

The complaint indicated that the Licensee was employed as a mid-level CNP with the Sioux Falls clinic of the SDUIH from March 21, 2005 through August 10, 2008. Licensee's collaborating physician during her time of employment with SDUIH was Dr. James Schaffer. Licensee had a valid Collaborative Agreement for her term of employment at SDIUH.

Following her employment at the SDUIH, the Licensee began working for Avera clinics as a CNP at the Washington High School clinic program in Sioux Falls, South Dakota and McGreevy Acute Care clinic in Sioux Falls. She also took employment at the Avera Tea clinic in Tea, South Dakota. In her new employment, she entered into a Collaborative Agreement with Dr. Shari Eich for her practice settings.

On Thursday, February 12, 2009, at 1:30 p.m., an Informal Meeting was conducted between the Licensee and Board staff at the Board office in Sioux Falls, South Dakota. Said Minutes of this Informal Meeting are hereby incorporated as if set forth fully herein.

In a review of the prescription profiles for patient F.G., it was noted that on September 27, 2008, a prescription for the medication Concerta ER 36mg was presented and filled at a Walgreens pharmacy in Sioux Falls. This prescription was written by the Licensee on Friday, September 26, 2008. On October 27, 2008, a prescription for 30 Concerta ER 36mg was presented to be filled at the Lewis Drug pharmacy in Tea, South Dakota. This prescription was written by the Licensee and was dated Saturday, October

25, 2008. Both of these prescriptions were completed on prescription forms from the SDIUH with the address of Pierre, South Dakota imprinted on them.

Upon receipt of the October prescription, the pharmacist at the Lewis Drug in Tea, South Dakota contacted the SDUIH fiscal manager in Pierre, South Dakota questioning the prescription that was written by the Licensee on a Saturday and also which prescription blank showed the Pierre SDUIH clinic address. The fiscal manager relayed this information to the Executive Director of SDUIH. The pharmacist also contacted the Licensee with questions about this prescription.

At the Informal Meeting, the Licensee admitted to writing the two prescriptions in questions and admitted to filling out both of the prescription blanks in September, 2008. Licensee, at the meeting, calling this “bad judgment”. . . “stupidity”. . . and stated that she just wanted to do something to help F.G. Licensee admitted to not thinking about writing on prescription pads from an employer for whom she no longer worked and without a Collaborative Agreement for this practice site. The Licensee stated it was an inadvertence that she dated one of the prescriptions for October, rather than September. She stated that she is aware that is not permissible to post-date a prescription. Licensee admitted that she did not have privileges through SDUIH at the time she wrote these prescriptions.

Currently, Licensee has a Collaborative Agreement with Dr. Eich at the Licensee’s Washington High School practice setting. The Collaborative Agreement with Dr.

Schaffer at SDUIH terminated in August 2008. The prescription pad identifying the practice location of SDUIH should not have been used as Licensee was never approved to practice at that site, nor was she authorized to practice at any other SDUIH after the end of her employment.

The Licensee is in violation of the laws governing the practice of a registered nurse and a certified nurse practitioner as set forth in SDCL § 36-9 and SDCL § 36-9A.

Licensee has had previous discipline by the joint South Dakota Board of Nursing and the Board of Medical and Osteopathic Examiners in regards to unauthorized prescribing practices related to controlled substances. Licensee was released from her probation in regards to both her RN and CNP licenses on December 18, 2006; and

WHEREAS, based upon the affidavit of Kathleen Rausch and the above stated conduct, the South Dakota Board of Nursing and the South Dakota Board of Medical and Osteopathic Examiners (“Joint Boards”) have concluded that the public health, safety, and welfare require emergency action, in that Licensee’s actions may endanger the health and safety of those who are, or will be, entrusted to her care in the future; and

WHEREAS, the Joint Boards, have a statutory obligation to protect the health, safety, and welfare set forth in SDCL §36-9 and SDCL § 36-9A, including the protection of the public from unsafe nursing practices and practitioners.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Joint Boards have jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Joint Boards specifically find that the public health, safety and welfare require emergency action against Licensee's licenses.
3. That based on the above, the Joint Boards specifically finds that the Licensee's actions endanger the public health, safety, and welfare, and imperatively require emergency action in that Licensee may endanger the health and safety of those persons who are or will be entrusted to her care in the future, and that these are matters of a nature that would constitute further grounds for discipline of her license to practice nursing under SDCL § 36-9-49(5), (7), and (10) and her license to practice as a certified nurse practitioner under SDCL § 36-9-29(9) and (10).
4. Based upon these findings, Licensee's licenses to practice as a RN and as a CNP in South Dakota are hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 and SDCL § 36-9A-34 for reinstatement of her license(s) at any time for "good cause". This Order also affects Licensee's privilege to practice in South Dakota. Should licensee change her home state under the Nurse Licensure Compact, then Licensee's practice privilege is subject to the same requirements as set forth in this order as her South Dakota license.

5. That Licensee shall turn in her licenses to the Board of Nursing within ten (10) days from the date of this Order and those licenses shall be kept by the Board until further action on this matter.

6. Licensee is hereby notified that any practice of or holding herself out as a registered nurse or certified nurse practitioner during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. That this action is reportable discipline and will be published in the Board's newsletter, posted on its website, and reported into the HIPDB and NPDB data banks as required by law.

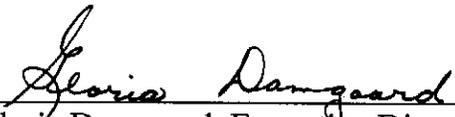
The Board of Nursing at its meeting on the 7th day of April, 2009, approved this Order of Summary Suspension of the Licensee's RN license as written without modifications.

The Joint Boards at their meeting on the 8th day of April, 2009, approved this Order of Summary Suspension of the Licensee's CNP license, as written without modifications, and issues its Order of Summary Suspension consistent herein:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing and the South Dakota Board of Medical and Osteopathic Examiners.

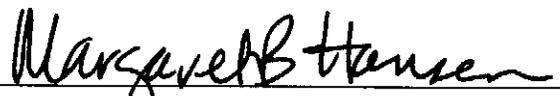
Dated this 14th day of April, 2009.

SOUTH DAKOTA BOARD OF NURSING


Gloria Damgaard, Executive Director

Dated this 17th day of April, 2009

BOARD OF MEDICAL AND OSTEOPATHIC
EXAMINERS


Margaret B. Hansen, Executive Director

NOTICE OF HEARING

The South Dakota Board of Nursing (“Board”) pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Michele J. Schmidt, RN, CNP, License Nos. R031812 and CP000294 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on June, 19th, 2009, at 10 AM o’clock a.m. at the office of the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201 in Sioux Falls, South Dakota.

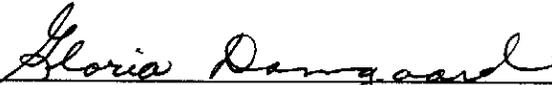
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. Licensee has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

4. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 14th day of April, 2009.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director

Dated this 14th day of April, 2009

BOARD OF MEDICAL AND OSTEOPATHIC
EXAMINERS



Margaret B. Hansen, Executive Director