

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE LICENSURE :
PROCEEDINGS :

RE: ELLEN M. HEER, R.N. :

License No. R037483, :

Licensee. :

**ORDER OF SUMMARY
SUSPENSION AND
NOTICE OF HEARING**

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WHEREAS, Ellen M. Heer, R.N., (“Licensee”), is licensed to practice as a registered nurse in the State of South Dakota and hold license number R037483; and

WHEREAS, in February 2008, Licensee applied for a registered nurse license in the State of South Dakota, endorsing from the State of Minnesota. On her application, the Licensee disclosed prior discipline in the State of Minnesota whereby her license had been suspended for noncompliance with the Health Professionals Service Program (“HPSP”) of Minnesota, and that her suspension was stayed on the condition that she return to HPSP and continue work on her sobriety. The Licensee was granted a temporary South Dakota license conditioned upon her participation in the South Dakota Health Professionals Assistance Program (“HPAP”) to which she applied.

On September 9, 2008, the South Dakota Board of Nursing (“Board”) reviewed Licensee’s endorsement application and voted to issue her a single state license and mandated the Licensee’s participation in HPAP with credit given for the six (6) months of participation in the HPSP of Minnesota program.

Thereafter, Licensee was employed and was compliant with HPAP until June 10, 2009, when HPAP advised the Board that the Licensee had a positive drug screen for amphetamines on May 12, 2009, that licensee had admitted to submitting a fraudulent specimen and had a positive urine screen for ethanol on June 1, 2009. HPAP was concerned with Licensee's admitted relapse. At that time Licensee was having issues, including the death of her husband, and was in need of additional help to address her issues of relapse; and

WHEREAS, Licensee had agreed that she would surrender her South Dakota nursing license, but when presented with the Voluntary Surrender Consent Order, Licensee failed to sign and return said Order to the Board; and

WHEREAS, based upon 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 his license to practice nursing under SDCL § 36-9-49(4), (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 registered 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 HIPDB and NPDB data banks as required by law.

The South Board of Nursing at its meeting on the 16th day of September, 2009, 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 16th day of September, 2009, by a vote of 9-0

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 Ellen M. Heer, RN, License No. R-037483 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on November 20, 2009, at 10 o'clock a.m. at the South Dakota Board of Nursing's office located at 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 24th day of September, 2009.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director