

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE LICENSURE :
PROCEEDINGS :

RE: NICHOLE K. SOLOMON, RN :
License No. R033973, :
Licensee. :

**ORDER FOR SUMMARY
SUSPENSION AND
NOTICE OF HEARING**

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WHEREAS, Nichole Kristine Solomon, RN, (“Licensee”), is licensed to practice as a registered nurse in the state of South Dakota and hold license number R033973; and

WHEREAS, on or about July 3, 2014, the South Dakota Board of Nursing (the “Board”) received a self-report via phone from the Licensee, stating that she had been terminated from her employment for alleged abuse of an elderly resident. Licensee briefly described the incident to Board staff. After receiving the complaint, Board staff began investigation into the report received; and

WHEREAS, following her self-report, the Licensee submitted, via e-mail, a written statement to the Board that outlined her interaction with the resident on June 29, 2014, around 5:00 p.m. According to that statement, Licensee entered the resident’s room to administer medications. The Licensee described walking into the room, noting that the resident was reading her book. Licensee then attempted to administer the medication, and in doing so, several pills fell onto the resident’s shirt. The resident

became agitated and, according to the Licensee, the resident began to violently swing her arms, pushing her hand into the Licensee's face, into Licensee's glasses. Licensee made attempts to protect her face and ultimately left the room. The Licensee wrote that the resident has a history of erratic behaviors. The Licensee wrote that the resident was alleging that the Licensee grabbed and twisted the resident's arm "during her attack on me;" and

WHEREAS, Board staff reviewed the medical records in regard to this incident, and found that the Licensee documented on June 29, 2014, at 4:45 p.m. regarding the unsuccessful administration of the medication and wrote that the resident slapped the Licensee in the face and tried to grab the Licensee and bite her; and

WHEREAS, subsequent documentation in the medical records written by another nurse noted that at 9:00 p.m. the resident complained of left arm pain. An assessment did not reveal any bruising, redness, or swelling and there were no abnormalities or displacements felt. The resident was given pain medication; and

WHEREAS, the next day on June 30, 2014, it was documented in the medical record that the resident complained of discomfort with movement of her left arm and stated her shoulder also hurt. The resident's doctor was notified. X-rays were taken of the resident's left shoulder, humerus and forearm due to pain. The nurse noted in the medical record that there was redness underneath the forearm at that time, but no bruising or swelling was noted; and

WHEREAS, x-rays taken June 30, 2014, revealed that the resident had a non-displaced spiral fracture of the distal ulna in her left forearm. The resident was fitted for a splint; and

WHEREAS, in a report made by the facility dated July 3, 2014, the documentation indicated that facility staff had interviewed the resident on three occasions on June 30, 2014, and each time the resident stated that the "head nurse," Nicki Solomon, had twisted her arm while demonstrating a twisting motion. On July 1, 2014, the resident again was interviewed by facility staff and stated again twice that it was the Licensee that twisted her arm; and

WHEREAS, Licensee, despite being instructed not to complete treatment or administer medications to the resident without another staff person present, was alone with the resident in her room when the incident occurred and the incident was not witnessed by staff or other residents; and

WHEREAS, initially, upon interview, it was noted that the Licensee stated to the director of nursing on June 30, 2014, that there was "no way" that she had hurt the resident. Later, on July 1, 2014, in another interview with the director of nursing, the Licensee stated there was a "fifty-fifty chance" that she could have grabbed the Licensee's arm, but could not remember doing so. When asked about this comment in

her informal meeting with Board staff, Licensee stated, "I wish that meeting had been recorded, because immediately after saying that, I also said there was no way I did it;" and

WHEREAS, the Licensee believes that the resident injured herself, or someone else or another object caused the wrist fracture; and

WHEREAS, based upon the affidavit of Francie Miller 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 her 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 the Licensee endanger the public health, safety and welfare, and imperatively requires 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.

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 her license at any time for "good cause".

5. That Licensee shall turn in his/her 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 herself out as a registered nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. This action is reportable discipline and will be published in the Board's newsletter and posted on its web site and reported into the National Practitioner Data Bank (NPDB) as required by law.

The South Board of Nursing at its meeting on the 13th day of November, 2014, approved this Order of Summary Suspension and issues its Order of Summary Suspension consistent herein as follows:

Name of Document: Order for Summary Suspension and Notice of Hearing
Licensee: Nichole K. Solomon

IT IS HEREBY ORDERED that the above is adopted as an Order of the South
Dakota Board of Nursing this 13th day of November, 2014, by a vote of 8-0.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS
Executive Director

NOTICE OF HEARING

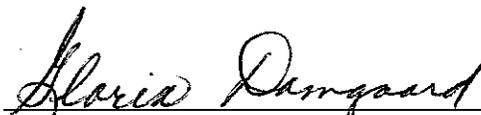
The South Dakota Board of Nursing (“Board”) pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Nichole K. Solomon, RN, License No. 033973 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on February 5, 2014, at 2:00 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 her conduct, violated SDCL §§ 36-9-49 (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 and has given her notice of request to the Board.
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.

Name of Document: Order for Summary Suspension and Notice of Hearing
Licensee: Nichole K. Solomon

Dated this 15th day of December, 2014.

SOUTH DAKOTA BOARD OF NURSING

A handwritten signature in cursive script that reads "Gloria Damgaard". The signature is written in black ink and is positioned above a horizontal line.

Gloria Damgaard, RN, MS
Executive Director

4. Following her self-report, the Licensee submitted, via e-mail, a written statement to the Board that outlined her interaction with the resident on June 29, 2014, around 5:00 p.m. According to that statement, Licensee entered the resident's room to administer medications. The Licensee described walking into the room, noting that the resident was reading her book. Licensee then attempted to administer the medication, and in doing so, several pills fell onto the resident's shirt. The resident became agitated and, according to the Licensee, the resident began to violently swing her arms, pushing her hand into the Licensee's face, into Licensee's glasses. Licensee made attempts to protect her face and ultimately left the room. The Licensee wrote that the resident has a history of erratic behaviors. The Licensee wrote that the resident was alleging that the Licensee grabbed and twisted the resident's arm "during her attack on me."

5. In my review of the medical records in regard to this incident, the Licensee documented on June 29, 2014, at 4:45 p.m. regarding the unsuccessful administration of the medication and wrote that the resident slapped the Licensee in the face and tried to grab the Licensee and bite her.

6. Subsequent documentation in the medical records written by another nurse, noted that at 9:00 p.m. the resident complained of left arm pain. An assessment did not reveal any bruising, redness, or swelling and there were no abnormalities or displacements felt. The resident was given pain medication.

7. The next day on June 30, 2014, it was documented in the medical record that the resident complained of discomfort with movement of her left arm and stated her shoulder also hurt. The resident's doctor was notified. X-rays were taken of the resident's left shoulder, humerus and forearm due to pain. The nurse noted in the medical record that there was redness underneath the forearm at that time, but no bruising or swelling was noted.

8. X-rays taken June 30, 2014, revealed that the resident had a non-displaced spiral fracture of the distal ulna in her left forearm. The resident was fitted for a splint.

9. In a report made by the facility dated July 3, 2014, the documentation indicated that facility staff had interviewed the resident on three occasions on June 30, 2014, and each time the resident stated that the "head nurse," Nicki Solomon, had twisted her arm while demonstrating a twisting motion. On July 1, 2014, the resident again was interviewed by facility staff and stated again twice that it was the Licensee that twisted her arm.

10. Licensee, despite being instructed not to complete treatment or administer medications to the resident without another staff person present, was alone with the resident in her room when the incident occurred and the incident was not witnessed by staff or other residents.

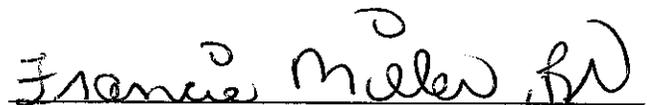
11. Initially, upon interview, it was noted that the Licensee stated to the director of nursing on June 30, 2014, that there was "no way" that she had hurt the

resident. Later, on July 1, 2014, in another interview with the director of nursing, the Licensee stated there was a "fifty-fifty chance" that she could have grabbed the Licensee's arm, but could not remember doing so. When asked about this comment in her informal meeting with Board staff, Licensee stated, "I wish that meeting had been recorded, because immediately after saying that, I also said there was no way I did it."

12. The Licensee believes that the resident injured herself, or someone else or another object caused the wrist fracture.

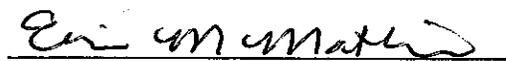
13. Based upon the above, I conclude that the public health, safety, and welfare imperatively require emergency action in that Licensee's actions may endanger the health and safety of persons entrusted to her care and that Licensee's license should be summarily suspended.

Dated this 15th day of December, 2014.



Francie Miller
Nursing Program Specialist

Subscribed and sworn to before me
this 15th day of December, 2014.



Notary Public - South Dakota
My commission expires: 01/08/2020