

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE LICENSURE :
PROCEEDINGS :

RE: ELIZABETH R. LESTENKOF, R.N. :
License No. R-023245, :
Licensee. :

**ORDER OF
SUMMARY SUSPENSION AND
NOTICE OF HEARING**

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WHEREAS, Elizabeth R. Lestenkof, R.N., (“Licensee”), is licensed to practice as a registered nurse in the State of South Dakota and holds license number R-023245; and

WHEREAS, on or about October 31, 2005, the South Dakota Board of Nursing received two letters from the Arizona State Board of Nursing arising from a complaint alleging substance abuse by the Licensee. The Arizona Board was seeking information regarding any disciplinary action being taken by the South Dakota Board of Nursing against the Licensee who at that time was working in Arizona on her multi-state privilege.

Investigation commenced and it was discovered that in August, 2005, the Licensee, while employed as a nurse executive in Arizona, had been away from her job without leave, had completed a treatment program, and was involved in South Dakota Health Professionals Assistance Program (“HPAP”).

On November 10, 2005, the South Dakota Board of Nursing received a letter from the Licensee regarding the complaint that had been filed against her with the Arizona

State Board of Nursing. The Licensee stated that she believed the complaint was related to her work environment as a result of her filing a Reprisal of Whistleblowing Report.

On November 17, 2005, an Informal Meeting with the Licensee was held at the South Dakota Board of Nursing office in Sioux Falls, South Dakota. Said minutes of the Informal Meeting are hereby incorporated as if fully set forth herein.

Licensee advised that she had entered the HPAP program voluntarily on July 28, 2005, but relapsed immediately. A report from the HPAP of October 7, 2005, reported that the Licensee was not abstaining from alcohol use. The Licensee had started an Aftercare program at Worthmore in Aberdeen on October 12, 2005. She was also seeing a pain specialist for chronic pain in her upper extremities. She had signed a Voluntary Refrain, both with HPAP and the South Dakota Board of Nursing. A review of the Licensee's medical records indicates that she had undergone alcohol treatment three times, the most recent being June, 2005, at Worthmore.

On November 30, 2005, HPAP had advised the Board of Nursing that the Licensee was compliant with HPAP since returning to South Dakota and had now been attending Aftercare at Worthmore and was evaluated by a pain specialist. The Licensee had been alcohol free for two months and her refrain from practice was being lifted.

On December 1, 2005, a letter was sent to Licensee advising that she would be allowed to return to nursing practice if she maintained full compliance with HPAP.

On February 7, 2006, the South Dakota Board of Nursing mandated the Licensee

into the HPAP program. The Arizona State Board of Nursing was advised. Thereafter, the Arizona State Board of Nursing sent correspondence advising that they would be closing their file and that the South Dakota Board of Nursing was to take the lead on any disciplinary actions related to the Licensee.

Since February 7, 2006, the Licensee has been following the HPAP program as evidenced in the quarterly reports. Up and until the fourth quarter report, Licensee was not working as a nurse. The fourth quarter report indicated she was working part time in a nursing home.

The first HPAP quarterly report for 2007, dated June 30, 2007, showed marginal compliance with a score of 16 disciplinary points. At that time the Licensee indicated that she was working for Bethesda and Avera St. Lukes. Due to the disciplinary score on her quarterly report of June 30, 2007, the South Dakota Board of Nursing issued a letter of concern to the Licensee regarding her marginal compliance with HPAP.

On September 30, 2007, the quarterly report from HPAP indicated that the Licensee, while working at Avera St. Lukes, had failed to identify a work site monitor as required by HPAP. The Licensee was also showing marginal compliance with HPAP with 22 disciplinary points.

WHEREAS, based upon the affidavit of Andrew Albers and the above stated conduct, the Board has concluded that the public health, safety and welfare requires 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 requires emergency action in that 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.
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.

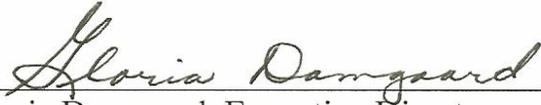
6. Licensee is hereby notified that any practice of or holding herself out as a Registered nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

The South Board of Nursing at its meeting on the 2nd day of November, 2007, 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 2nd day of November, 2007, by a vote of

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SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director

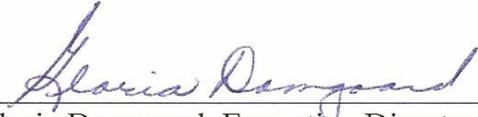
NOTICE OF HEARING

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 Elizabeth Lestenkof, RN, License No. R-025010 (“Licensee”) as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on January 29th, 2008, at 9:00 o’clock a.m. 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 13th day of November, 2007.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director