

should also have been made to take a drug screen. Licensee believed she had been defamed by these co-employees. Licensee also advised the Board that she had recently been hired at the Rapid City Medical Center as of April 20, 2009 and had passed her pre-employment drug test.

Licensee did not appear for her Informal Meeting nor did she advise the Board that she was not going to attend.

Licensee's case was presented to the full South Dakota Board of Nursing, on June 19, 2009. Licensee was mandated by the Board into the Health Professionals Assistance Program ("HPAP") for a period of five (5) years with a single state license. Licensee was advised of said outcome. On July 7, 2009, the Licensee contacted HPAP to inquire about enrollment into the program. The enrollment information packet was sent out to Licensee on July 8, 2009.

On July 15, 2009, the Licensee contacted the Board requesting an appeal of the Board's June 19, 2009 decision. Licensee indicated she would be willing to participate in HPAP, but wanted to appeal. As this was a non-disciplinary order, the Licensee was advised of her due process rights under ARSD 20:48:11:01 in that she could petition for a hearing on any decision taken by the Board without a hearing in which she was aggrieved. Licensee submitted a written Petition for Hearing. A hearing on her Petition was held on September 16, 2009 at the Board office in Sioux Falls, South Dakota at 11:00 a.m.

Following the formal hearing, the Board amended its previous disciplinary order and mandated Licensee's participation in HPAP for a period of one (1) year to rule out any risk, with random drug screening and continue with single state licensing. Said order of the Board was sent to the Licensee.

The Board received letters from HPAP dated September 2, 2009, February 4, 2010, and April 15, 2010, advising that the Licensee had yet to enroll in HPAP as mandated and to sign her contract. Licensee wrote to HPAP on March 14, 2010 advising that due to the cold weather and her husband being laid off from his job, she could not afford to enter into the program until April, when her husband returned to work. She also wrote that she wanted to participate in this program to prove her innocence.

On May 6, 2010, the Board investigator participated in a conference call with Licensee and her employer. The Licensee had told her employer that HPAP would suspend her license if she did not begin participation in HPAP. Licensee also told her employer that it cost \$1,000 a month to participate in HPAP. The Board investigator advised the employer that Licensee had been mandated into HPAP for one year from September 16, 2009. Licensee's employer was also advised that she had been uncooperative in initiating the required participation and that the cost for HPAP was not \$1,000 a month as Licensee had told her. Following the conference call, the employer chose to randomly drug screen Licensee. After this directive, Licensee's work performance dropped significantly. Licensee's employer had difficulty getting straight

answers from her regarding her situation. Licensee denied to her employer that there had ever been a complaint made against her by a previous employer or that she had been terminated from her previous employment.

On May 6, 2010, the Licensee returned a signed Participation Agreement to HPAP.

Based on this information, the Board of Nursing and HPAP determined it important to have a face-to-face meeting with the Licensee in regards to her participation in HPAP and her possible lack of understanding of the requirements. Arrangements were made to have the Licensee meet with HPAP on May 19, 2010. Licensee did attend that meeting.

On June 1, 2010, the Board received a copy of a letter, written by the Licensee, To Whom it May Concern, stating that due to the mental and emotional stress of not being able to afford to participate in HPAP and fear of her license being suspended, she had resigned her nursing position at the Rapid City Medical Center as of May 21, 2010.

It is the Board's belief that the Licensee has been trying to circumvent participation in HPAP and has failed to follow through with the mandate of the Board.

WHEREAS, based upon the affidavit of Kathleen Rausch 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.

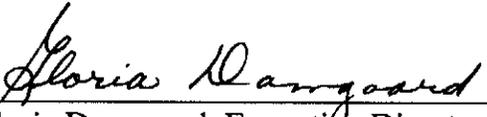
6. Licensee is hereby notified that any practice of or holding herself out as a practical nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. That this action is reportable discipline and will be published in the Board's newsletter, posted on its website, and reported into the Healthcare Integrity and Protection Data Bank (HIPDB) and National Practitioner Data Bank (NPDB) as required by law.

The South Dakota Board of Nursing, at its meeting on the 7th day of June 2010, approved this Order of Summary Suspension as written without modifications and issues its Order of 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 7th day of June, 2010, by a vote of 8 -- 0.

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 Sarah Englebert, LPN, License No. P008885 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on September 15, 2010, at 1 o’clock p.m. at the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201 in Sioux Falls, South Dakota.

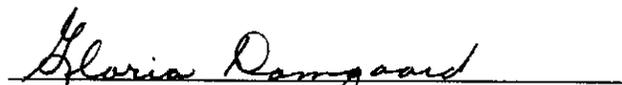
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

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 9th day of June, 2010.

SOUTH DAKOTA BOARD OF NURSING


Gloria Damgaard, Executive Director