

**SOUTH DAKOTA BOARD OF NURSING**

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**IN THE MATTER OF THE** :

**LICENSURE PROCEEDINGS** :

**RE: CINDY HUWE, RN** :

**License No. R-026985** :

**Licensee.** :

**ORDER OF**

**SUMMARY SUSPENSION**

**AND**

**NOTICE OF HEARING**

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WHEREAS, Cindy Huwe, RN (“Licensee”), is licensed to practice as a registered nurse in the State of South Dakota and holds License Number R-026985; and

WHEREAS, the South Dakota Board of Nursing staff, Nancy Bohr and Michele Crissman, conducted an Informal Meeting with Licensee at the Board office in Sioux Falls, South Dakota, on March 17, 2004, and minutes of said Informal Meeting are hereby incorporated as if fully set forth herein; and

WHEREAS, at the Informal Meeting, Licensee informed the Board staff that she was undergoing in-patient treatment for alcohol use; and

WHEREAS, Licensee was then referred to and agreed to enter the Health Professionals Assistance Program (“HPAP”) and voluntarily refrained from nursing practice until she was fully participating in HPAP; and

WHEREAS, Licensee on August 8, 2005, while employed at the Wheatcrest Hills nursing facility in Britton, South Dakota, reported to work

smelling of alcohol; and

WHEREAS, Licensee's employer had Licensee submit to a BPT breathalyzer test administered by the Marshall County Sheriff's office, which revealed blood alcohol levels of .038 and .042. Licensee then submitted to a blood alcohol test with a result of .029; and

WHEREAS, Licensee was terminated from her employment at Wheatcrest Hills on August 8, 2005; and

WHEREAS, the Board of Nursing staff, on August 22, 2005, received written notification from Mike Coley ("Coley"), HPAP Director, that Licensee was in "gross non-compliance" with HPAP for failure to make required calls for random test selection and for failure to advise of her job termination that was related to alcohol use; Coley requested Licensee sign a Refrain from Practice form; and

WHEREAS, Licensee has refused to sign an HPAP or Board Voluntary Refrain from Practice form and has not responded to contacts by the Board of Nursing or HPAP; and

WHEREAS, Licensee was scheduled for an Informal Meeting with the Board of Nursing staff on September 8, 2005, and failed to appear for said meeting; and

WHEREAS, Licensee's conduct as stated would be inconsistent with the health and safety of persons entrusted to her care and violates the statutes, rules and regulations regarding the practice of nursing and is in violation of SDCL § 36-

9-49(4), (5), (7) and (10); and

WHEREAS, the South Dakota Board of Nursing (“Board”) has a 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.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee in the subject matter of this Order.

2. That based upon the above, the Board specifically finds that the public health, safety and welfare require emergency action against Licensee’s license.

3. The Board specifically finds that Licensee has not observed the terms and conditions set forth in her Participation Agreement with HPAP and that the actions of Licensee endangers the public health, safety and welfare, and imperatively requires emergency action in that Licensee’s actions 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 are of the nature that would constitute further grounds for discipline of her license to practice nursing under SDCL ‘ 36-9-49.

4. That based upon these findings, Licensee’s license to practice nursing in South Dakota is hereby suspended. The Licensee may petition according to SDCL § 36-9-57 for reinstatement of his license at anytime for “good cause” and upon the completion of and full demonstration of compliance with

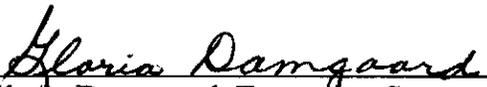
HPAP.

5. 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 Summary Suspension is in violation of SDCL § 36-9-68.

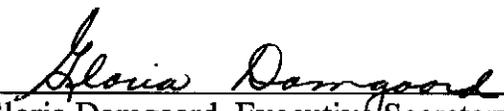
Dated this 23<sup>rd</sup> day of September, 2005.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, Executive Secretary

The South Dakota Board of Nursing at its meeting on the 15th day of September, 2005, approved this Order of Summary Suspension as adopted herein on this 15<sup>th</sup> day of September, 2005, by a vote of 10-0.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, Executive Secretary

## 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 Cindy Huwe, RN, License No. R-026985 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on November 14<sup>th</sup>, 2005, at 1<sup>30</sup><sub>pm</sub> <sup>CST</sup> o'clock p.m., at the South Dakota Board of Nursing office located at 4305 South Louise Avenue, Suite 201, 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 the 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 service of this Notice of Hearing on Order of Summary Suspension.

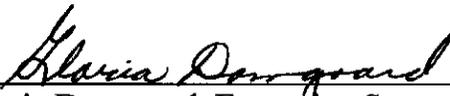
4. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 23<sup>rd</sup> day of September 2005.

  
Gloria Damgaard, Executive Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of September, 2005, I sent to Cindy Huwe at 420 East 7<sup>th</sup> Street, Webster, South Dakota 57274, a true and correct copy of the foregoing Order of Summary Suspension and Notice of Hearing by certified and first-class mail, postage prepaid.

  
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Gloria Damgaard, Executive Secretary