

SOUTH DAKOTA BOARD OF NURSING

IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: JENNIFER SWEENEY, R.N.
License No. R-027779

STIPULATION AND ORDER

Licensee.

WHEREAS, JENNIFER SWEENEY, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-027779; and

WHEREAS, a Board-initiated complaint has been filed against Licensee dealing with unprofessional conduct and unauthorized chart alteration in the course of and following her employment at Advance in Brookings, South Dakota; and

WHEREAS, since 1994, Licensee has admitted failing to sign medication records at the time of administration and such conduct could be in violation of SDCL § 36-9-49; and

WHEREAS, Licensee appeared at the meeting of the South Dakota Board of Nursing held on July 17, 1997, and answered questions of Board members and the Board, in order to more fully evaluate Licensee's case has determined that a psychological examination of Licensee should be had at the Board's expense; and

WHEREAS, Licensee, by Order of the Board dated July 18, 1997, was ordered to be evaluated to have a psychological examination with the information reported to the Board; and

WHEREAS, Licensee chose John Sivesind, Psychologist of Sioux Falls, South Dakota, and the results have now been reported to the Board; and

WHEREAS, the conduct as described above would be in violation of SDCL § 36-9-49(5), (7), and (10); and such conduct was inconsistent with the health or safety of the persons entrusted to her care, was unprofessional and violates the statutes and rules regulating the practice of nursing; and

WHEREAS, the Licensee recognizes that these matters stated above are of a nature which would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the South Dakota Board of Nursing (hereinafter "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, the Licensee has requested the Board's Executive Secretary to present this Stipulation to the Board for action and recognize that the Board may approve this Stipulation, reject it, or modify it; and

WHEREAS, in the event the Board, in its discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party. Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudice by its review and discussion of this Stipulation or any of the records or information relating hereto; and

WHEREAS, the Licensee has expressed a desire to resolve this matter without the necessity of additional formal disciplinary proceedings and hearings; and

WHEREAS, it is the intent of this Stipulation to provide for a settlement of the licensing issues presented by the Licensee's conduct, in a professional manner, without the necessity of further hearings and proceedings herein, and to provide for a responsible solution; now, 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 Stipulation.

2. That a Board-initiated complaint has been filed against Licensee dealing with unprofessional conduct and unauthorized chart alteration in the course of and following her employment at Advance in Brookings, South Dakota; and since 1994, Licensee has admitted failing to sign medication records at the time of administration and such conduct could be in violation of SDCL § 36-9-49; and 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 Licensee appeared at the meeting of the South Dakota Board of Nursing held on July 17, 1997, and answered questions of Board members and the Board, in order to more fully evaluate Licensee's case has determined that a psychological examination of Licensee should be had at the Board's expense; and Licensee appeared at the meeting of the South Dakota Board of Nursing held on July 17, 1997, and answered questions of Board members and the Board, in order to more fully evaluate

Licensee's case has determined that a psychological examination of Licensee should be had at the Board's expense; and Licensee, by Order of the Board dated July 18, 1997, was ordered to be evaluated to have a psychological examination with the information reported to the Board; and Licensee chose John Sivesind, Psychologist of Sioux Falls, South Dakota, and the results have now been reported to the Board, and it appears that the conduct as stated in this paragraph would be in violation of SDCL § 36-9-49(5), (7), and (10); and such conduct was inconsistent with the health or safety of the persons entrusted to her care, was unprofessional and violates the statutes and rules regulating the practice of nursing.

3. The Licensee has been given an opportunity to discuss this Stipulation with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all 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 is entering into this Stipulation voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary may present this Stipulation to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. Licensee's license to practice nursing is placed upon a probationary status for a period of eighteen (18) months of employment in nursing practice from the date of this Stipulation being approved by the Board, which probationary terms and conditions shall be completely followed by the Licensee as follows:

CONDITIONS:

1. Licensee shall obtain counseling from a counselor, pre-approved by the Board staff in the area of interpersonal relationships, dealing with anger and narcissistic personality behaviors. The type, duration and frequency of counseling shall be determined by said counselor. The counselor shall submit reports to the Board quarterly the first year and every six months thereafter. The report shall provide and/or address:
 - a. Verification that the counselor, psychologist or psychiatrist has seen a copy of the Stipulation and Order;
 - b. Diagnosis, treatment plan and progress in counseling;
 - c. Licensee's ability to handle stress;
 - d. Licensee's ability to practice as a professional nurse;
 - e. Any other information which the counselor believes would assist the Board in its ultimate review of the case.

2. Licensee will notify the Board of any employment in the health care field, including changes in employment. Furthermore, the Licensee will inform any current or prospective employer with whom she seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation, and would further agree that any such employer would, during the first year of probation, be required to provide quarterly reports to the Board as to her progress as an employee, and during the balance of the probationary period provide reports on a basis of every six (6) months. The reports shall provide and/or address:
 - a. In the first report, evidence that Licensee's supervisor has received a copy of the order within ten days of service or within ten days of Licensee beginning a new employment;
 - b. Licensee's attendance and reliability;
 - c. Licensee's ability to practice professional nursing, including the exercise of clinical decisionmaking and interpersonal relationships with clients/families and co-workers;
 - d. Licensee's ability to carry out assigned functions;
 - e. Licensee's ability to handle stress;

- f. Number of hours Licensee worked during the reporting period;
 - g. Any other information which the supervisor believes would assist the Board in its ultimate review of the case.
3. Licensee shall not be employed by a temporary agency.
 4. Licensee shall arrange with the Board staff probationary meetings once every three (3) months during the first year of probation. Thereafter, probationary meetings will be arranged by the Licensee every six (6) months for the balance of the probationary period. It will be the obligation of the Licensee to schedule these meetings at such time and place as the Board staff would reasonably designate.

Furthermore, the Licensee will submit a self-evaluation report to the Board office prior to each probationary meeting. The report shall provide and/or address:

- a. Licensee's participation in counseling. Documentation shall include attendance and participation, family support and problem areas addressed;
 - b. Licensee's professional employment status, including employer support, peer support, ability to handle stress and relations with clients/families and co-workers;
 - c. Licensee's future professional goals for nursing;
 - d. Licensee's future personal goals; and
 - e. Any other information which the Licensee believes would assist the Board in it's ultimate review of the case.
5. Licensee shall at any time during the period of probation, report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives in the terms of this probation.
 6. No violation of any law or regulation regarding the practice of nursing.
 7. Licensee shall execute all release of information forms as may be required by the Board or its designee.
 8. Within ten (10) days of the effective date of this Order, Licensee shall submit her current renewal certificate to the South Dakota Board of Nursing office to be stamped "PROBATION."

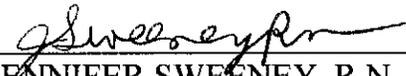
9. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
10. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
11. Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Licensee fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.
12. The Licensee may petition the Board for early closure or reconsideration of the terms of the probationary agreement after twelve (12) months of successful completion of the terms outlined in this Order.
13. In the event that the Licensee does not work in nursing within two (2) years of the effective date of the Order, Licensee may petition the Board for re-evaluation of the probationary conditions.
14. That Licensee shall provide evidence to the Board that she has completed a self-study learning module on R.N. Standards of Practice and Code of Ethics within thirty (30) days of the effective date of this Order.
15. Notwithstanding anything in this Stipulation and Order to the contrary, should the Licensee be convicted of a felony which would be grounds for discipline under SDCL § 36-9-49, either relating to the allegations herein or to any other actions or omissions of Licensee, the Licensee agrees that the Board may take further action against her license, including, but not limited to, immediate suspension, additional probation terms, an additional length of probation, or other disciplinary action. Licensee agrees to immediately inform the Board of the outcome of any criminal charges against Licensee.
16. If any condition of this probation is violated, the Licensee agrees that the Board may take such actions as the Board deems necessary up to and including a total and complete revocation of her licensing rights as a nurse in South Dakota.
17. It is further stipulated and agreed that this Stipulation 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 Stipulation with an attorney of her choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's

rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Stipulation.

18. If Licensee obtains a license issued by the Board other than the license to which this Stipulation refers in the above-captioned paragraphs, at any time during the period of probation, the terms of this probation shall apply to the other or additional license(s) issued by the Board.

NOW, THEREFORE, the foregoing Stipulation 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 14 day of September, 1997.



JENNIFER SWEENEY, R.N., Licensee

The South Dakota Board of Nursing meeting on the 18th day of September, 1997, (approved)(rejected) the attached Stipulation (as written) (with the following modifications):

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 18th day of September, 1997, by vote of

8-yes; 1-absentee

Diana VanderWoude RN, MS
Diana Vander Woude, Executive Secretary

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