IN THE MATTER OF THE LICENSURE PROCEEDINGS

RE: NICHOLE M. PENCE, RN

License No. R-037346,

Licensee.

WHEREAS, Nichole M. Pence, RN ("Licensee"), is licensed to practice as a registered nurse in the State of South Dakota and holds License number R-037346; and

WHEREAS, on or about February 15, 2012, while working at a long term care facility, the Licensee tested positive for amphetamines and methamphetamines on a urine drug screen; and

WHEREAS, Licensee has agreed that she would surrender her South Dakota nursing license to address the issues identified above; and

WHEREAS, the South Dakota Board of Nursing ("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, Licensee agrees that the matters under investigation would be of a nature that would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL § 36-9-49; and
WHEREAS, the Licensee agrees that she enters into this Voluntary Surrender Consent Order voluntarily and without duress or compulsion, in full understanding of the legal consequences of this document and her rights; therefore,

ITS IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Voluntary Surrender Consent Order.

2. That the Licensee on or about February 15, 2012, while working at a long term care facility, the Licensee tested positive for amphetamines and methamphetamines on a urine drug screen. Licensee has agreed that she would surrender her South Dakota nursing license to address issues identified above, and now intends to leave the profession of nursing as a registered nurse.

3. That the Licensee has been given an opportunity to discuss this Voluntary Surrender Consent Order with an attorney of Licensee’s choice, and is aware of her right to a hearing in this matter, and of her 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 also agrees that the Board’s Executive Director or her designee may present this Voluntary Surrender Consent Order to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.
8. Licensee understands that during the period of this Voluntary Surrender that she is ineligible to work in any nursing role, including that of a nurse aide, nurse assistant, or medication assistant/aide.

9. This action is reportable discipline and will be published in the Board’s newsletter and posted on its web site and reported into the Healthcare Integrity and Protection Data Bank (HIPDB) and National Practitioner Data Bank (NPDB) as required by law.

10. That the Board may enter an Order consistent with the terms of this Stipulation.

NOW, THEREFORE, the foregoing Voluntary Surrender Consent 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 20th day of May, 2012.

Nichole M. Pence, RN

The South Dakota Board of Nursing meeting on the 26th day of April, 2012, approved the attached Voluntary Surrender Consent Order as written and issued its Order as follows:
IT IS HEREBY ORDERED that the above Voluntary Surrender Consent Order is adopted as shown herein by the South Dakota Board of Nursing this 29 day of June, 2012, by vote of 10-0.

Gloria Damgaard, Executive Director
South Dakota Board of Nursing