

SOUTH DAKOTA BOARD OF NURSING

* * * * *

IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: KATHLEEN "CASEY" HARVARD, R.N. STIPULATION AND ORDER
License No. R-025003,

Licensee.

* * * * *

WHEREAS, KATHLEEN "CASEY" HARVARD, R.N. ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-025003; and

WHEREAS, Licensee entered into a Voluntary Surrender Consent Order approved by the South Dakota Board of Nursing (hereinafter "the Board") on April 13, 1994, for conduct which caused her to become incapable of caring for patients; and

WHEREAS, the Licensee recognizes and agrees that the matters set forth in the Voluntary Surrender Consent Order are of a nature which would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the 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, the Licensee has requested the Board's Executive Secretary to present this Stipulation to the Board for action and recognize that the Board may approve this Stipulation, reject it, or modify it; and

WHEREAS, in the event the Board, in its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party. Licensee agrees that if the Board rejects this Stipulation and the case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any of the records or information relating hereto; and

WHEREAS, the Licensee has expressed a desire to resolve this matter without the necessity of formal disciplinary proceedings and hearings; and

WHEREAS, it is the intent of this Stipulation to provide for a settlement of the licensing issues presented by the Licensee's conduct, in a professional manner, without the necessity of further hearings and proceedings herein, to resolve the complaint against Licensee, and to provide for a responsible solution; now, therefore,

IT 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 Stipulation.

2. Licensee agrees that the matters set forth in the Voluntary Surrender Consent Order are of a nature which would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49.

3. The Licensee has been given an opportunity to discuss this Stipulation with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all 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 is entering into this Stipulation voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary may present this Stipulation to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. Licensee's license to practice nursing shall be reinstated as of the date of this Order and placed on a period of probation for three (3) years from the date of this Order. The terms and conditions of the probation as stated below shall be completely followed by Licensee as follows:

- 1) Licensee shall cause all her psychiatrists and psychologists who are treating the Licensee to submit reports to the Board quarterly the first year and every six months thereafter regarding the mental health status, treatment and prognosis in relation to Licensee's ability to safely practice as a nurse. The reports shall provide and/or address:
 - a) Verification that the psychiatrists and psychologists have seen a copy of the Stipulation and Order;
 - b) Diagnosis and any treatment plan;
 - c) Current stability on Licensee's medication(s), if applicable;
 - d) Licensee's ability to practice as a professional nurse;

- e) Any other information which the reporter believes would assist the Board in its ultimate review of the case.
- 2) Licensee shall continue counseling from a counselor qualified in the area of borderline personality. The counselor shall submit reports to the Board quarterly the first year and every six months thereafter. The report shall also address:
- a) Verification that the counselor or therapist has seen a copy of this Stipulation and Order;
 - b) Diagnosis and any treatment plan;
 - c) Licensee's ability to handle stress;
 - d) Licensee's ability to practice as a professional nurse;
 - e) Any other information which the counselor or therapist believes would assist the Board in its ultimate review of the case.
- 3) Licensee will notify the Board of any employment, including changes in employment. Furthermore, the Licensee will inform any current or prospective employer with whom she seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation, and would further agree that any such employer would, during the first year of probation, be required to provide quarterly reports to the Board as to her progress as an employee, and during the balance of the probationary period provide reports on a basis of every six (6) months. The reports shall provide and/or address:
- a) In the first report, evidence that Licensee's supervisor has received a copy of the order within ten days of service or within ten days of Licensee beginning a new employment;
 - b) Licensee's attendance and reliability;
 - c) Licensee's ability to practice professional nursing;
 - d) Licensee's ability to carry out assigned functions;
 - e) Licensee's ability to handle stress;
 - f) Number of hours Licensee worked during the reporting period;
 - g) Any other information which the supervisor believes would assist the Board in its ultimate review of the case.

- 4) Licensee shall not be employed by a temporary agency.
- 5) Licensee shall observe the following employment restrictions:
 - a) May not hold a charge or supervisory position for one year.
 - b) May only practice under on-site supervision of a registered nurse in good standing with the Board for a minimum of one year.
- 6) Licensee shall arrange with the Board staff probationary meetings once every three months during the first year of probation. Thereafter, probationary meetings will be arranged by the Licensee every six (6) months for the balance of the probationary period. It will be the obligation of the Licensee to schedule this meeting at such time and place as the Board staff would reasonably designate.

Furthermore, the Licensee will submit a self-evaluation report to the Board office prior to each probationary meeting. The report shall provide and/or address:

- a) Licensee's participation in a rehabilitation program, if applicable. Documentation shall include attendance and participation, family support and problem areas addressed;
 - b) Licensee's professional employment status, including employer support, peer support, and ability to handle stress;
 - c) Licensee's future professional goals for nursing;
 - d) Licensee's future personal goals; and
 - g) Any other information which the Licensee believes would assist the Board in it's ultimate review of the case.
- 7) Licensee shall at any time during the period of probation, report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives in the terms of this probation.
 - 8) Licensee shall not violate any law or regulation regarding the practice of nursing.
 - 9) Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.

- 10) Licensee shall bear all Licensee's costs in carrying out the provisions of this Stipulation.
- 11) Licensee shall execute all release of information forms as may be required by the Board or its designee.
- 12) Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Licensee fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.
- 13) The Licensee may petition the Board for early closure or reconsideration of the terms of the probationary agreement after two (2) years of successful completion of the terms outlined in this Order.
- 14) In the event that the Licensee does not work in nursing within two (2) years of the effective date of the Order, Licensee may petition the Board for re-evaluation of the probationary conditions.
- 15) If any condition of this probation is violated, the Licensee agrees that the Board may take such actions as the Board deems necessary up to and including a total and complete revocation of her licensing rights as a nurse in South Dakota, and Licensee waives all hearing rights as to such violations.
- 16) Licensee shall submit her current renewal certificate to the Board to be stamped "PROBATION" for the duration of the probationary period.

5. It is further stipulated and agreed that this Stipulation 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 Stipulation with an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Stipulation.

NOW, THEREFORE, the foregoing Stipulation 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 31 day of July, 1995.

Kathleen Harvard R.N.
KATHLEEN "CASEY" HARVARD, R.N., Licensee

The South Dakota Board of Nursing meeting on the 20th day of September, 1995, (approved)(rejected) the attached Stipulation (as written) (with the following modifications):

- 4.17) The licensee shall not practice in a critical/intensive care setting for one year.
- 4.18) The licensee shall inform the Board of Nursing immediately if at any time in the future she believes that she is no longer capable of practicing nursing safely and effectively.

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 20th day of September, 1995, by vote of 9-yes; 2-absent.

Diana VanderWoude RN, MS
Diana Vander Woude, Executive Secretary