

**SOUTH DAKOTA BOARD OF NURSING**

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IN THE MATTER OF THE LICENSURE :  
PROCEEDINGS :

RE: JASON ALEX OSBORN, R.N. :

License No: R038185, :

Licensee. :

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER OF REINSTATEMENT  
WITH HPAP**

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The South Dakota Board of Nursing’s (“Board”) hearing on the Summary Suspension of the license of the Licensee, Jason Alex Osborn, RN, license number R038185, (“Licensee”), came on for hearing before the South Dakota Board of Nursing at its office in Sioux Falls, South Dakota on January 26, 2011, at 2:30 p.m. Licensee Jason Alex Osborn, having received notice of the hearing, appeared in person to present evidence on his behalf and to confront witnesses. The Board appeared by and through its attorney, Kristine K. O’Connell.

The Board considered the evidentiary testimony of Kathleen J. Rausch, Board Investigator and the Licensee. The Board also considered the Exhibits (numbered 1 and 2) entered into evidence by the Board, and Exhibit 3 entered into evidence by the Licensee. The Board also considered the late submission of Licensee’s Discharge Summary, dated January 4, 2010, from The Friary, a residential treatment facility of Lakeview Center, Inc., an affiliate of Baptist Health Care, which was faxed to the Board

at the close of the hearing. The Board also considered the Affidavit and other documents on file in this case, 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 Jason Alex Osborn is licensed to practice as a registered nurse in the State of South Dakota and holds license number R038185.
2. That on or about April 29, 2010, the Licensee contacted the Board of Nursing Investigator by email, stating that he was working as a registered nurse in the United States Navy and wanted to know how to go about self-reporting substance abuse.
3. That on or about October, 2008, while attending nursing school at Mount Marty College, Yankton, South Dakota, Licensee suffered a back injury while weight lifting.
4. That following the injury, the Licensee was prescribed the narcotic Lortab for pain. Licensee continued to refill and take Lortab until June of 2009.
5. Licensee admitted that while taking Lortab he became dependent upon the narcotic both physically and emotionally.
6. Upon graduation from Mount Marty College, Licensee took the NCLEX examination and received his South Dakota registered nursing license in July, 2009.

7. From August to September 2009, Licensee attended Officers Development School in Newport, Rhode Island, for five weeks. Licensee took no medications while attending Officers Development School.

8. At graduation from Officers Development School, the Licensee found his wife's prescription of Percocet in the glove box of his car. Licensee admits to taking this medication and abusing it.

9. On or about October 5, 2009, when Licensee took his work assignment with the Navy in Pensacola, Florida, he was selected for urinalysis. Licensee failed the UA as his sample came back positive for Oxycodone (Percocet).

10. Due to the zero tolerance policy of the Navy, the Licensee was granted a qualified resignation from naval service for a general (under honorable conditions) discharge from the Navy. Licensee's official separation from the Navy was effective September 30, 2010.

11. After Licensee failed the urinalysis, he was asked to enter into treatment. He entered residential treatment at the Friary, Lakeview Center, Inc., an affiliate of Baptist Health Care, for a diagnosis of chemical abuse, provisional dependency, and a major depressive disorder. Licensee was discharged upon the successful completion of his treatment on January 4, 2010.

12. The Licensee was also involved in a twelve week after care program through the Navy which he completed on or about May, 2010.

13. Licensee returned to South Dakota following treatment and prior to his separation from the Navy. Licensee is currently living in Rapid City, South Dakota.

14. Licensee is currently attending NA and AA meetings, church meetings, and continued treatment through the VA Hospital. He is taking necessary steps to address his substance use disorder.

15. Licensee has been drug free since being release from treatment.

16. In his email communications with the Board investigator, the Licensee failed to provide the Board of Nursing with the requested copy of the Discharge Summary from his treatment program completed in January, 2010.

17. Licensee was to have returned that information to the Board and indicated he would do so the week of May 17, 2010.

18. As a result of the failure to provide the requested paperwork, the Board summarily suspended the Licensee's license on November 19, 2010 and noticed him for hearing.

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

### **CONCLUSIONS OF LAW**

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

2. That the Licensee had become addicted to the habitual use of a controlled substance as defined by SDCL Chapter 34-20B.

3. That the Licensee has provided the Board of Nursing proof that he is not a danger to the health and safety of persons entrusted to his care.

4. That the Licensee would benefit from monitoring by the Health Professionals Assistance Program (“HPAP”).

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 reinstated.

2. That the Board hereby mandates the Licensee’s participation in the Health Professionals Assistance Program (“HPAP”) for a period of five (5) years of active nursing practice. All monitoring terms and conditions shall be set by the HPAP, and the Licensee shall fully comply with those terms and conditions.

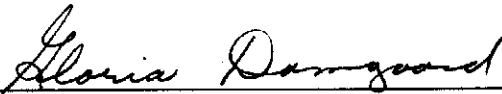
3. The Licensee shall not practice nursing in any State other than South Dakota which is a party state to the Nurse Licensure Compact, without prior written authorization from both the Board and the Nursing Regulatory Authority in the party state in which the Licensee desires to practice.

4. This order also effects Licensee's practice privilege to practice in South Dakota should Licensee change his home state under the Nurse Licensure Compact and

Licensee's practice privilege is subject to the same requirements set forth in this order as his South Dakota license.

Dated this 1<sup>st</sup> day of February, 2010.

SOUTH DAKOTA BOARD OF NURSING


  
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Gloria Damgaard, Executive Director

IT IS NOW HEREBY ORDERED:

The above Findings of Fact and Conclusions of Law and Order of Reinstatement with HPAP were adopted by the South Dakota Board of Nursing on the 26<sup>th</sup> day of January, 2011, by a vote of 9-0.

Dated this 1<sup>st</sup> day of February, 2011.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, Executive Director