

medication and other practice issues were discussed. Licensee denied taking any medication from her facility; and

WHEREAS, on or about March 24, 2016, HPAP contacted the Board following another voluntary meeting between the Licensee and HPAP. HPAP advised that the Licensee did not agree with the recommendations of HPAP and did not want to sign a Participation Agreement with HPAP; and

WHEREAS, on April 21, 2016, the Board unanimously voted to mandate Licensee into HPAP. Mandating Licensee into HPAP was a non-disciplinary action on Licensee's license and an alternative to discipline; and

WHEREAS, when presented with the mandate, the Licensee did not complete the required HPAP enrollment. Licensee asked what her discipline would be if she did not participate in HPAP. Thereafter, Licensee cancelled any and all of her appointments with HPAP and refused to sign the Participation Agreement; and

WHEREAS, based on that conduct, HPAP notified the Board in writing that the Licensee had been unsuccessfully discharged from HPAP; and

WHEREAS, the Board, at its meeting on June 9, 2016, unanimously voted to summarily suspend the Licensee's license and notice her for a due process hearing; and

WHEREAS, on the day of the hearing, the Licensee 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 matter as reported 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 on or about March 7, 2016, the Board received a complaint alleging improper handling of narcotics by the Licensee.

On March 8, 2016, Board investigator, Miller, began the process of investigating the matter.

On March 9, 2016, the Licensee spoke with Miller regarding the process. Because the case involved allegations related to narcotics, Licensee was given contact information for HPAP. Licensee voluntarily contacted HPAP that same day.

Licensee again voluntarily presented to HPAP on March 17, 2016, and underwent an initial evaluation.

On March 22, 2016, Board staff conducted an informal meeting with the Licensee at the Board office in Sioux Falls, South Dakota. Licensee's handling of PRN medication and other practice issues were discussed. Licensee denied taking any medication from her facility.

On or about March 24, 2016, HPAP contacted the Board following another voluntary meeting between the Licensee and HPAP. HPAP advised that the Licensee did not agree with the recommendations of HPAP and did not want to sign a Participation Agreement with HPAP.

On April 21, 2016, the Board unanimously voted to mandate Licensee into HPAP. Mandating Licensee into HPAP was a non-disciplinary action on Licensee's license and an alternative to discipline.

When presented with the mandate, the Licensee did not complete the required HPAP enrollment. Licensee asked what her discipline would be if she did not participate in HPAP. Thereafter, Licensee cancelled any and all of her appointments with HPAP and refused to sign the Participation Agreement.

Based on that conduct, HPAP notified the Board in writing that the Licensee had been unsuccessfully discharged from HPAP.

The Board, at its meeting on June 9, 2016, unanimously voted to summarily suspend the Licensee's license and notice her for a due process hearing.

On the day of the hearing, the Licensee agreed that she would surrender her South Dakota nursing license.

The Licensee agrees that she will surrender her South Dakota nursing license at this time 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, pursuant to SDCL § 36-9-57, 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

Voluntary Surrender Consent Order
Licensee: Marnie G. Mitchell, LPN

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.

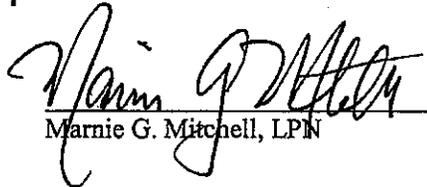
8. Licensee understands that during the period of this Voluntary Surrender that she is ineligible to work in any nursing role, including that of a nurse aide, nurse assistant, or medication assistant/aide.

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

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 22 day of September 2016.


Marnie G. Mitchell, LPN

Voluntary Surrender Consent Order
Licensee: Mamie G. Mitchell, LPN

The South Dakota Board of Nursing met on the 8th day of September, 2016, and approved the above Voluntary Surrender Consent Order as written by a vote of 7 - 0 and issued 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 23rd day of September, 2016.


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