

WHEREAS, Licensee made a reinstatement request in writing dated January 4, 2008, and personally appeared before the Board on April 11, 2008. The Licensee presented documentation and statements in regard to her request, discussed her participation in the HPAP, and answered questions of the Board. The HPAP program director, Maria Eining, also presented testimony and a report; and

WHEREAS, on April 11, 2008, the Board took Licensee's request for reinstatement under advisement pending the collection of additional information regarding Licensee's criminal charges and probation, and her continued compliance with HPAP. Another appearance before the Board was requested; and

WHEREAS, on November 13, 2008, the Licensee again personally appeared before the Board. At that time, the Licensee presented additional documentation from her counselor, information from her court services officer in regard to her suspended imposition of sentence and length of probation, provided a letter regarding her participation in HPAP, and answered questions of the Board. HPAP program director, Maria Eining, also provided a report and testimony on behalf of Licensee; and

WHEREAS, the Board, on November 13, 2008, entered an Order of Reinstatement of LPN License with Probation for a period of sixty (60) months of active practice as a practical nurse. The Order required that probationary terms and monitoring conditions as well as clearance to return to work and access to narcotics while practicing be set by the

HPAP program and that Licensee be fully compliant with the terms and conditions. Said Order of Reinstatement with Probation gave the Licensee credit for time already spent in the HPAP program since June 2007; and

WHEREAS, on or about December 1, 2011, the Board received a complaint from the Licensee's employer alleging suspected diversion of narcotics by the Licensee. On December 1, 2011, the Licensee contacted Board staff and admitted to diversion of narcotics from her employer for her own use and requested to surrender her license in order to address her continuing substance use disorder; and

WHEREAS, Licensee has agreed that she would surrender her South Dakota nursing license; and

WHEREAS, 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, 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 said Licensee, on September 15, 2005, was mandated into participation with the HPAP and had been in full compliance. On September 7, 2006, the Licensee admitted to Board staff that she had diverted tramadol and lortab from the Morningside Care Center in Alcester, South Dakota. Licensee, in an informal meeting with the Board staff, on September 19, 2006, confessed to the diversion of the narcotics and requested to surrender her license.

On November 9, 2006, the Board accepted the Voluntary Surrender Consent Order signed by the Licensee on October 26, 2006. Said Voluntary Surrender Consent Order suspended Licensee's license for an indefinite period subject to a reinstatement request pursuant to SDCL § 36-9-57, as the Board in its discretion may determine.

Licensee made a reinstatement request in writing dated January 4, 2008, and personally appeared before the Board on April 11, 2008. The Licensee presented documentation and statements in regard to her request, discussed her participation in the HPAP, and answered questions of the Board. The HPAP program director, Maria Eining, also presented testimony and a report.

On April 11, 2008, the Board took Licensee's request for reinstatement under

advisement pending the collection of additional information regarding Licensee's criminal charges and probation, and her continued compliance with the HPAP. Another appearance before the Board was requested.

On November 13, 2008, the Licensee again personally appeared before the Board. At that time, the Licensee presented additional documentation from her counselor, information from her court services officer in regard to her suspended imposition of sentence and length of probation, provided a letter regarding her participation in HPAP, and answered questions of the Board. HPAP program director, Maria Eining, also provided a report and testimony on behalf of Licensee.

The Board, on November 13, 2008, entered an Order of Reinstatement of LPN License with Probation for a period of sixty (60) months of active practice as a practical nurse. The Order required that probationary terms and monitoring conditions, as well as clearance to return to work, and access to narcotics while practicing, be set by the HPAP program and that Licensee be fully compliant with the terms and conditions. Said Order of Reinstatement with Probation gave the Licensee credit for time already spent in the HPAP program since June 2007.

On or about December 1, 2011, the Board received a complaint from the Licensee's employer alleging suspected diversion of narcotics by the Licensee. On December 1, 2011, the Licensee contacted Board staff and admitted to diversion of

narcotics from her employer for her own use and requested to surrender her license in order to address her continuing substance use disorder.

Licensee has agreed that she would surrender her South Dakota nursing license and now intends to leave the profession of nursing as a practical 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. That during the term of this Voluntary Surrender Consent Order, the Licensee understands that she is ineligible from working in any nursing role, including that of a certified nurse assistant (CNA), nurse's assistant, or a Medication Aide/Assistant.

9. This action is reportable discipline and will be published in the Board's newsletter and posted on its website and reported into the Healthcare Integrity and Protection Data Bank (HIPDB) and National Practitioner Data Bank (NPDB) as required by law.

RECEIVED
DEC 27 2011
SD BOARD OF NURSING

10. 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 20 day of December, 2011.

Tylese Rodriguez
Tylese (Pearson) Rodriguez, LPN

The South Dakota Board of Nursing meeting on the 20th day of Dec February 2012, approved the attached Voluntary Surrender Consent Order as written by a vote of 10-0, and issues its Order as follows:

IT IS HEREBY ORDERED that the above Voluntary Surrender Consent Order is adopted as shown herein by the South Dakota Board of Nursing this 22nd day of February, 2012.

Gloria Damgaard
Gloria Damgaard, Executive Director
South Dakota Board of Nursing