



Licensee also stated that he was prescribed Clonazepam. He stated that after taking this medication for approximately a week, and after having ingested alcohol that evening, he and his wife had some type of altercation in which law enforcement was called.

Licensee also stated that he had been struck in the head and knocked off a ladder while he was trimming branches from a tree. He stated that he took a Lortab (which he said was a prescription he had from an earlier head injury) and went to bed. He stated that the next morning when he awoke to go to work, he felt groggy and attributed that to being struck by the branch. Licensee stated that this was the day he went to work (July 8, 2012) and was confronted by his employer and tested for drugs and alcohol. The breath test was positive for alcohol, with a level of .12.

Licensee admitted that he had completed a 30 day inpatient treatment at Keystone. Licensee believed that his diagnosis was alcohol abuse. Licensee stated that he had been attending Alcoholics Anonymous meetings since his discharge from Keystone. Licensee admitted that he had a relapse of alcohol on August 19, 2012. This was the day that he had been terminated from his employment; and

WHEREAS, Board staff advised Licensee that he should consider participation in the Health Professionals Assistance Program ("HPAP"). Licensee was given the information regarding the initiation of enrollment in HPAP and a referral form to HPAP was completed for him. Licensee was scheduled to see HPAP personnel and get the initial paperwork for the program completed on August 30, 2012. He did not show up for that appointment. He was then rescheduled for September 5, 2012 and again did not show.

On October 18, 2012, Licensee ultimately signed a Participation Agreement with HPAP;  
and

WHEREAS, on November 7, 2012, the Board received a quarterly report form from HPAP. The Licensee was to activate the HPAP AOS monitoring system on October 23, 2012. Licensee failed to activate his monitoring. Licensee did not respond to HPAP when they tried to contact him to address his failure to begin monitoring. HPAP recommended that the Licensee re-enter inpatient treatment. Instead, Licensee started outpatient treatment at Keystone and only completed a total of three sessions. Because of his failure to be compliant with continuing treatment, Licensee was discharged from Keystone on October 31, 2012; and

WHEREAS, because of Licensee's non-compliance with HPAP, Licensee was discharged from HPAP on November 13, 2012 due to full non-compliance with his HPAP contract. Due to non-compliance with HPAP, Licensee was given the opportunity by the South Dakota Board of Nursing to sign a Voluntary Surrender Consent Order to remove himself from nursing practice in order to address his current situation. Licensee has not returned the signed Voluntary Surrender Consent order to the Board as requested.

Based upon the Affidavit of Kathleen J. Tinklenberg and the above stated conduct, the Board has concluded that the public health, safety, and welfare requires emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to his care in the future; and

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

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.

2. That based on the above, the Board specifically finds that the public health, safety, and welfare requires emergency action against Licensee's license.

3. That based on the above, the Board specifically finds that the actions of Licensee endanger the public health, safety, and welfare, and imperatively requires emergency action in that Licensee's may endanger the health and safety of those persons who are or will be entrusted to his care in the future and that these are matters of a nature that would constitute further grounds for discipline of his license to practice nursing under SDCL § 36-9-49 (4), (5), (7), and (10).

4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of his license at any time for "good cause". Should Licensee change his 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 his South Dakota license.

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

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

The South Board of Nursing at its meeting on the 15<sup>th</sup> day of November, 2012 approved this Order of Summary Suspension as written and without modifications by a vote of 9-0 and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 20<sup>th</sup> day of December, 2012.

SOUTH DAKOTA BOARD OF NURSING

  
\_\_\_\_\_  
Gloria Damgaard, RN, MS  
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 Spencer Jay Seibert, License No. R032335 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on February 28, 2013, at 1<sup>00</sup> p.m. at the office of the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201, 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. The hearing will address the Board's assertion, as set forth in its Summary Suspension, that the Licensee, by his conduct, violated SDCL 36-9-49 (4), (5), (7) and (10).

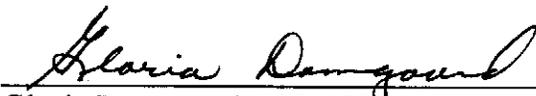
4. At the hearing, the Board will determine whether the Licensee's license shall be suspended, revoked, or subject to other disciplinary action as determined by the evidence presented.

5. 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.

6. 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 19<sup>th</sup> day of December, 2012.

SOUTH DAKOTA BOARD OF NURSING

  
\_\_\_\_\_  
Gloria Damgaard, RN, MS  
Executive Director