

**STATE OF SOUTH DAKOTA
DEPARTMENT OF COMMERCE AND REGULATION
SOUTH DAKOTA BOARD OF NURSING**

IN THE MATTER OF THE LICENSURE
PROCEEDINGS RE:

LAURA J. MCGARVEY NELSON, LPN
License No. P-008326

Licensee.

**FINDINGS OF FACT AND
CONCLUSION OF LAW
AND ORDER OF
SUSPENSION**

WHEREAS the above-captioned matter came on for a conference call hearing before the South Dakota Board of Nursing pursuant to a Complaint and Notice of Hearing on the 3rd day of February, 2000, and;

WHEREAS the Licensee, Laura J. McGarvey Nelson, LPN, appeared by telephone conference call along with her attorney, Michael J. Williams, of Johnson & Williams, Lemmon, South Dakota, and;

WHEREAS the South Board of Nursing appeared by and through its attorney, Terry N. Prendergast, and;

WHEREAS the parties stipulated that the affidavits of Helen Linquist and Laura Nelson could be read into evidence, and the Board of Nursing presented testimony of Carey Duffy, Board Staff, and Exhibits A – E, which were received in evidence with no objection from Licensee, and;

WHEREAS Licensee also testified under oath, and;

NOW, THEREFORE, the Board of Nursing makes the following:

FINDINGS OF FACT

1. The Licensee's license was suspended on November 18, 1999, by the Board of Nursing of the State of North Dakota, and said Board issued Findings of Fact and Conclusions of Law and Default Order, a copy of which is attached as Exhibit A to the Complaint herein.
2. The Licensee was convicted of driving under the influence of alcohol in 1996 in South Dakota.
3. In Licensee's application for reinstatement of a lapsed license of the South Dakota Board of Nursing, dated July 30, 1999, Licensee did not identify the previous driving under the influence conviction, and did not question the Board as to the propriety of the omission, believing that it was a "minor traffic offense".
4. Licensee has expressed a willingness to undergo evaluation and participate in the intake of the Health Professionals Assistance Program.

CONCLUSION OF LAW

1. That Licensee's conduct as identified in the Findings of Fact would be in violation of SDCL 36-9-49(6), (7), and (10).
2. That the Board of Nursing has authority to suspend Licensee's license for said conduct.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, the South Dakota Board of Nursing hereby suspends Laura J. McGarvey Nelson's license on a temporary basis. The Board directs that Laura J. McGarvey Nelson contact the Health Professionals Assistance Program ("HPAP") for an evaluation, that said program determine whether the Licensee's presently scheduled evaluation will satisfy its requirements or whether Licensee needs further

evaluation, either in addition to, or in lieu of, Licensee's currently scheduled evaluation, and that Licensee completes said evaluations and HPAP requests in sufficient time that said evaluation can be presented to the April, 2000 meeting of the South Dakota Board of Nursing at which time the Board of Nursing will review Licensee's licensure status and determine whether the suspension should be continued or such other and further action, with respect to Licensee's license, as the Board and its discretion may determine, shall be taken. The Licensee is responsible for seeing that the evaluation is reported the Board of Nursing staff at least ten (10) days in advance of the Board of Nursing's April, 2000, meeting, so that the Board has sufficient time to consider said report. Should said evaluation for any reason not be reported to the Board of Nursing, the suspension shall continue indefinitely.

Dated this 3 day of February, 2000.

SOUTH DAKOTA BOARD OF NURSING

Diana Vanderwoude
Executive Secretary, Diana Vander Woude

The above-captioned Findings of Fact and Conclusions of Law and Order were adopted by the South Dakota Board of Nursing on the 3rd day of February, 2000, by a vote of 10-yes
0-no.

Diana Vanderwoude
Executive Secretary, Diana Vander Woude