

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF LICENSURE :
PROCEEDINGS :
RE: BETTY C. ARTHUR, R.N. :
License No. R-034888, :
Licensee. :

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

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WHEREAS, Betty C. Arthur, R.N., (“Licensee”), is licensed to practice as a Registered Nurse in the State of South Dakota and holds license number R-034888; and

WHEREAS, or about August 14, 2006, the South Dakota Board of Nursing (“Board”) received a complaint from Licensee’s then employer, Lead-Deadwood Regional Hospital, regarding an alleged diversion of Demerol from the facility by the Licensee. The employer advised that Licensee had admitted to said diversion. After receiving the complaint, investigation into that complaint was commenced.

That on September 6, 2006, Board staff conducted an Informal Meeting with the Licensee at the Board office in Sioux Falls, South Dakota. Said minutes of the Informal Meeting are hereby incorporated as if fully set forth herein.

At the Informal Meeting, Licensee advised of chronic pain that she experienced from a previous shoulder injury and that she had been taking prescriptions of Darvocet and Relafin for pain. Licensee also admitted to the diversion, stating that she had

attempted to inject herself with the Demerol using an insulin syringe.

After the Informal Meeting, the Licensee signed a Voluntary Refrain From Practice, and completed the paperwork to enter into the Health Professionals Assistance Program (“HPAP”). On September 13, 2006, the Board mandated the Licensee into the HPAP program. The HPAP Agreement was signed on January 31, 2007. The delay in admission into HPAP was due to a referral to Dr Lawlor for assessment and recommendation. On February 12, 2007, HPAP returned the Licensee to work and the Voluntary Refrain from Practice was lifted.

On July 1, 2007, the Licensee started employment with the Queen City Regional Medical Center (“QCRMC”) in Spearfish. At the time of her employment, the Licensee entered into a special probationary contract which was signed by the Licensee and her employer. Following return to employment, the Licensee was compliant with HPAP. Licensee did have positive urine drug screens for Propoxyphene (Darvocet) which were accompanied by valid prescriptions. Her progress with HPAP was provided to her employer on July 30, 2007.

On November 2, 2007, the Licensee was terminated from her employment due to violations of her probationary terms. On December 3, 2007, the South Dakota Board of Nursing received a complaint from QCRMC, dated November 26, 2007, alleging that the Licensee had inappropriately obtained narcotics in violation of her employment probationary terms. The alleged violations included: a) the Licensee calling in

prescriptions to Walmart Pharmacy for her husband; b) using another nurse's user name on a work computer to document in a medical record for a prescription for Oxycodone, which the Licensee had signed for and received from Bob's Pharmacy; c) while off duty, calling in Darvocet refill prescriptions for herself to the Safeway Pharmacy and attempting to pick these up without a written prescription, citing a doctor's authorization to do so; d) requesting a physician of the clinic to write a prescription for blood pressure medication for Licensee and presenting a prescription for the blood pressure medication signed by that doctor that included narcotics. The Licensee did not have an appointment with that doctor, nor was anything noted in a medical record.

After receiving this complaint, investigation into the complaint was commenced by Board staff. The Licensee had signed a Voluntary Refrain from Practice dated December 4, 2007. That on January 22, 2008, Board staff conducted an Informal Meeting with the Licensee and her attorney at the Board office in Sioux Falls, South Dakota. Said minutes of the Informal Meeting are hereby incorporated as if fully set forth herein. At the Informal Meeting, Staff discussed with the Licensee and her attorney the State pharmacy reports which showed numerous prescriptions for Darvocet and Hydrocodone obtained by the Licensee from numerous pharmacies. At the Informal Meeting, the director of HPAP, Maria Eining, advised that many of the prescriptions on the State pharmacy list had not been reported to HPAP, and were not consistent with what the Licensee had reported to the HPAP program.

WHEREAS, based upon the affidavit of Andrew Albers 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 require emergency action against Licensee's license.
3. That based on the above, the Board specifically finds that the Licensee's actions 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(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 her license at any time for "good cause". This Order also affects licensee's privilege to practice in South Dakota. Should licensee change her 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 her South Dakota license.

5. That Licensee shall turn in 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.

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 30th day of January, 2008, by a vote of

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SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, 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 Betty C. Arthur, RN, License No. R-034888 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on June 19th, 2008, at 10⁰⁰ AM Central Standard Time o'clock a.m. at 4305 S. Louise Avenue, Suite 201 in Sioux Falls, South Dakota.

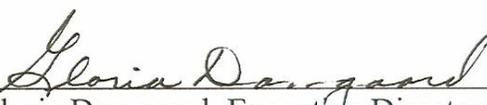
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. 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.

4. 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 6th day of February, 2008.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director