

**SOUTH DAKOTA BOARD OF NURSING**

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IN THE MATTER OF THE LICENSURE PROCEEDINGS	:	
RE: CINDY HUWE, RN	:	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF SUSPENSION</b>
License No. R-026985	:	
Licensee.	:	

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The South Dakota Board of Nursing’s Order of Summary Suspension of the License of Cindy Huwe, RN, License No. R-026985 (“Licensee”) came on for hearing before the South Dakota Board of Nursing at its offices in Sioux Falls, South Dakota, on November 14, 2005, at 1:30 p.m. Licensee, having received notice of the hearing appeared personally. The Board appeared by and through its attorney, Kristine Kreiter O’Connell.

The Board considered the evidentiary testimony of Licensee and witnesses for the Board, exhibits 1 and 2 admitted into evidence, and other documents on file, 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 Cindy Huwe (“Licensee”) is licensed to practice as a registered nurse in the State of South Dakota and holds License No. R-026985. That on March 17, 2004,

Licensee attended an Informal Meeting with the South Dakota Board of Nursing staff and advised them that she had undergone in-patient treatment for alcohol abuse.

2. That Licensee, in March 2004, was referred to and agreed to enter into the Health Professionals Assistance Program (“HPAP”) and for a period of time voluntarily refrained from nursing practice until she was fully participating in HPAP.

3. That Licensee, on August 7, 2005, admitted to ingesting alcohol from 7:00 p.m. to 11:00 p.m.

4. That Licensee, on August 8, 2005, while employed at the Wheatcrest Hills Nursing facility in Britton, South Dakota, reported to work at 5:40 p.m. smelling of alcohol.

5. Licensee’s employer took Licensee to the Marshall County Sheriff’s Department where dispatcher Olson performed a BPT with a .038 result. Shortly thereafter Deputy Lentsch performed a BPT outside of the Marshall County Courthouse with a result of .042.

6. Licensee was terminated from her employment at Wheatcrest Hills on August 8, 2005.

7. On August 22, 2005, Mike Coley, Director of HPAP, sent written notification to the Board that Licensee was in “gross non-compliance” with HPAP. Said non-compliance included failure to make required calls for random test selection and for failing to advise HPAP of her job termination that was related to alcohol abuse.

8. Following this non-compliance, Licensee refused to sign an HPAP or Board of Nursing voluntary refrain from practice.

9. Licensee was scheduled for an Informal Meeting with the Board staff on September 8, 2005, and failed to appear for said meeting.

From the foregoing Findings of Fact the Board draws the following

### **CONCLUSIONS OF LAW**

1. That the South Dakota Board of Nursing has jurisdiction and authority over this matter pursuant to SDCL §§ 36-9-1.1 and 36-9-49.

2. That Licensee's conduct as identified in the Findings of Fact is, by clear and convincing evidence, in violation of SDCL § 36-9-49(4) in that Licensee has become addicted to intoxicating liquors to such an extent that she is incapacitated from the performance of her professional duties.

3. That Licensee's conduct as identified in the Findings of Fact are, by clear and convincing evidence, in violation of SDCL § 36-9-49(5) in that she negligently, willfully or intentionally acted in a manner inconsistent with the health or safety of persons entrusted to her care when she reported to work with alcohol in her system.

4. That Licensee's conduct as identified in the Findings of Fact is, by clear and convincing evidence, in violation of SDCL § 36-9-49(10) in that she has been guilty of gross incompetence or unprofessional or dishonorable conduct by violating the terms of HPAP and by reporting to work with alcohol in her system.

5. ARSD 20:48:04:01(1)(d) provides that the Board recognizes *Standards of Clinical Nursing Practice*, 1991, and *Code for Nurses with Interpretative Statement*, 1985, published by the American Nurses Association as a criteria for assuring safe and effective practice following licensure. The Code of Ethics requires an RN to function within established legal guidelines and uphold the basic standards of nursing practice.

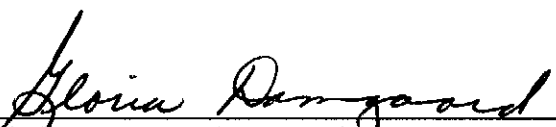
THEREFORE, let an Order be entered accordingly.

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 her license at any time for "good cause."
3. That Licensee shall turn her license in to the South Dakota 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 herself out as a registered nurse during the terms of this suspension is a violation of SDCL 36-9-68.

Dated this 14th day of November, 2005.

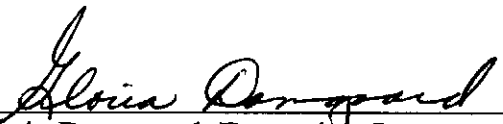
SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, Executive Secretary

The above Findings of Fact and Conclusions of Law and Order of Suspension were adopted by the South Dakota Board of Nursing on the 14th day of November, 2005, by a vote of 9-0.

Dated this 21st day of November, 2005.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, Executive Secretary