

allegedly gave out and the patient needed to be lowered to the floor.

The Licensee indicated that she performed an assessment of the resident following the incident and noted that the resident's left knee was bent and the right knee was extended. Licensee noted that the patient denied pain with movement.

A note made in the medical record by the Licensee at 5:30 a.m. that day indicated that she assessed the left knee and it was stiff and sore but without redness, swelling, or bruising.

An assessment of the resident later in the morning of July 13, 2009 by another nurse noted that the patient's left knee could not bear any weight and there was diminished range of motion in that knee with complaints of pain.

The Board also had the opportunity to review the administrative investigation of the Good Samaritan Society - Luther Manor into this matter.

Luther Manor's investigation concluded that the Licensee and her assistant did not follow the care plan for the use of assistive devices when assisting the resident to stand. Moreover, the Licensee falsified information regarding her assessment of the patient after the fall as well as the condition of the resident's knee at 5:30 a.m. Thereafter, the Licensee was terminated for falsifying information.

The investigation included reenactment and interviews of the resident and the resident's family. It was determined that the Licensee did not use the gait belt. The investigative report also referenced a video documentation review which indicated the

Licensee was seen leaving the resident's room about midnight and was not seen again entering the resident's room for the rest of her shift.

Board investigators conducted an Informal Meeting with the Licensee at the Board office in Sioux Falls, South Dakota on January 15, 2010. Said minutes of the Informal Meeting are hereby incorporated as if fully set forth herein.

At the Informal Meeting, Licensee indicated that when they assisted the resident in standing, they did not use the gait belt and that she should have said something to her CNA. Licensee admitted to doing an assessment of the resident while she was there on the floor, and that she used her own manual blood pressure cuff. She disputes Luther Manor's investigative report indicating that no blood pressure cuff was taken into the resident's room. Licensee admitted that her charting regarding 5:30 a.m. was not her own assessment, but based on what the CNAs had reported. Licensee insisted that she had gone into the resident's room during that night. Licensee admitted that in her review of the incident, there was "only one time where she wasn't honest".

WHEREAS, based upon the affidavit of Kathleen Rausch and the above stated conduct, the Board has concluded that the public health, safety, and welfare require 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 require emergency action in that the 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.

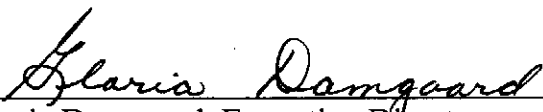
6. Licensee is hereby notified that any practice of or holding herself out as a practical nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. That this action is reportable discipline and will be published in the Board's newsletter, posted on its website, and reported into the HIPDB and NPDB data banks as required by law.

The South Board of Nursing at its meeting on the 26th day of February 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 26th day of February, 2010, 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 Marla R. (Nelson) Huston, LPN, License No. P009114 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on April 21st, 2010, at 1³⁰ pm o'clock p.m. at the South Dakota Board of Nursing 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 2nd day of March, 2010.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director