

**SOUTH DAKOTA BOARD OF NURSING**

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IN THE MATTER OF THE LICENSURE :  
PROCEEDINGS :

RE: MISTY R. ESKINS, R.N. :

**VOLUNTARY SURRENDER  
CONSENT ORDER**

License No. R-032184, :

Licensee. :

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WHEREAS, Misty R. Eskins, R.N., (“Licensee”), is licenced to practice as a registered nurse in the State of South Dakota and holds license number R-032184; and

WHEREAS, on December 1, 2009, the South Dakota Board of Nursing, (“Board”), accepted a Voluntary Surrender Consent Order, signed by the Licensee on November 25, 2009, arising out her admitted consensual sexual contact with a jail inmate on or about July 4, 2009, during her employment as a nurse within Correctional Health at the Mike Durfee State Prison; and

WHEREAS, the Voluntary Surrender Consent Order suspended the Licensee’s R.N. license for an indefinite period subject to a reinstatement request pursuant to SDCL § 36-9-57, as the Board in its discretion may determine; and

WHEREAS, the Licensee made a reinstatement request, in writing, dated March 2, 2010, and personally appeared before the Board on April 21, 2010, along with her

attorney, Tamara D. Lee, at which time the matter of Licensee's reinstatement was presented to the Board. The Licensee presented documentation supporting her reinstatement which included a letter from her counselor and her Court Services Officer. The Board was also provided documentation regarding the outcome of Licensee's criminal charges sent by the Bon Homme County State's Attorney. Ms. Lee presented information on behalf of her client. The Licensee also provided testimony and answered questions of the Board; and

WHEREAS, on April 21, 2010, the Board issued an Order of Reinstatement with Probation and Remediation for said Licensee; and

WHEREAS, on or about December 1, 2011, the Board received a complaint that Licensee, while employed full time in the home of client for a home health agency, violated her probation by bringing her own personal issues into the home and involving the family. Licensee also had a male friend over to her home work sites, allowing him to enter the home without knocking. Licensee also left a client home to retrieve a forgotten cell phone and documented care being delivered at the time she was absent. Licensee also took narcotic prescription medications during work hours when she was told not to do so; and

WHEREAS, the Licensee continues to have issues of ethical boundaries and decision making, and Licensee has agreed that she will surrender her South Dakota nursing license; 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 on December 1, 2009, Board accepted a Voluntary Surrender Consent Order, signed by the Licensee on November 25, 2009, arising out her admitted consensual sexual contact with a jail inmate on or about July 4, 2009, during her employment as a nurse within Correctional Health at the Mike Durfee State Prison.

The Voluntary Surrender Consent Order suspended the Licensee's R.N. license for an indefinite period subject to a reinstatement request pursuant to SDCL § 36-9-57, as the Board in its discretion may determine.

The Licensee made a reinstatement request, in writing, dated March 2, 2010, and personally appeared before the Board on April 21, 2010, along with her attorney, Tamara D. Lee, at which time the matter of Licensee's reinstatement was presented to the Board. The Licensee presented documentation supporting her reinstatement which included a letter from her counselor and her Court Services Officer. The Board was also provided documentation regarding the outcome of Licensee's criminal charges sent by the Bon Homme County State's Attorney. Ms. Lee presented information on behalf of her client. The Licensee also provided testimony and answered questions of the Board.

On April 21, 2010, the Board issued an Order of Reinstatement with Probation and Remediation for said Licensee.

On or about December 1, 2011, the Board received a complaint that Licensee, while employed full time in the home of client for a home health agency, violated her probation by bringing her own personal issues into the home and involving the family. Licensee also had a male friend over to her home work sites, allowing him to enter the home without knocking. Licensee also left a client home to retrieve a forgotten cell phone and documented care being delivered at the time she was absent. Licensee also took narcotic prescription medications during work hours when she was told not to do so.

Licensee continues to have issues of ethical boundaries and decision making. Licensee has agreed that she will surrender her South Dakota nursing license, 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 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 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. 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 web site and reported into the Healthcare Integrity and Protection Data Bank (HIPDB) and 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 12<sup>th</sup> day of March, 2012.

Misty ESKINS RN  
Misty Eskins, RN

The South Dakota Board of Nursing meeting on the 22<sup>nd</sup> day of February, 2012, approved the attached Voluntary Surrender Consent Order as written 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 22<sup>nd</sup> day of February 2012, by vote of 10-0.

  
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Gloria Damgaard, Executive Director  
South Dakota Board of Nursing