The South Dakota Board of Nursing’s (“Board”) hearing on the Summary Suspension of the license of Elizabeth R. Lestenkof, R.N., license number R-023245 (“Licensee”), came on for hearing before the South Dakota Board of Nursing at its office in Sioux Falls, South Dakota, on January 29, 2008, at 9:00 a.m. Licensee, Elizabeth R. Lestenkof, did appear in person to present evidence on her behalf and confront witnesses. The Board appeared by and through its attorney, Kristine Kreiter O’Connell.

The Board considered the evidentiary testimony from the Director of the Health Professionals Assistance Program, Maria Eining, and the Licensee. The Board also considered the exhibits (numbered 1-5 inclusive) entered into evidence, the affidavit and other documents on file in this case, and being charged with 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, the Board hereby makes the following:
FINDINGS OF FACT

1. That Elizabeth R. Lestenkof, RN, is licensed to practice as a registered nurse in the State of South Dakota and holds license number R-023245.

2. That Licensee was has been licensed as a registered nurse since 1989, practicing in South Dakota, Alaska, Minnesota, and Arizona.

3. In mid 2005, Licensee, while employed by the IHS in Arizona on a multi-state privilege, began to use alcohol to relieve tooth pain.

4. Licensee has undergone alcohol treatment four (4) times since 2000.

5. On July 28, 2005, Licensee voluntarily entered into the South Dakota Health Professionals Assistance Program (“HPAP”) and signed a contract.

6. On October 7, 2005, HPAP reported a relapse by the Licensee, Licensee’s treatment at Worthmore in Aberdeen, and Licensee’s consultation with a pain specialist.

7. In October and November, 2005, the Arizona Board of Nursing filed a complaint against the Licensee alleging substance abuse and notified the South Dakota Board of Nursing regarding the same.

8. On November 30, 2005, HPAP released the Licensee from her Refrain from Nursing Practice as she had been compliant with the terms and conditions of HPAP.

9. In February 2006, the South Dakota Board of Nursing mandated the Licensee into the HPAP program and advised the Arizona Board of Nursing of this action.
10. The quarterly reports from HPAP in the year 2006 showed that Licensee was compliant with HPAP. Licensee was employed with Mesaba Airlines and in the fourth quarter of 2006, added part-time work at Bethesda Nursing Home in Aberdeen.

11. The first quarterly report from HPAP in 2007 showed marginal compliance by the Licensee with sixteen (16) disciplinary points. Licensee had taken on additional work at the Avera St. Lukes Hospital and was working more than a one and a half full time position in total.

12. In June, 2007, the Licensee was issued a Letter of Concern from the South Dakota Board of Nursing for marginal compliance with the HPAP program.

13. Following her employment at Avera St. Lukes, the Licensee failed to identify a work site monitor as required by HPAP. She did not talk to or tell her employer of this requirement.

14. The September 30, 2007 quarterly report from HPAP showed twenty-two (22) disciplinary points against Licensee.

15. In October, 2007, the Licensee had a relapse of her alcohol use.

16. On November 19, 2007, the Licensee reported her relapse to HPAP and advised of her treatment subsequent to her relapse.

17. On December 6, 2007, the Licensee submitted a self-recovery plan to HPAP.
18. Since relapse, the Licensee has been attending treatment, has not had any alcohol, and is off prescription narcotics.

19. On December 31, 2007, Licensee had only four (4) disciplinary points on her HPAP quarterly report.

20. According to HPAP, the Licensee needs more time in her recovery plan before she can return to work as a nurse.

21. The Licensee is currently employed full-time at Radio Shack in Aberdeen.

From the following Findings of Fact, the Board draws the following:

CONCLUSIONS OF LAW

1. 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 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 are in violation of SDCL § 36-9-49(4), (5) and (7).

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 the Licensee’s license to practice as a registered nurse in the State of South Dakota is hereby indefinitely suspended for failure to follow the terms of HPAP.

2. That the Licensee may petition according to SDCL § 36-9-57 for reinstatement of her license at any time for “good cause”. Any reinstatement request must include documentary evidence of at least six (6) months of documented sobriety from January 29, 2008.

3. That the Licensee shall turn in her license to the Board of Nursing within ten (10) days of this order.

4. That the Licensee is hereby notified that any practice as, or holding herself out as, a registered nurse during the terms of this suspension is in violation of SDCL § 36-9-69.

Dated this ___ day of February, 2008.

SOUTH DAKOTA BOARD OF NURSING

Gloria Damgaard, Executive Director
The above Findings of Fact, Conclusion of Law, and Order of Suspension were adopted by the South Dakota Board of Nursing on this 29th day of January, 2008, by a vote of \( \frac{9}{10} \) \\

Dated this _____ day of February, 2008.

SOUTH DAKOTA BOARD OF NURSING

Gloria Damgaard, Executive Director