SOUTH DAKOTA BOARD OF NURSING

IN THE MATTER OF THE
LICENSEURE PROCEEDINGS

RE: VINCENT J. GALLAGHER, RN

License No. R-024750

Licensee.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW
AND ORDER
OF SUSPENSION

The South Dakota Board of Nursing’s (“Board”) complaint against Vincent J. Gallagher, RN, License No. R-024750, came on for hearing before the South Dakota Board of Nursing at its office in Sioux Falls, South Dakota, on September 15, 2005, at 2:00 p.m. Licensee, Vincent J. Gallagher, having received notice of the hearing, and having been given the opportunity to confront Board witnesses and to present evidence on his behalf, did not appear in person nor by an attorney. The Board appeared by and through its attorney, Kristine Kreiter O’Connell.

The Board considered the evidentiary material provided by Andrew Albers, the case note from the Health Professionals Assistance Program marked as Exhibit 1, and other documents on file in this case and being charged with the statutory obligation to protect the public health, safety and welfare as set forth in SDCL § 36-9, including the protection of the public from unsafe nursing practices and practitioners, the Board hereby makes the following:
FINDINGS OF FACT

1. That Licensee holds a license to practice as a Registered Nurse in the State of South Dakota, License No. R-024750.

2. That Licensee has diverted narcotics from his employer for his own use.

3. That as a result, Licensee signed a refrain from practice and entered the South Dakota Health Professionals Assistance Program ("HPAP").

4. That on or about May 25, 2005, Licensee was discharged from Keystone after completing an inpatient treatment program.

5. On or about June 6, 2005, the Board staff contacted Licensee in regards to a complaint that it had received regarding Licensee's practice and the need to set up an Informal Meeting with Board staff.

6. Licensee has expressed indecision about continuing with HPAP as well as the return to his practice of nursing.

7. Licensee was scheduled for an Informal Hearing with the Board on June 20, 2005.

8. Licensee wrote to the Board on June 15, 2005, indicating that he was not able to attend the meeting due to extenuating circumstances.

From the foregoing Findings of Fact, the Board draws the following:

CONCLUSIONS OF LAW

1. The South Dakota Board of Nursing has jurisdiction and authority over this matter pursuant to SDCL §§ 36-9-1.1, 36-9-49, and 49.1.
2. That Licensee’s conduct as identified in the Findings of Fact are in violation of SDCL §§ 36-9-49(4), (5), (7) and (10).

3. That ARSD 20:48:04:01(1)(d) provides that the Board recognizes the “Standards of Clinical Nursing Practice,” 1991, and the “Code for Nurses With Interpretive Statement;: 1985, as published by the American Nurse’s Association as criteria for assuring safe and effective practice following licensure. The code of ethics requires an RN to function within an established legal guideline and uphold the basic standards of nursing practice.

THEREFORE, let an Order be entered accordingly:

ORDER

Based on the Findings of Fact and Conclusions of Law, the South Dakota Board of Nursing hereby orders:

1. That Licensee’s license to practice nursing in the State of South Dakota is hereby suspended.

2. That Licensee may petition according to SDCL § 36-9-57 for reinstatement of his license at any time for “good cause.”

3. That Licensee shall turn his license in to the Board of Nursing within ten (10) days from the date of this Order.

4. That Licensee is hereby notified that any practice as or holding himself out as a registered nurse during this term of suspension is a violation of SDCL § 36-9-68.
Dated this 23rd day of September, 2005.

[Signature]
Glória Damgaard, Executive Secretary
South Dakota Board of Nursing

The above Findings of Fact and Conclusions of Law and Order were
adopted by the South Dakota Board of Nursing on the 15th day of
September, 2005, by a vote of 10-0.

Dated this 23rd day of September, 2005.

[Signature]
Glória Damgaard, Executive Secretary
South Dakota Board of Nursing