

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE
LICENSURE PROCEEDINGS

RE: LULU CHOSHI
License No. P-007357

STIPULATION AND ORDER

Licensee,

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WHEREAS, LULU CHOSHI ("Licensee"), is licensed to practice as a licensed practical nurse in the State of South Dakota and holds License Number P-007357; and

WHEREAS, during the course of employment at Covington Heights Health Care Center in Sioux Falls, South Dakota, between September, 1994, and September, 1995, Licensee has admitted committing numerous medication errors of omission; and allegations have been made that during the course of employment at Sioux Falls Good Samaritan Center on June 27, 1995, Licensee encouraged a medication aide under her supervision to disregard reporting a medication error he committed on June 25, 1995; and such conduct, if proven, would be inconsistent with the health or safety of the persons entrusted to her care, and violates the statutes and rules regulating the practice of nursing, and is a violation of SDCL § 36-9-49(5), (7) and (10); and

WHEREAS, the Licensee recognizes and agrees that these matters are of a nature which would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the South Dakota Board of Nursing (hereinafter "the Board") has a statutory obligation to protect the public health, safety and welfare set forth in SDCL § 36-9, including the protection of the public from unsafe nursing practices and practitioners; and

WHEREAS, in the event the Board, in its discretion, does not approve this settlement or a lesser remedy than indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party. Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or any of the records or information relating hereto; now, therefore,

IT IS HEREBY STIPULATED that the Board may enter its Order ordering as follows:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Stipulation.

2. That during the course of employment at Covington Heights Health Care Center in Sioux Falls, South Dakota, between September, 1994, and September, 1995, Licensee has admitted committing numerous medication errors of omission; and allegations have been made that during the course of employment at Sioux Falls Good Samaritan Center on June 27, 1995, Licensee encouraged a medication aide under her supervision to disregard reporting a medication error he committed on June 25, 1995; and such admitted conduct and

alleged conduct, if proven, would be inconsistent with the health or safety of the persons entrusted to her care, and violates the statutes and rules regulating the practice of nursing, and is a violation of SDCL § 36-9-49(5),(7) and (10).

3. The Licensee has been given an opportunity to discuss this Stipulation and Order with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all rights under the United States and South Dakota Constitutions, laws, rules and/or regulations. Licensee hereby voluntarily waives all such rights to a hearing, notice, appearance, or any other rights under said Constitutions, laws, rules and/or regulations. Licensee is entering into this Stipulation and Order voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary or her designee may present this Stipulation to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. That the Licensee's license to practice nursing in South Dakota is placed upon a probationary status for a period of eighteen (18) months of active practice as a nurse and employment in nursing practice from the date of this Order being approved by the Board, which probationary terms and conditions shall be completely followed by the Licensee as follows:

C O N D I T I O N S :

1. Licensee will notify the Board of any employment in the healthcare field, including changes in employment. Furthermore, the Licensee will inform any current or prospective

employer with whom she seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation. The Licensee and current or prospective employer shall notify the Board in writing within five (5) days of beginning any new employment, confirming compliance with this provision, and confirming that the Licensee's employer has discussed the subject matter and nature of the proceedings and this Stipulation with them. Licensee would further agree that any such employer would during the first year of probation, be required to provide quarterly reports to the Board as to her progress as an employee, and during the balance of the probationary period provide reports on a basis of every six (6) months. The reports shall provide and/or address:

- a) In the first report, evidence that Licensee's supervisor has received a copy of the order within ten (10) days of service or within ten (10) days of Licensee beginning a new employment;
 - b) Licensee's attendance and reliability;
 - c) Licensee's ability to practice professional nursing;
 - d) Licensee's ability to carry out assigned functions, including the proper administration of medications;
 - e) Licensee's ability to handle stress;
 - f) Number of hours Licensee worked during the reporting period;
 - g) Any other information which the supervisor believes would assist the Board in its ultimate review of the case.
2. Licensee shall not be employed by a temporary agency or by home health.
 3. Licensee shall observe the following employment restrictions:
 - a) May not hold a charge or supervisory position for six (6) months.
 - b) May only administer medication under direct supervision of another nurse in good standing with the Board for a minimum of six (6) months.
 4. Licensee shall arrange with the Board staff probationary meetings once every three (3) months during the year of probation. It will be the obligation of the Licensee to schedule these meetings at such time and place as the Board staff would reasonably designate.

Furthermore, the Licensee will submit a self-evaluation report to the Board office prior to each probationary meeting. The report shall provide and/or address:

- a) Licensee's professional employment status, including employer support, peer support and ability to handle stress and management of patient care duties;
 - b) Licensee's future professional goals for nursing;
 - c) Licensee's future personal goals; and
 - d) Any other information which the Licensee believes would assist the Board in its ultimate review of the case.
5. That during the period of probation, the Licensee will submit to such testing of body fluids, on a random basis, as may reasonably be requested by the Board, with the understanding that if such tests would ever indicate the use of a non-prescribed controlled substance or alcohol, that the Licensee would then agree to a total and complete revocation of his/her licensing rights as a nurse in South Dakota. The blood and/or urine screens shall be:
- a) Observed in their drawing;
 - b) Handled through legal chain of custody methods;
 - c) Paid for by Licensee;
 - d) Results reported directly to the Board.

Testing must meet forensic compliance panel standards and include testing for the Licensee's drug of choice, Amphetamines, Barbituates, Cocaine, Opiates, Benzodiazepines, Cannabinoids, Alcohol, Methadone and Propoxyphene.

6. Licensee shall at any time during the period of probation, report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives in the terms of this probation.
7. Licensee shall provide documentation of completing a medication course. Such course must be taken at an accredited institution. Following completion of the course, the licensee shall submit evaluative data including a description of her experience and the instructor's evaluation of her performance. The course is to be completed no longer than six (6) months from the date of this Order.

8. Licensee shall not violate any law or regulation regarding the practice of nursing.
9. Licensee shall execute all release of information forms as may be required by the Board or its designee.
10. Licensee shall return her current renewal certificate to the Board of Nursing within ten (10) days of the signed date of this Order.
11. Within ten (10) days of the effective date of the Order, Licensee shall submit her current renewal certificate to the Board office to be stamped "PROBATION" during the duration of the probationary period.
12. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
13. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
14. Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Licensee fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.
15. In the event that the Licensee does not work in nursing within two (2) years of the effective date of the Order, Licensee may petition the Board for reevaluation of the probationary conditions.
16. Licensee shall provide evidence of satisfactorily completing the South Dakota Board of Nursing learning module on LPN Standards of Practice and Code of Ethics to the approval of the Board of Nursing staff no later than three (3) months from the date of this Order.
17. If any condition of this probation is violated, the Licensee agrees that the Board may take such actions as the Board deems necessary up to and including a total and complete revocation of Licensee's licensing rights as a nurse in South Dakota.
18. If Licensee obtains a license issued solely or under joint regulatory powers by the Board, other than the license to which this Stipulation refers, at any time during the period of the probation, the terms of this probation shall apply to the other or additional licenses issued by the Board.

5. It is further stipulated and agreed that this Stipulation is being entered into voluntarily by the Licensee and without threats or coercion and is entered into after the Licensee has been given ample opportunity to consider these matters and to discuss this Stipulation with an attorney of her choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Stipulation.

NOW, THEREFORE, the foregoing Stipulation and Order is entered into and is respectfully submitted to the Board with the request that the Board adopt its terms as an order of the Board in the above matter.

Dated this 18th day of September, 1995.

Lulu Choshi
LULU CHOSHI, Licensee

The South Dakota Board of Nursing meeting on the 20th day of September, 1995, (approved)(rejected) the attached Stipulation (as written) (with the following modifications):

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 20th day of September, 1995, by vote of 8-yes; 1-abstention; 2-absent

Diana VanderWoude RN MS
Diana Vander Woude, Executive Secretary