inpatient drug or alcohol treatment program which is accredited by the South Dakota Division of Alcohol and Drug Abuse.
3. Licensee shall begin involvement in Alcoholics Anonymous and/or Narcotics Anonymous meetings at least twice weekly for the first year and weekly thereafter.
4. Licensee shall identify an AA or NA sponsor who will submit quarterly reports to the Board attesting to the Licensee's sobriety status and level of participation in a rehabilitation program.
5. Licensee will notify the Board of any employment in the healthcare 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, and 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 days of service or within ten 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 handling of controlled substances;
 - e) Licensee's ability to handle stress;
 - f) Licensee's sobriety;
 - g) Number of hours Licensee worked during the reporting period;

- h) Any other information which the supervisor believes would assist the Board in its ultimate review of the case.
6. Licensee shall not be employed by a temporary agency.
 7. Licensee shall observe the following employment restrictions:
 - a) May only administer narcotics under direct supervision of another nurse for one (1) year.
 - b) May not work in an intensive/critical care unit for one (1) year.
 8. That a report be submitted by any and all physicians and/or dentists who have prescribed mood-altering chemicals for the Licensee during the period of probation. A report is due within thirty (30) days of the prescription and shall provide and/or address:
 - a) The name, dosage, frequency, and purpose for the mood-altering chemical prescribed for Licensee;
 - b) Confirmation that the physician and/or dentist has been informed of Licensee's chemical dependency history;
 - c) Any other information which the reporter believes would assist the Board in its ultimate review of the case.
 9. 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.

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 sobriety, including the date she last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while the Stipulation is in effect;
- b) Licensee's use of any over-the-counter drugs and/or other drugs prescribed by a physician or dentist, and the circumstances surrounding any use while the Stipulation is in effect;

- c) Licensee's participation in a rehabilitation program. Documentation shall include attendance and participation, family support and problem areas addressed;
 - d) Licensee's professional employment status, including employer support, peer support, ability to handle stress and management of controlled substances;
 - e) Licensee's future professional goals for nursing;
 - f) Licensee's future personal goals; and
 - g) Any other information which the Licensee believes would assist the Board in it's ultimate review of the case.
10. That during the period of probation, the Licensee will submit to such testing of body fluids, on a random basis, as may reasonably be requested by the Board, within four (4) hours of the request by the Board, with the understanding that if such tests would ever indicate the use of a non-prescribed controlled substance or alcohol, that the Licensee would then agree to a total and complete revocation of her licensing rights as a nurse in South Dakota. The blood and/or urine screens shall be:
- a) Observed in their drawing;
 - b) Handled through legal chain of custody methods;
 - c) Paid for by Licensee;
 - d) Results reported directly to the Board.

Testing must meet forensic compliance panel standards and include testing for the Licensee's drug of choice, Amphetamines, Barbituates, Cocaine, Opiates, Benzodiazepines, Cannabinoids, Alcohol, Methadone and Propoxyphene.

- 11. 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.
- 12. Licensee shall not violate any law or regulation regarding the practice of nursing.
- 13. Licensee shall abstain completely from the personal use of alcoholic beverages.
- 14. Licensee shall abstain completely from the personal use or possession of controlled substances as defined in the South

Dakota law, and dangerous drugs as defined by law, or any drugs requiring a prescription, except as otherwise provided for herein.

15. Licensee shall execute all release of information forms as may be required by the Board or its designee.
16. Within ten (10) days of the effective date of this Order, Licensee shall submit her current renewal certificate to the South Dakota Board of Nursing to be stamped "PROBATION."
17. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
18. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
19. 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.
20. The Licensee may petition the Board for early closure or reconsideration of the terms of the probationary agreement after two (2) years of successful completion of the terms outlined in this Order.
21. 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 re-evaluation of the probationary conditions.
22. 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.
23. 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 his licensing rights as a nurse in South Dakota.

24. If Licensee obtains a license issued by the Board other than the license to which this Stipulation refers in the above-captioned paragraphs, at any time during the period of probation, the terms of this probation shall apply to the other or additional license(s) issued by the Board.

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 her 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 Licensee consents to the entry of the aforesaid terms and conditions and the same are respectfully submitted to the South Dakota Board of Nursing for the purposes of allowing the said terms to become an order of the Board, and Licensee submits herewith her license to be suspended indefinitely, pending investigation of the allegations.

Dated this 15 day of April, 1996.

Mary Hutte
MARY HUTTE Licensee

The South Dakota Board of Nursing meeting on the 11th day of April, 1996, (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 11th day of April, 1996, by vote of 10-yes.

Diana VanderWoude RN, MS
Diana Vander Woude, Executive Secretary