



unsafe nursing practices and practitioners, the Board hereby makes the following:

### **FINDINGS OF FACT**

1. That Eugene Sarha (“Licensee”) is licensed to practice as a Registered Nurse in the State of South Dakota and holds license number R-028203.
2. The Licensee was born and raised in the State of Nebraska.
3. That the Licensee received his registered nurse training at Merritt College, Oakland, California, receiving an Associates Degree in June, 1991.
4. Licensee was first licensed as a nurse in California and held license number 470507.
5. That on or about November 22, 1991, while visiting his brother in Yankton, South Dakota, Licensee was arrested and later pled guilty to the offense of unauthorized possession of a controlled substance, a felony.
6. That the Licensee received a suspended imposition of sentence on the above charge and following successful probation the suspended imposition of sentence was dismissed and discharged on September 1, 1995.
7. On or about October 6, 1995, the Licensee applied for R.N. licensure by endorsement with the South Dakota Board of Nursing.
8. On the Application for Licensure by Endorsement, the Licensee failed to disclose the charges, probation, and the suspended imposition of the felony charge.
9. Licensee worked as the Director of Nursing at the Scotland Hospital in

1996 for a period of 6 months and worked as a Registered Nurse for a year at Sioux Valley Hospital Vermillion in 1997 to 1998.

10. During 2000, Licensee returned to California and worked as a Registered Nurse in various locations.

11. On or about early 2004, the Licensee was arrested in Alameda County, California and charged with possession of methamphetamine for sale and two counts of possession of an explosive destructive device.

12. The drugs and devices were found on Licensee's boat, which was docked in the marina and upon which Licensee's stepson had been living.

13. Licensee's stepson had served as a confidential informant to the Alameda County Narcotics task force.

14. Licensee's stepson set Licensee up for said arrest and had a personal vendetta against the Licensee.

15. Licensee's stepson had significant legal issues of his own and had recently been released from prison in Texas. He had returned to California, where Licensee and his wife provided him a place to live and an opportunity to straighten out his life.

16. The authorities tried to link the Licensee to terrorist activity.

17. The accusations brought against the Licensee in the State of California were dismissed in an order dated May 21, 2004, and property that had been seized from the Licensee was returned by the narcotics task force.

18. On or about November 9, 2004, the Board of Registered Nursing, Department of Consumer Affairs, State of California (“California Board of Nursing”) filed an Accusation against the Licensee seeking revocation or suspension of his nursing license for possession of a controlled substance.

19. On or about March 14, 2005, the California Board of Nursing filed an Amended Accusation against Licensee adding another count of possession of a controlled substance and furnishing dangerous drugs without a prescription as a basis for revocation or suspension of the license.

20. Licensee was represented by the same attorney, Phillip A. Schnayerson, in the criminal matters and in his dealings with the California Board of Nursing.

21. In the course of the disciplinary matter before the California Board of Nursing, the Licensee was presented with a Stipulated Settlement and Disciplinary Order.

22. Licensee consulted with his attorney regarding the Stipulated Settlement and Disciplinary Order. Licensee felt the terms that were being presented to him were inconsistent with the charges of dismissal that he had received and he did not agree with all of the items of probation that were being required.

23. Licensee believed that he was to receive a due process hearing before an administrative law judge in regards to his licensing issue.

24. Licensee did sign an acceptance of the Stipulated Settlement and Disciplinary Order on April 5, 2005.

25. Licensee wanted to escape all of the problems that he had endured over the last year and get back to being a nurse. The stress of the arrest, the publicity, and the disruption of his livelihood had taken a toll on Licensee.

26. Licensee never complied with any of the terms or conditions set forth in the Stipulated Settlement and Disciplinary Order that was entered by the California Board of Nursing.

27. On or about April 10, 2005, the Licensee applied for reactivation of his nursing license with the South Dakota Board of Nursing.

28. Licensee, in his reactivation affidavit with the South Dakota Board of Nursing, answered in the negative that any action had been taken against his nursing license, and again answered in the negative that he had ever receiving a suspended imposition of sentence for a felony since his last application.

29. Licensee's non-disclosure was partially related to fear and his mind set at the time after the ordeal in California.

30. Licensee worked in a temporary nursing position with Tri-State Health Care after returning to South Dakota.

31. On March 6, 2007, Licensee submitted a renewal application for his R.N. license with the South Dakota Board of Nursing. Again on that application he did not disclose any of his past disciplinary information or criminal history.

32. A background check of the NURSIS data bank by Board staff showed the

positive disciplinary action against the Licensee in the State of California, which the Licensee did not disclose on his renewal application.

33. Licensee admits to not being honest or candid with the South Dakota Board of Nursing by not disclosing the information requested.

34. Licensee, when confronted with this non-disclosure, signed a refrain from practice and asked the Board for a due process hearing. Licensee's license was summarily suspended on April 18, 2007.

35. The Board found the testimony of Licensee to be credible.

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

### **CONCLUSION 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. The Licensee's conduct as identified in the Findings of Fact above is violation of SDCL § 36-9-49(1), (2), (6), and (10).

Now therefore it is hereby ordered:

### **ORDER**

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this order.

2. That the Licensee's license to practice as a registered nurse in the State of South Dakota shall be reinstated for single state licensure and will be placed on a

probationary period for twenty-four (24) months of active nursing practice as a Registered Nurse or employment as a Registered Nurse. Probationary terms shall be set by the Board and completely followed by the Licensee. The Licensee is not entitled to early closure of probation. Additionally, Licensee shall comply with the following during his probation:

### **CONDITIONS**

1. Licensee shall, at any time during the period of probation, report in person to such meeting of the Board or its designated representative as directed and otherwise fully cooperate with the Board or its representative in the terms of this probation.
2. The Licensee shall submit to the Board of Nursing, quarterly self-reports and work supervisor reports.
3. The Licensee shall complete the following learning module: Ethics of Nursing Practice. Licensee is responsible to purchase and complete the module and return it to the Board office no later than September 3, 2007, with a successful Certificate of Completion. Licensee can register for the module on the following website:  
[www.learningext.com](http://www.learningext.com).
4. The Licensee shall undergo, at the Board's expense, a mental health evaluation, to include a chemical dependency evaluation. The Board will choose and approve an evaluator(s) and shall help make arrangements with the Licensee and the evaluator(s) for these evaluations.

5. That the Licensee will comply with any and all treatment, therapy, conditions and recommended actions made by the evaluator(s).
6. The Licensee shall pay for all costs and expenses in carrying out any recommendations or conditions suggested by the evaluator(s).
7. Within ten (10) days of the effective date of this order, the Licensee shall be issued his R.N. license by the Board and it is to be stamped "PROBATION".
8. Notwithstanding anything in this order to the contrary, should the Licensee be convicted of a felony, which would be grounds for discipline under SDCL § 36-9-49, either relating to the allegations which led to this probation or to any other action or omission of the Licensee, the Board may take further action against Licensee's license including, but not limited to, immediate suspension. Licensee will inform the Board of any outcome of any criminal charges hereafter pending against Licensee.
9. If Licensee violates any terms of this probation the Board may take action against Licensee's license as the Board deems necessary, up to and including immediate suspension, additional probation terms, revocation, or other disciplinary action.
10. Licensee shall not violate any law or regulation regarding the practice of nursing.
11. Licensee shall not practice nursing in any other state except South Dakota.
12. This probation also effects Licensee's 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  
the South Dakota license.

Dated this 16<sup>th</sup> day of July, 2007.

SOUTH DAKOTA BOARD OF NURSING

June Larson  
June Larson, Chair

The above Findings of Fact, Conclusion of Law, and Order of Reinstatement with  
Probation were adopted by the South Dakota Board of Nursing on this 21<sup>st</sup> day of  
June, 2007, by a vote of 11-0.

Dated this 11<sup>th</sup> day of July, 2007.

SOUTH DAKOTA BOARD OF NURSING

Gloria Damgaard  
Gloria Damgaard, Executive Director