

**BEFORE THE
SOUTH DAKOTA BOARD OF NURSING**

**IN THE MATTER OF THE
LICENSURE PROCEEDINGS**

RE: JANE M. RASMUSSEN, R.N.

License No. R027142,

Licensee.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF
SUSPENSION**

BON 6-01

This matter came on regularly for hearing before the South Dakota Board of Nursing ("Board") on April 19, 2006, at 10:00 a.m. in the conference room of the South Dakota Board of Nursing in Sioux Falls, South Dakota, Julie M. Johnson, Hearing Examiner, Office of Hearing Examiners, State of South Dakota, presiding. This hearing was a due process hearing on the Summary Suspension of a license of Jane M. Rasmussen Ryckman, R.N., License No. R-027142 ("Licensee"), now known as Jane M. Rasmussen. Licensee appeared personally and by her attorney, David O. Carter, Sioux Falls, SD. The Board appeared by its attorney, Kristine Kreiter O'Connell, Sioux Falls, SD. A quorum of the Board was present in person throughout these proceedings, in accordance with SDCL § 36-9-18. The members of the Board present for this hearing were President June Larson (RN), Linda Bunkers (RN), Diana Berkland (RN), Patricia Wagner (LPN), Christine Pellett (LPN), Deb Soholt (RN), Robin York (RN), and John Jones (public member). There was no objection to any member of the Board sitting on the case. This was an open meeting under the laws of the State of South

Dakota. Three witnesses testified in person or by videotape or deposition. These included Licensee, Dr. Berne Bahnson, and Dr. Lyle Christopherson. Exhibits 1 through 4 were introduced into evidence by the Board, all of which were received into the record without objection. Exhibits A through D were introduced into evidence by Licensee and received without objection. The entire hearing was fully transcribed by a court reporter. The name of these proceedings was amended at the beginning of the hearing due to a name change of the Licensee. At the close of testimony, the Board moved into executive session pursuant to SDCL § 1-25-2 on motion duly made and unanimously carried to deliberate regarding its decision. At the close of deliberation, the Board came back into open session with parties present where one motion was made by the Board: "That the South Dakota Board of Nursing finds that there is clear and convincing evidence to continue the suspension of the license of Jane Rasmussen until such time as she can show good cause for reinstatement of her RN license." This motion was adopted on a vote of 8 to 0. The Attorney for the Board filed a set of Proposed Findings of Fact, Conclusions of Law and Order, together with Affidavit of Costs, to which the Licensee, through her attorney, responded on April 28, 2006. The Hearing Examiner reviewed the Board's Proposed Findings of Fact, Conclusions of Law and Order, as well as the Licensee's Response. From that the Hearing Examiner prepared this set of Findings of Fact, Conclusions of Law and Order of Suspension for the Board's consideration.

Having considered the evidentiary testimony of the witnesses, the credibility and demeanor of the witnesses, the exhibits admitted into evidence, and other documents

on file, and being charged with the statutory obligation to protect the public, safety, and welfare, as set forth in SDCL Ch. 36-9, the Board hereby makes and files the following:

FINDINGS OF FACT

1. That Jane M. Rasmussen ("Licensee"), formerly known as Jane M. Rasmussen Ryckman, is licensed to practice as a registered nurse in the State of South Dakota and holds license number R-027142.

2. That Licensee has practiced as a registered nurse for the past eleven years.

3. That Licensee has worked primarily in long term care facilities and has been employed in at least nine different facilities during the past eleven years. These include but are not limited to facilities in Huron, Winner, Miller, Highmore, Storla, White Lake and Bridgewater.

4. That on July 18, 2003, following a complaint to the Board of Nursing by her then employer, Licensee was placed on probation for medication administration errors and related issues. The Board-mandated probation was to continue for a period of three years.

5. On February 8, 2005, Licensee personally appeared before the regularly scheduled Board meeting in Pierre, South Dakota, and requested early release from her probation. Her request was granted.

6. On July 27, 2005, the Board staff received a telephone complaint from Licensee's employer, the Diamond Care Center in Bridgewater, South Dakota, alleging that Licensee had verbally abused a nursing home resident.

7. That following an investigation, an Informal Meeting was held with

Licensee and members of Board staff on September 28, 2005.

8. Board staff, based on their observations of Licensee during the Informal Meeting, made a recommendation to the Board that Licensee undergo a mental health evaluation by a psychiatrist and voluntarily refrain from practice.

9. Licensee signed a Voluntary Refrain from Practice on September 28, 2005, and returned her renewal certificate to the Board office.

10. On November 14, 2005, Board staff's recommendation was presented to the Board at its regularly scheduled meeting. The Board voted to have Licensee undergo a mental health evaluation to determine her ability to practice safely.

11. Licensee underwent a psychiatric evaluation by Dr. Berne Bahnson on December 7, 2005, and underwent psychological testing on December 12, 2005. Exhibit 1.

12. Dr. Bahnson diagnosed Licensee with adjustment reaction, depressed mood, avoidant, obsessive compulsive, schizoid features and marked stressors. The psychological testing confirmed his diagnosis. Exhibits 2, 3, 4.

13. Based on his evaluation of Licensee, Dr. Bahnson opined that Licensee was not safe to practice nursing. Exhibits 2, 3, 4.

14. Dr. Bahnson recommended that Licensee commence medication therapy and begin participation in counseling and/or psychotherapy. Exhibits 1, 2, 3, 4.

15. Dr. Bahnson opined that until Licensee had both medication and therapy, she was not safe to return to nursing. Exhibits 1, 2, 3, 4.

16. As a result of the psychiatric evaluation and testing, the Board of Nursing issued a Notice of Hearing in this matter for February 7, 2006, in Pierre, South Dakota.

A continuation of that hearing was requested by her counsel.

17. At that on February 7, 2006, meeting, the Board found that the public health, safety and welfare required emergency action against Licensee's license and summarily suspend her license.

18. On January 31, 2006, Licensee underwent a psychiatric evaluation with Dr. Lyle P. Christopherson in Huron.

19. Dr. Christopherson's diagnosis included major depression, with possible psychotic features, cluster A personality traits, and serious psycho-social stressors. Exhibits A, B & D.

20. Dr. Christopherson opined that at the January 31, 2006, psychiatric evaluation, Licensee was not safe to practice as a nurse. Exhibits A, B & D.

21. Dr. Christopherson started and Licensee continues to take Effexor XR to treat her diagnoses. Exhibits A & D.

22. Dr. Christopherson has recommended that Licensee undergo some type of counseling or psychotherapy, including anger management classes and dialectical behavioral modification therapy. Exhibits A, B & D.

23. Dr. Christopherson has seen Licensee on three occasions, the last being March 21, 2006. He has noted a marked improvement in her mental condition. Exhibit B.

24. Licensee's divorce from her husband was completed in February, 2006, which relieved some of her stressors. Exhibit C.

25. As of April 12, 2006, Dr. Christopherson has opined that he believes Licensee is safe is to practice as a nurse. Exhibit A.

26. As of April 20, 2006, Licensee has not followed through with either Dr. Bahnson's or Dr. Christopherson's recommendations for therapy.

27. Licensee has not demonstrated compliance with a psychiatric regime for a length of time which would allow an adequate evaluation of her ability to practice safely as a nurse.

28. Licensee has been on a psychiatric medication, Lexapro, in the past and also attended counseling, but quit after a short period of time.

29. Licensee is experiencing economic and psycho-social stressors.

30. In addition to her stressors, Licensee has underlying psychiatric diagnoses for which she needs psychological counseling and therapy.

31. Licensee has made some progress in treatment of her psychiatric condition. She has not made enough progress for the Board to conclude that she is safe to return to nursing.

32. To the extent any of the foregoing are improperly designated and are instead conclusions of law, they are hereby redesignated and incorporated herein as conclusions of law.

Based on the foregoing Findings of Fact, the Board hereby makes and files the following:

CONCLUSIONS OF LAW

1. That the South Dakota Board of Nursing has jurisdiction and authority over this matter pursuant to SDCL §§ 36-9-1.1 and 36-9-49. The Office of Hearing Examiners had the authority to conduct this hearing under SDCL 1-26 and 1-26D.

2. That the Board had the opportunity to view all testimony in this hearing, to witness the demeanor and credibility of live, deposed and video-taped witnesses, and to view all evidence in the context of the Code of Ethics of Nursing.

3. The evidence is clear and convincing that the Licensee is guilty of unprofessional conduct in violation of SDCL § 36-9-49(10).

4. The evidence is clear and convincing that Licensee's mental condition, as identified in the findings of fact, is a violation of SDCL § 36-9-49.1, in that her condition endangers the health or safety of those persons who are or will be entrusted to her care.

5. ARSD 20:48:04:01(1)(d) provides that the Board recognizes the "Standards of Clinical Nursing Practice" 1991, and the "Code for Nurses with Interpretive Statement" 1985, as published by the American Nurses Association as a criteria for assuring safe and effective practice following licensure. The Code of Ethics require an RN to function within an established legal guideline and uphold the basic standards of nursing practice.

6. That the evidence is clear and convincing that the Nursing Practice Act has been violated by Licensee. The Board of Nursing has met its burden of proof.

7. To the extent any of the foregoing are improperly designated and are instead findings of fact, they are hereby redesignated and incorporated herein as findings of fact.

Therefore, based on the foregoing Findings of Fact and Conclusions of Law, the South Dakota Board of Nursing hereby Orders:

ORDER

1. That Licensee's license to practice nursing in the State of South Dakota is hereby suspended.
2. That Licensee may petition for reinstatement of her license at any time for "good cause" pursuant to SDCL § 36-9-57.
3. That Licensee shall turn in her license to the Board of Nursing within ten (10) days from the date of this Order.
4. That Licensee is hereby notified that any practice as or holding herself out as a registered nurse during the term of this suspension is a violation of SDCL § 36-9-68.
5. The Board will not assess costs in this matter.

Dated this ____ day of _____, 2006.

SOUTH DAKOTA BOARD OF NURSING

June Larson, President

The foregoing Findings of Fact, Conclusions of Law and Order were adopted by the South Dakota Board of Nursing on the ____ day of _____, 2006, by a vote of _____ with a quorum present at all times and in an open meeting by telephone and notice given to the parties.

Dated this ____ day of _____, 2006.

SOUTH DAKOTA BOARD OF NURSING

Gloria Damgaard, Executive Secretary