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SD BOARD OF NURSING

SOUTH DAKOTA BOARD OF NURSING

IN THE MATTER OF THE
LICENSURE PROCEEDINGS

STIPULATION AND ORDER

RE: Rose Burckhard, RN,
License No. R029464

Licensee,

WHEREAS, ROSE BURCKHARD, RN ("Licensee"), is a registered nurse in the State of South Dakota and holds license number R029464; and

WHEREAS, in February of 1998, while employed at Clarkson Mountain View Guest Home, Licensee admitted to having diverted Darvocet N-100 from her employer and was convicted in June, 1998, for felony possession of controlled substances by theft, misrepresentation, forgery, or fraud, and received a suspended imposition of sentence and has been involved in the Health Professionals Assistance Program ("HPAP") since March of 1998, and is currently employed in a nursing position at Rapid City Care Center; and

WHEREAS, Licensee has signed a participation agreement with HPAP and has been working with the HPAP; and

WHEREAS, Licensee's conduct as stated would be inconsistent with the health or safety of persons entrusted to her care and violates the statutes, rules and regulations regarding the practice of nursing and is in violation of SDCL § 36-9-49(2), (4), (5), (7), and (10); and

WHEREAS, the Licensee recognizes and agrees that these matters are of such a nature which would constitute grounds for the revocations of Licensee's license as an R.N. to practice nursing in South Dakota under SDCL § 36-9-49; and

WHEREAS, the South Dakota Board of Nursing (hereinafter "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WHEREAS, in the event the Board, in its discretion, does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party, and Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or any of the records or information relating hereto; now, therefore,

IT IS HEREBY STIPULATED that the Board may enter its Order as follows:

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

2. Licensee, while employed at Clarkson Mountain View Guest Home, admitted to having diverted Darvocet N-100 tablets from her employer and was convicted and sentenced in June 1998 for felony possession of controlled substances by theft, misrepresentation, forgery, or fraud received a suspended imposition of sentence and has been involved in the HPAP since March of 1998, and is currently employed in a nursing position at Rapid City Care Center; Licensee has signed a participation agreement with HPAP and has been working with the HPAP;

Licensee's conduct as stated would be inconsistent with the health or safety of persons entrusted to her care and violates the statutes, rules and regulations regarding the practice of nursing and is in violation of SDCL § 36-9-49(2), (4), (5), (7), and (10).

3. The Licensee has been given an opportunity to discuss this Stipulation and Order with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all 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 is entering into this Stipulation and Order voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary or designee may present this Stipulation to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.

4. That Licensee's license to practice nursing in South Dakota will be placed on a probationary status for an indefinite period of active practice as a nurse and employment in nursing practice from the date of this Order, which probationary terms and conditions shall be set by the HPAP and which monitoring conditions shall be fully complied with by Licensee. After verification from the HPAP that Licensee has fully completed all monitoring terms, Licensee may petition the Board for closure of her probation. The duration of the probation shall be set by the HPAP, but it is recognized that the Board may require additional probationary time or additional terms upon the completion of HPAP. Additionally, Licensee shall comply with the following during her probation:

- (a) Licensee shall at any time during the period of probation report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives and the terms of this probation.
- (b) Licensee shall notify the Board, as well as the HPAP, in writing, within one week of any change of nursing employment, personal address and/or telephone number.
- (c) Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
- (d) Licensee shall have her certificate by endorsement in South Dakota stamped "PROBATION."
- (e) Notwithstanding anything in this Stipulation and 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 herein or to any other actions or omissions of the Licensee, the Licensee agrees that the Board may take further action against Licensee's license, including, but not limited to, immediate suspension. Licensee agrees to immediately inform the Board of the outcome of any criminal charges presently or hereafter pending against Licensee.
- (f) If Licensee violates any of the terms of this probation, Licensee agrees that the Board may take all action against Licensee's license, including, but not limited to, immediate suspension, additional probation terms, revocation, or other disciplinary action.
- (g) If Licensee obtains a license issued by the Board other than the license to which this Stipulation refers in the above-captioned paragraphs, at any time during the period of probation, the terms of this probation shall apply to the other or additional license(s) issued by the Board.
- (h) Licensee shall not violate any law or regulation or condition of the suspended imposition of sentence regarding the practice of nursing or otherwise during the terms of the probation.

5. It is further stipulated and agreed that this Stipulation is being entered into voluntarily by the Licensee and without threats or coercion and is entered into after the Licensee has been given ample opportunity to consider these matters and to discuss this Stipulation with

an attorney of Licensee's choice and that the Licensee has a full understanding of the legal consequences of this Stipulation and of the Licensee's rights to a formal hearing on these matters, which rights are hereby waived by the signing of this Stipulation.

NOW, THEREFORE, the foregoing Stipulation and Order is entered into and is respectfully submitted to the Board in accordance with the request approved by the Board as described above.

Dated this 13th day of July, 1998.

Rose Burckhard
ROSE BURCKHARD, Licensee

The South Dakota Board of Nursing meeting on the 16 day of July, 1998, (approved)
(rejected) the attached Stipulation (as written) (with the following modifications):

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted as shown herein by the South Dakota Board of Nursing this 16 day of July, 1998, by vote of 9-yes.

Diana Vander Woude
Diana Vander Woude, Executive Secretary