

**SOUTH DAKOTA BOARD OF NURSING**

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IN THE MATTER OF THE LICENSURE :  
PROCEEDINGS :  
RE: PHYLLIS AUNE, RN : **VOLUNTARY SURRENDER**  
 : **CONSENT ORDER**  
 :  
License No. R021838, :  
 :  
Licensee. :

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WHEREAS, Phyllis Aune, R.N., (“Licensee”), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-021838; and

WHEREAS, said Licensee on August 19, 2004, admitted that she filled and refilled a Vicodan prescription belonging to a person other than Licensee; Licensee admitted to diverting Vicodan from her employer, Lewis and Clark Specialty Hospital in Yankton, South Dakota; and Licensee had begun an out-patient treatment program with Lewis and Clark Behavioral Health Services and had been in contact with the Health Professionals Assistance Program (“HPAP”) and intended to sign a participation agreement with it; and

WHEREAS, Licensee entered into a Stipulation and Order for Probation with the South Dakota Board of Nursing (“Board”) which was approved by the Board on September 16, 2004; and

WHEREAS on August 18, 2005, Licensee was called before Board staff for an

Informal Meeting due to her non-compliance with HPAP, reported alcohol consumption, and an arrest for a violation of her criminal probation. Licensee signed a Voluntary Refrain from Practice Statement. Thereafter, the Board issued a Letter of Reprimand against Licensee based upon her deficiencies under the HPAP point system; and

WHEREAS, on March 31, 2006, the United States Department of Health and Human Services, Office of Inspector General, advised the Board that Licensee had been excluded from participation in any capacity in the Medicare, Medicaid, and all federal health care programs under Social Security Act § 1128 B(f). This exclusion was a result of Licensee's felony conviction in the First Judicial Circuit Court, Yankton County, South Dakota, related to a criminal offense in connection with a delivery of a health care item or service operated by or financed in whole or part by a federal, state or local government agency; and

WHEREAS, based on the above, Licensee has agreed that she would surrender her South Dakota nursing license; and

WHEREAS, the South Dakota Board of Nursing ("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 matters under investigation 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 he 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,

ITS 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 the Licensee, on August 19, 2004, admitted that she filled and refilled a Vicodan prescription belonging to a person other than Licensee; Licensee admitted to diverting Vicodan from her employer, Lewis and Clark Specialty Hospital in Yankton, South Dakota; and Licensee had begun an out-patient treatment program with Lewis and Clark Behavioral Health Services and had been in contact with the Health Professionals Assistance Program (“HPAP”) and intended to sign a participation agreement with it; and, Licensee entered into a Stipulation and Order for Probation with the South Dakota Board of Nursing (“Board”) which was approved by the Board on September 16, 2004; and on August 18, 2005, Licensee was called before Board staff for an Informal Meeting due to her non-compliance with HPAP, reported alcohol consumption, and an arrest for a violation of her criminal probation. Licensee signed a Voluntary Refrain from Practice Statement. Thereafter, the Board issued a Letter of Reprimand against Licensee based upon her deficiencies under the HPAP point system; and on March 31, 2006, the United States Department of Health and Human Services, Office of Inspector General, advised

the Board that Licensee had been excluded from participation in any capacity in the Medicare, Medicaid, and all federal health care programs under Social Security Act § 1128 B(f). This exclusion was a result of Licensee's felony conviction in the First Judicial Circuit Court, Yankton County, South Dakota, related to a criminal offense in connection with a delivery of a health care item or service operated by or financed in whole or part by a federal, state or local government agency and now intends to leave the profession of nursing as a registered 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 Secretary 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 shall be surrendered and the Board shall suspend said license for an indefinite period from the date of this Order. Licensee may apply 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 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. 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 25 day of May, 2006.

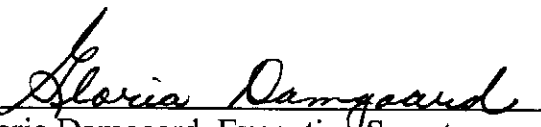
  
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Phyllis Aune R.N., Licensee

The South Dakota Board of Nursing meeting on the 22nd day of June, 2006,

(approved)(rejected) the attached Voluntary Surrender Consent Order (as written) (with the following modifications):

and issued its Order as follows:

IT IS HEREBY ORDERED that the above Voluntary Surrender Consent Order is adopted shown herein by the South Dakota Board of Nursing this 22nd day of June, 2006, by vote of 8-0.

  
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Gloria Damgaard, Executive Secretary  
South Dakota Board of Nursing