

FINDINGS OF FACT

1. That Michael Kusek is licensed to practice as a registered nurse in the State of South Dakota and holds license number R-032708.
2. That on July 20, 2006, the South Dakota Board of Nursing Office received an anonymous e-mail regarding the Licensee, which contained allegations of Methamphetamine use and Licensee assisting others to participate in the use of that drug.
3. That on July 26, 2006, the Department of Corrections was notified of the complaint against Licensee and Licensee was terminated from employment.
4. That on July 31, 2006, the Licensee was contacted by the South Dakota Board of Nursing staff via phone and Licensee admitted that he used Methamphetamine in the past and agreed to sign a Voluntary Refrain from Practice.
5. That Licensee was contacted by Mike Coley of the Health Professional's Assistance Program ("HPAP") in a letter dated August 8, 2006.
6. That on August 9, 2006, Licensee signed a Voluntary Refrain from Practice Statement.
7. That on August 15, 2006, at an Informal Meeting with the South Dakota Board of Nursing staff, Licensee admitted to smoking Methamphetamine in the past, but denied current use.
8. That at said Informal Meeting, the Licensee was offered a settlement of the

matter, which would consist of the Licensee being mandated into the HPAP program.

9. That Licensee did not agree to the settlement at that time as he wished to review it with an attorney.

10. That Licensee agreed to continue his Voluntary Refrain from Practice and advised the Board staff that he would contact them within a period of two weeks.

11. That no response from Licensee was received within that two week period.

12. That on September 6, 2006, Board staff attempted to contact the Licensee without success.

13. That on September 28, 2006, a letter was sent to the Licensee asking for a response to the informal settlement offer by October 13, 2006.

14. That as of December 4, 2006, the Licensee had not contacted the South Dakota Board of Nursing in regards to the settlement proposal.

15. That Licensee's phone had been disconnected.

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 are in violation of SDCL § 36-9-49(4)(7) and (10).

3. That ARSD 20:48:04:01(1)(d) provides that the Board recognizes the

“Scope and Standards of Practice,” 2004, and the “Code of Ethics,” 2001, as published by the American Nurse’s Association as criteria for assuring safe and effective practice following licensure. The code of ethics requires an RN to function within an established legal guideline and uphold the basic standards of nursing practice.

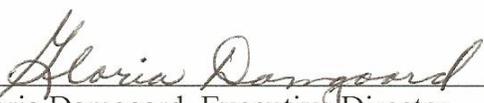
THEREFORE, let an Order be entered accordingly:

ORDER

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 his license at any time for “good cause.”
3. That Licensee shall turn his license in to the 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 himself out as a registered nurse during this term of suspension is a violation of SDCL § 36-9-68.

Dated this 23rd day of February, 2007.


Gloria Damgaard, Executive Director
South Dakota Board of Nursing

The above Findings of Fact and Conclusions of Law and Order were adopted by
the South Dakota Board of Nursing on the 6th day of February, 2007, by a vote of

8-0.

Dated this 23rd day of February, 2007.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director