

WHEREAS, due to the noncompliance with his HPAP participation program, on February 19, 2016, Licensee opted to be discharged from HPAP rather than continue; and

WHEREAS, Licensee agreed that he would surrender his South Dakota nursing license; and

WHEREAS, the Voluntary Surrender Consent Order was sent out to the Licensee on March 2, 2016, for his review and signature; and

WHEREAS, on April 1, 2016, the Licensee contacted the Board's attorney stating that he would like to be reconsidered for enrollment in HPAP. This information was conveyed to the Board; and

WHEREAS, Board staff contacted HPAP and advised of the Licensee's contact and his request for reconsideration; and

WHEREAS, HPAP agreed to the readmission and stated that if the Licensee contacted them within five (5) days to discuss his readmission and his commitment to the program, he would be reinstated in HPAP; and

WHEREAS, Licensee contacted HPAP within the requisite time and became re-enrolled in HPAP; and

WHEREAS, on or about June 28, 2016, the Licensee was again unsuccessfully discharged from HPAP due to his noncompliance in that he failed to follow through with testing and did not check into Affinity Health or respond to HPAP since June 20, 2016; and

WHEREAS, Licensee agreed he would surrender his South Dakota nursing license at that time; and

WHEREAS, the Voluntary Surrender Consent Order was sent out to the Licensee on July 5, 2016, for his review and signature; and

WHEREAS, Licensee has not returned the signed Voluntary Surrender Consent Order;
and

WHEREAS, based upon the affidavit of Francie Miller and the above stated conduct, the Board has concluded that Licensee's actions constitute unprofessional conduct and require 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 require 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 require emergency action in that Licensee 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."

5. 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.

7. 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.

The South Board of Nursing met on the 8th day of September, 2016, and approved this Order of Summary Suspension by a vote of 7-0, and issues its Order for 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 21st day of September, 2016.

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 Caleb Benson, License No. R043328 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on November 17, 2016, at 1:30 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.

Order for Summary Suspension and Notice of Hearing
Licensee: Caleb Benson

Dated this 21st day of September, 2016.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS
Executive Director